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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
ELETSON HOLDINGS INC., et al.,	:	Case No. 23-10322 (JPM)
	:	(Jointly Administered)
Debtors.[1]	:	

NOTICE OF FILING OF AMENDED DISCLOSURE STATEMENT IN SUPPORT OF PETITIONING CREDITORS' ALTERNATIVE CHAPTER 11 PLAN OF ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS

PLEASE TAKE NOTICE THAT on January 23, 2024 the debtors and debtors in possession (the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases") filed a proposed chapter 11 plan of reorganization [Docket No. 370] (the "Debtors' Plan") which was subsequently amended and revised on April 8, May 13, May 31, June 6, and June 14, 2024 [Docket Nos. 570, 671, 725, 744, and 786].

PLEASE TAKE FURTHER NOTICE that on June 11, 2024 the Petitioning Creditors filed (a) the *Petitioning Creditors' Overbid Chapter 11 Plan of Eletson Holdings Inc. and its Affiliated Debtors* [Docket No. 762] (the "PC Alternative Plan") and (b) the related disclosure statement [Docket No. 763] (the "PC Alternative Disclosure Statement").[2]

[1] The Debtors in these cases are: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. The address of the Debtors' corporate headquarters is 118 Kolokotroni Street, GR 185 35 Piraeus, Greece. The Debtors' mailing address is c/o Eletson Maritime, Inc., 1 Landmark Square, Suite 424, Stamford, Connecticut 06901.

[2] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the Revised PC Alternative Plan.

PLEASE TAKE FURTHER NOTICE that on June 14, 2024, the Petitioning Creditors separately filed Appendix D to the PC Alternative Disclosure Statement [Docket No. 781] containing financial wherewithal information related to the Plan Sponsor's $33 million investment under the terms of the PC Alternative Plan as well as a related commitment letter.

PLEASE TAKE FURTHER NOTICE that on June 17, 2024, the Petitioning Creditors filed a revised version of the PC Alternative Plan [Docket No. 797] (the "Revised PC Alternative Plan") as well as a revised version of the PC Alternative Disclosure Statement [Docket No. 798] (the "Revised PC Alternative Disclosure Statement").

PLEASE TAKE FURTHER NOTICE that the Petitioning Creditors hereby file:

- a further revised version of the Revised PC Alternative Disclosure Statement, attached hereto as **Exhibit 1**, (the "Further Revised PC Alternative Disclosure Statement");

- a redline (changed pages only) of the Further Revised PC Alternative Disclosure Statement, showing the changes to the Revised PC Alternative Disclosure Statement, including to Appendix C (the PC Alternative Term Sheet), attached hereto as **Exhibit 2** (the "Incremental Redline"); and

- a redline of the Further Revised PC Alternative Disclosure Statement, showing the changes to the PC Alternative Disclosure Statement, attached hereto as **Exhibit 3** (the "Cumulative Redline").

PLEASE TAKE FURTHER NOTICE on the date hereof, the Petitioning Creditors also filed a further revised version of the Revised PC Alternative Plan (as may be further amended, modified, and/or supplemented from time to time, the "Further Revised PC Alternative Plan") that reflects the modifications in the Further Revised PC Alternative Disclosure Statement.

PLEASE TAKE FURTHER NOTICE that copies of Further Revised PC Alternative Plan, and Further Revised PC Alternative Disclosure Statement and other related pleadings filed in the Chapter 11 Cases can be viewed or obtained by: (i) accessing the Court's website for a fee; or (ii) contacting the Office of the Clerk of the Court. Please note that a PACER password is required to access documents on the Court's website. **PLEASE NOTE: Neither the staff of the Clerk's office nor the Petitioning Creditors' counsel can give you legal advice.**

DATED: June 17, 2024
New York, New York

TOGUT, SEGAL & SEGAL LLP
By:

/s/ Bryan M. Kotliar
KYLE J. ORTIZ
BRYAN M. KOTLIAR
MARTHA E. MARTIR
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Counsel for the Petitioning Creditors

Exhibit 1

Further Revised PC Alternative Disclosure Statement (Clean)

THIS PROPOSED DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION WITHIN THE MEANING OF SECTION 1125(a) OF THE BANKRUPTCY CODE. THE PETITIONING CREDITORS RESERVE THE RIGHT TO AMEND OR SUPPLEMENT THIS PROPOSED DISCLOSURE STATEMENT.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
ELETSON HOLDINGS INC., et al.,	:	Case No. 23-10322 (JPM)
Debtors.[1]	:	(Jointly Administered)

DISCLOSURE STATEMENT IN SUPPORT OF PETITIONING CREDITORS' ALTERNATIVE CHAPTER 11 PLAN FOR ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS

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Kyle J. Ortiz
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Martha E. Martir
Amanda C. Glaubach

Counsel for the Petitioning Creditors[2]

Dated: June 17, 2024
New York, New York

[1] The Debtors in these cases are: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. The address of the Debtors' corporate headquarters is 118 Kolokotroni Street, GR 185 35 Piraeus, Greece. The Debtors' mailing address is c/o Eletson Maritime, Inc., 1 Landmark Square, Suite 424, Stamford, Connecticut 06901.

[2] The "Petitioning Creditors" are Pach Shemen LLC, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein ("Goldstein") and Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust ("Goldstein Trust", and together with Goldstein, "Mr. Goldstein"), Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike. While Togut, Segal & Segal LLP represents Mr. Goldstein as a "Petitioning Creditor," Mr. Goldstein is not a "Plan Proponent" for purposes of the Plan.

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APPENDIX C – PC Alternative Term Sheet

APPENDIX D – Plan Sponsor Financial Wherewithal

APPENDIX E – Corporate Organization Chart

APPENDIX F – Liquidation Analysis

APPENDIX G – Financial Projections

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THE PLAN PROPONENTS ARE PROVIDING THE INFORMATION IN THIS DISCLOSURE STATEMENT TO HOLDERS OF CLAIMS IN THE VOTING CLASSES FOR PURPOSES OF SOLICITING VOTES TO ACCEPT OR REJECT THE PETITIONING CREDITORS' ALTERNATIVE CHAPTER 11 PLAN FOR ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS (THE "PC ALTERNATIVE PLAN"). NOTHING IN THIS DISCLOSURE STATEMENT MAY BE RELIED UPON OR USED BY ANY ENTITY FOR ANY OTHER PURPOSE. BEFORE DECIDING WHETHER TO VOTE FOR OR AGAINST THE PC ALTERNATIVE PLAN, EACH HOLDER ENTITLED TO VOTE SHOULD CAREFULLY CONSIDER ALL OF THE INFORMATION IN THIS DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS DESCRIBED HEREIN.

ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PC ALTERNATIVE PLAN ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT (INCLUDING EXHIBITS) AND THE PC ALTERNATIVE PLAN IN THEIR ENTIRETY AND ARE ADVISED TO CONSULT WITH ITS OWN ADVISORS WITH RESPECT TO ANY LEGAL, FINANCIAL, SECURITIES, TAX, OR BUSINESS ADVICE IN REVIEWING THIS DISCLOSURE STATEMENT, THE PC ALTERNATIVE PLAN, AND THE TRANSACTIONS CONTEMPLATED THEREBY. FURTHER, THE BANKRUPTCY COURT'S APPROVAL OF THE ADEQUACY OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL OF THE PC ALTERNATIVE PLAN.

FACTUAL INFORMATION CONTAINED IN THIS SPECIFIC DISCLOSURE STATEMENT IS SOURCED FROM PUBLIC FILINGS MADE IN THE CHAPTER 11 CASES (AND ELSEWHERE), EXCEPT WHERE OTHERWISE NOTED. IN PARTICULAR, SOME INFORMATION IN THIS DISCLOSURE STATEMENT WAS OBTAINED FROM THE DEBTORS' PLEADINGS, SUCH AS THE DEBTORS' DISCLOSURE STATEMENT, SCHEDULES OF ASSETS AND LIABILITIES AND STATEMENTS OF FINANCIAL AFFAIRS, AND MONTHLY OPERATING REPORTS AND MAY NOT BE RELIED UPON AS ACCURATE. THE PC ALTERNATIVE PLAN PROPONENTS MAKE NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY OF THE INFORMATION, INCLUDING FINANCIAL INFORMATION, CONTAINED HEREIN OR ATTACHED HERETO. THE PLAN PROPONENTS EXPRESSLY CAUTION READERS NOT TO PLACE UNDUE RELIANCE ON ANY FINANCIAL OR FORWARD-LOOKING STATEMENTS CONTAINED HEREIN.

NO INDEPENDENT AUDITOR OR INDEPENDENT ACCOUNTANT HAS REVIEWED OR APPROVED THE LIQUIDATION ANALYSIS OR FINANCIAL INFORMATION PROVIDED OR REFERENCED HEREIN. THE PLAN PROPONENTS HAVE NOT AUTHORIZED ANY PERSON TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, IN CONNECTION WITH THE PC ALTERNATIVE PLAN OR THIS DISCLOSURE STATEMENT.

SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT WITH RESPECT TO THE PC ALTERNATIVE PLAN ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PC ALTERNATIVE PLAN, THE EXHIBITS ATTACHED TO THE PC ALTERNATIVE PLAN, AND ANY PLAN

SUPPLEMENT(S). IN THE EVENT OF ANY INCONSISTENCY OR DISCREPANCY BETWEEN A DESCRIPTION IN THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PC ALTERNATIVE PLAN OR THE OTHER DOCUMENTS AND FINANCIAL INFORMATION INCORPORATED IN THIS DISCLOSURE STATEMENT BY REFERENCE, THE PC ALTERNATIVE PLAN OR THE OTHER DOCUMENTS AND FINANCIAL INFORMATION, AS THE CASE MAY BE, SHALL GOVERN FOR ALL PURPOSES.

THE STATEMENTS AND FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAVE BEEN MADE AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFICALLY NOTED, AND THERE IS NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER SUCH DATE. HOLDERS OF CLAIMS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT ASSUME AT THE TIME OF SUCH REVIEW THAT THERE HAVE BEEN NO CHANGES IN THE FACTS SET FORTH IN THIS DISCLOSURE STATEMENT SINCE THE DATE OF THIS DISCLOSURE STATEMENT. THE PLAN PROPONENTS RESERVE THE RIGHT TO FILE AN AMENDED OR MODIFIED PLAN AND RELATED DISCLOSURE STATEMENT FROM TIME TO TIME, SUBJECT TO THE TERMS OF THE PC ALTERNATIVE PLAN.

THIS DISCLOSURE STATEMENT WILL NOT CONSTITUTE NOR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT WILL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING, NOR WILL IT BE CONSTRUED AS TO CONSTITUTE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PC ALTERNATIVE PLAN AS IT RELATES TO HOLDERS OF CLAIMS AGAINST, OR INTERESTS IN, THE DEBTORS.

CERTAIN OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, BY THEIR NATURE, ARE FORWARD-LOOKING AND CONTAIN ESTIMATES AND ASSUMPTIONS. SUCH STATEMENTS CONSIST OF ANY STATEMENT OTHER THAN A RECITATION OF HISTORICAL FACT AND CAN BE IDENTIFIED BY THE USE OF FORWARD-LOOKING TERMINOLOGY SUCH AS "MAY," "EXPECT," "ANTICIPATE," "ESTIMATE," OR "CONTINUE," OR THE NEGATIVE THEREOF, OTHER VARIATIONS THEREON, OR COMPARABLE TERMINOLOGY AND INCLUDE THE LIQUIDATION ANALYSIS, FINANCIAL PROJECTIONS, AND VALUATION OF REORGANIZED HOLDINGS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES. FORWARD-LOOKING STATEMENTS ARE PROVIDED IN THIS DISCLOSURE STATEMENT PURSUANT TO THE SAFE HARBOR ESTABLISHED UNDER THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995 AND SHOULD BE EVALUATED IN THE CONTEXT OF THE ESTIMATES, ASSUMPTIONS, UNCERTAINTIES, AND RISKS DESCRIBED HEREIN.

FURTHER, THE READER IS CAUTIONED THAT ALL FORWARD-LOOKING STATEMENTS ARE NECESSARILY SPECULATIVE AND THAT THERE ARE CERTAIN RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL EVENTS OR RESULTS TO DIFFER MATERIALLY FROM THOSE PRESENTED IN SUCH FORWARD-LOOKING STATEMENTS. DUE TO THESE UNCERTAINTIES, READERS CANNOT BE ASSURED THAT ANY FORWARD-LOOKING STATEMENTS WILL PROVE TO BE CORRECT. THE LIQUIDATION ANALYSIS, FINANCIAL PROJECTIONS, AND OTHER INFORMATION CONTAINED HEREIN AND ATTACHED HERETO ARE ESTIMATES ONLY, AND THE VALUE OF THE PROPERTY DISTRIBUTED TO HOLDERS OF ALLOWED CLAIMS OR EQUITY INTERESTS MAY BE AFFECTED BY MANY FACTORS THAT CANNOT BE PREDICTED. THEREFORE, ANY ANALYSES, ESTIMATES, OR RECOVERY PROJECTIONS MAY OR MAY NOT TURN OUT TO BE ACCURATE. THE PLAN PROPONENTS ARE UNDER NO OBLIGATION TO (AND EXPRESSLY DISCLAIM ANY OBLIGATION TO) UPDATE OR ALTER ANY FORWARD-LOOKING STATEMENTS WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS, OR OTHERWISE, EXCEPT AS REQUIRED BY APPLICABLE LAW. ALL HOLDERS OF IMPAIRED CLAIMS SHOULD CAREFULLY READ AND CONSIDER THIS DISCLOSURE STATEMENT AND THE PC ALTERNATIVE PLAN IN THEIR ENTIRETY, INCLUDING "RISK FACTORS TO BE CONSIDERED" BEFORE VOTING TO ACCEPT OR REJECT THE PC ALTERNATIVE PLAN.

NEITHER THE SOLICITATION NOR THIS DISCLOSURE STATEMENT CONSTITUTES AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY SECURITIES IN ANY STATE OR JURISDICTION IN WHICH SUCH OFFER OR SOLICITATION IS NOT AUTHORIZED.

I. EXECUTIVE SUMMARY

A. Introduction

You are receiving this Disclosure Statement because you are a Holder of a Claim entitled to vote on the *Second Amended Joint Chapter 11 Plan of Reorganization of Debtors Under Chapter 11 of the United States Bankruptcy Code*, filed on June 14, 2024 [Docket No. 786, Ex. A] (the "Debtors' Plan") filed by the debtors and debtors in possession (the "Debtors") in the above-captioned chapter 11 cases (these "Chapter 11 Cases") as well as the *Petitioning Creditors' Alternative Chapter 11 Plan for Eletson Holdings Inc. and its Affiliated Debtors*, a copy of which is attached hereto as **Appendix A** (as may be amended, supplemented, or otherwise modified from time to time, the "PC Alternative Plan").[3]

The purpose of this Disclosure Statement is to provide Holders of Claims entitled to vote on the PC Alternative Plan with adequate information to make an informed judgment as to whether to vote or accept the PC Alternative Plan. The Plan Proponents[4] are providing you with the information in this Disclosure Statement because you may be a creditor entitled to vote on the PC Alternative Plan. This Disclosure Statement is to be used solely in connection with evaluation of the PC Alternative Plan and not for any other purpose.

B. The PC Alternative Plan

The Petitioning Creditors[5] believe that the Debtors' Plan is not in the best interests of creditors and their estates and is not confirmable for many reasons. Among other things, the Debtors' Plan provides that the Debtors' out-of-the-money shareholders would receive 100% of the equity in the Reorganized Debtors while creditors would receive either interests in a litigation trust, containing only those claims and causes of action identified by the Debtors (or a mechanism for sharing the proceeds of some other claims), or minimal cash payments.

To protect the interests of the Debtors' creditors, the Petitioning Creditors proposed their own chapter 11 plan [Docket No. 740, Ex. 1] (the "PC Plan"). Under the PC Plan, most impaired creditors (a) will receive, at their election, either equity in the Reorganized Debtors or a cash out amount, and (b) have the ability to participate in a new money rights offering of up to $43.5 million to purchase additional equity at a discount. Creditors with allowed claims of less than $1,000,000 (or those that

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[3] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the PC Alternative Plan.

[4] "Plan Proponents" means the Petitioning Creditors other than Mr. Goldstein (each as defined below).

[5] "Petitioning Creditors" means, collectively, Pach Shemen, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein ("Goldstein"), Gene G. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust ("Goldstein Trust", and together with Goldstein, "Mr. Goldstein"), Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike.

voluntarily agree to reduce their claim to that amount) would receive a cash recovery equal to 15% of the allowed amount of their claim.[6] The PC Plan also preserves nearly all claims and causes of action belonging to the Debtors and their estates such that any net recoveries on account of such claims would benefit the Debtors' creditors that receive equity in the Reorganized Debtors.[7]

The Debtors have argued that creditors should get to choose whether they believe the Debtors' Plan or the PC Plan is in their best interests. While the Petitioning Creditors believe that the Debtors' Plan is not confirmable and fails as a matter of law, the Petitioning Creditors believe that any chapter 11 plans presented to creditors should provide creditors with the maximum return under each of their respective structures. Indeed, the Petitioning Creditors believe that the Debtors' failure to pursue alternatives to the Debtors' Plan that provide for greater recoveries to creditors is a breach of their fiduciary duties.

As such, the Petitioning Creditors have proposed a third, alternative chapter 11 plan in the form of the PC Alternative Plan, a copy of which is attached hereto as **Appendix A**, that makes improvements to the Debtors' Plan on the exact same structure as proposed by the Debtors. A redline showing the changes made to the Debtors' Plan is attached hereto as **Appendix B**. For ease of review, attached hereto as **Appendix C** is a term sheet for the PC Alternative Plan that shows the material differences and improvements made to the PC Alternative Plan from the Debtors' Plan.

In broad strokes, following the structure of the Debtors' Plan, the PC Alternative Plan provides for the following significant improvements to the Debtors' Plan:

- Higher New Money Investment: The PC Alternative Plan provides for a new money investment by one of the Petitioning Creditors, Pach Shemen LLC or its designee (in such capacity, the "Plan Sponsor"), of $41 million (compared to the $30 million Shareholder New Value Contribution under the Debtors' Plan. The $41 million amount will be used to pay administrative and priority claims, make distributions to creditors under the PC Alternative Plan, and fund the Litigation Trust.

[6] In the event that more than $16,666,667 in claims elect such treatment, then the holders of such claims would receive their pro rata share of $2,500,000.

[7] Such causes of action preserved under the PC Plan include, among others, (a) claims against Levona arising from the Arbitration or otherwise, (b) claims seeking to recover the Preferred Shares of Eletson Gas or the value thereof from the Nominees, and (c) claims related thereto such as breach of fiduciary duty against the officers, and directors that authorized the transfer of such shares. As of the date hereof, the Preferred Shares are estimated to have a total amount of outstanding obligations of approximately $333 million (including principal and accrued and unpaid dividends) and the causes of action against Levona was assessed pursuant to the Award in the amount of approximately $87 million (plus fees, costs, and interest).

- The Debtors have not provided any financial wherewithal that the Debtors' shareholders have sufficient readily available funds, in cash, to make the $30 million Shareholder New Value Contribution under the Debtors' Plan. The Plan Sponsor, however, has submitted the financial wherewithal to make the Plan Sponsor's $41 million investment, a copy of which, along with a commitment letter, is attached hereto as **Appendix D**.

- Higher Returns to Exchange Note Claims: The PC Alternative Plan provides significantly improved recoveries to holders of Exchange Note Claims (Class 6) by transferring nearly all of the Debtors' claims and causes of action (including both known and unknown claims), such as the claims related to the transfer of the Preferred Shares, among others, to the Litigation Trust for the benefit of noteholder creditors that receive Litigation Trust Interests rather than just those claims and causes of action identified by the Debtors.

- The Litigation Trust will also receive a contingent value right (or CVR) from the Plan Sponsor equal to the amount that would otherwise be payable by Levona under the Debtors' Plan as the "Collections Contribution"; *provided*, *that*, to further improve creditors' recoveries, the CVR would be payable without deduction for the costs and risks of collection as the Collections Contribution would otherwise be paid under the Debtors' Plan.[8]

- In addition to all other payments to the Litigation Trust set forth in the Debtors' Plan, the PC Alternative Plan provides that the Litigation Trust will receive any excess in the professional fee escrow account set aside on the Effective Date to the extent there are savings due to reductions in allowed administrative expense claims for estate professionals.

- Higher Returns to Noteholder Creditors: The PC Alternative Plan increases the funds set aside to pay Noteholder Election Recovery Claims (Class 5) from up to $70,000 to up to $100,000 per claim and

[8] The CVRs will be secured by a pledge of 100% of the Plan Sponsor's equity in the Reorganized Debtors.

increases the Noteholder Election Recovery Reserve from $7 million to $8 million.[9]

- Higher Returns to Guaranty Creditors: The PC Alternative Plan unimpairs the OCM Guaranty Claims (Class 1), whereas the Debtors' Plan impairs such claims at 50%, and the PC Alternative Plan increases the cash pool for the Eletson Corporation Guaranty Recovery from $1 million to $1.25 million (and maintains the same 50% impairment of such Claims) but also provides such holders with an option, at their election to receive their pro rata share of $3 million in lieu of having a continued guaranty claim.

The Petitioning Creditors believe that these changes and the others described in the PC Alternative Plan make the PC Alternative Plan better for every class of impaired claims entitled to vote on the Debtors' Plan.

II. OVERVIEW OF THE DEBTORS

A. Summary of the Eletson Business

1. *Corporate Organization*

The Debtors are Eletson Holdings and its wholly owned subsidiaries Eletson Finance, and Eletson MI. The Debtors are part of a collection of companies that operate under the name "Eletson." The Debtors' corporate organization chart as of the Petition Date is attached hereto as **Appendix E**, which also depicts certain direct and indirect non-Debtor subsidiaries described below.

Eletson has historically been a family-owned international seaborne transportation company focused on the transport of refined petroleum products, liquified petroleum gas and ammonia. Eletson owns and operates a fleet of medium-range double hull product tankers, which are capable of carrying a wide range of refined petroleum products, such as fuel oil and vacuum gas oil and gas oil, gasoline, jet fuel, kerosene and naphtha, as well as crude oil. The Debtors are headquartered in Piraeus, Greece and maintain offices all over the world, including Stamford, Connecticut, and London.

Eletson Holdings is the ultimate parent of the Eletson entities. Eletson operates its fleet through wholly-owned direct or indirect non-Debtor subsidiaries of Eletson Holdings who either (i) own title to the vessels comprising Eletson's fleet or (ii) charter the vessels of Eletson's fleet. The Eletson fleet is managed by non-Debtor

[9] The Petitioning Creditors believe that the treatment provided by Class 5 in the Debtors' Plan violates the Bankruptcy Code and will not be approved. In such a case, the PC Alternative Plan provides that holders of Noteholder Election Recovery Claims will receive their pro rata share of a $8 million cash pool. The Debtors' Plan, on the other hand, provides that if the Court does not approve the Noteholder Election Recovery Claims treatment, such Claims will no longer receive cash and instead be moved to Class 6A/6B and be treated together with hundreds of millions of dollars of other noteholder claims in sharing in their pro rata share of the Litigation Trust Interests.

subsidiary Eletson Corporation ("Eletson Corp"), another wholly owned subsidiary of Eletson Holdings. Eletson Corp is subject to management agreements with the various entities in exchange for management fees. The Eletson fleet currently includes 16 vessels, 12 of which are owned by Eletson Gas LLC ("Eletson Gas") and four of which are operated by wholly owned subsidiaries of Eletson Holdings.[10] *See* Docket No. 394 ¶ 12; *see also* Docket No. 394 ¶¶ 12-14. In addition to Eletson Corp and the various entities that directly own or charter and operate the vessels in Eletson's fleet, there are several defunct corporate entities with no operations within the Eletson corporate structure. Eletson Holdings serves as the guarantor for a number of its subsidiaries' obligations as described in greater detail herein. Each of the Debtors are holding companies and do not maintain any ongoing operations or employ any employees outside of their officers and directors.

Eletson is closely held, controlled, and managed by three families: the Kertsikoff, Hadjieleftheriadis, and Karastamati families (the "Principal Families"). Each of those families beneficially hold approximately 30.7% of the equity in Eletson Holdings through separate Liberian trust companies. The remaining equity is beneficially held by two other families: the Zilakos and Andreoulakis families (the "Minority Families"). The three Principal Families and two Minority Families (collectively, the "Families") are all related. In addition to beneficially owning Eletson Holdings, members of the Families are also the directors and officers of Eletson Holdings and of its various subsidiaries, including Eletson Corp and Eletson Gas.

2. Eletson Gas and the Arbitration

Eletson Gas is a gas shipping company that was formed in 2013 as a joint venture between Eletson Holdings and funds managed by Blackstone Tactical Opportunities (collectively, "Blackstone"). Eletson Holdings holds 100% of the common shares of Eletson Gas. According to the Debtors, at the beginning of 2022, Eletson Gas directly or indirectly owned 14 liquefied petroleum gas carriers, collectively worth more than $400 million. Eletson Gas reported total revenues in 2022 of approximately $115 million.

Eletson Gas is organized as a limited liability company with common and preferred membership interests (the "Preferred Shares"). Holders of the Preferred Shares are entitled to distributions from the revenues of Eletson Gas before holders of the common shares of Eletson Gas (the "Common Shares"). Until November 2021, Blackstone held the Preferred Shares. Eletson Holdings held and still holds the Common Shares. In 2021, Blackstone sold its interest in Eletson Gas to Levona Holdings Ltd. ("Levona"), making Levona the holder of the Preferred Shares. Subsequently, on February 22, 2022, Levona entered into a "binding offer letter" with Eletson Gas (the "BOL"), which gave Eletson Gas the option, upon the satisfaction of certain conditions, for Eletson Gas or its nominee to purchase the Preferred Shares from Levona for specified consideration (the "Option").

[10] "Owned" for these purposes means through finance leases or bareboat charters.

A dispute arose as to whether Eletson Gas had exercised the Option, and accordingly, on July 29, 2022, Eletson Holdings and Eletson Corp commenced an arbitration proceeding against Levona seeking a ruling that Eletson Gas had exercised its Option as well as damages from Levona (the "Arbitration").

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the characterization of the preceding paragraph. In the Debtors' view, the "dispute" referenced above involved a number of claims asserted against Levona directly arising out of and relating to Levona's material breaches of the LLC Agreement of Eletson Gas, including actions taken by Levona against Eletson for the sole purpose of causing harm to Eletson. These actions include, fraud, bribing Eletson's CFO, improperly disclosing sensitive, non-public and confidential information, wrongfully interfering with Eletson Gas' relationships with financiers, and the illegal arrest of Eletson Gas' ships, among other harmful actions."

On March 13, 2023, after the Petition Date, the Debtors filed a motion for relief from the automatic stay [Docket Nos. 5, 6], seeking leave to proceed with the Arbitration (the "Stay Relief Motion"). On April 17, 2023, the Bankruptcy Court entered a stipulation and order modifying the automatic stay to permit Eletson Holdings and Eletson Corp to pursue the Arbitration, including to determine the ownership of Preferred Shares [Docket No. 48] (the "Stay Relief Order"). Notably, the Stay Relief Motion did not disclose that the Preferred Shares had purportedly already been transferred to the Cypriot nominees (the "Nominees") that are owned by the Principal Families. Indeed, the Stay Relief Motion provided that if the Debtors (or any other party) prevailed in the Arbitration the Preferred Shares would be "returned to [Eleston] Gas or its nominee." Docket No. 6, at 4.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraph. The Debtors state that as found in the Arbitration and subsequently confirmed by the District Court, the Preferred Shares were transferred to the Nominees pursuant to the BOL, effective as of March 11, 2022, well in advance of the filing of the Involuntary Petitions [Award at 96; District Court Order at 122-23]. Further, in the Debtors' view, the preceding paragraph fails to articulate that the Stay Relief Motion was necessary as the Involuntary Petitions were filed with the intention of staying the Arbitration and as a hedge against Levona's loss in the Arbitration."

On July 28, 2023, the arbitrator entered an interim award, which was superseded by a final award (the "Award") on September 29, 2023 issued in the arbitration proceeding titled *Eletson Holdings, Inc., et al. v. Levona Holdings Ltd.* before Justice Belen at JAMS Ref. No. 5425000511. The Award found that Eletson Gas had exercised the Option to acquire the Preferred Shares by, among other things, transferring shares in two vessels owned by Eletson Gas to Levona. The Award further found that the Preferred Shares were transferred to the Nominees on March 11, 2022. The Award also assessed almost $87 million in damages against Levona, plus fees, costs, and interest. None of those damages were awarded to Eletson Holdings. Instead, about half was awarded to the Nominees.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraph. In the Debtors' view, the Award assessed (i) $43,455,122.21 in compensatory damages to Eletson Gas and the Nominees, (ii) $23,777,378.50 in punitive damages to Eletson Gas, (iii) $19,677,743.71 in punitive damages to the Nominees, and (iv) attorneys fees and costs "to the entity or individuals who paid those costs and fees," i.e., Eletson Corp [Award at 67, 99-101]."

On August 18, 2023, Eletson Holdings and Eletson Corp filed a petition in the United States District Court for the Southern District of New York (the "District Court") to confirm the Award. Among the findings they asked the District Court to approve is that the Preferred Shares were transferred to the Nominees. They also asked the District Court to approve, among other things, the Award of compensatory and punitive damages in favor of Eletson Gas and the Nominees.

On February 9, 2024, the District Court issued an opinion (the "District Court Opinion") that among other things, granted in part and denied in part Eletson Holdings' and Eletson Corp's petition to confirm the Award. The District Court confirmed the Award's finding that the Preferred Shares were transferred to the Nominees. However, the District Court Opinion provides that the Bankruptcy Court is the proper forum to "address the timing of the election by Eletson that the Preferred [Shares] should go to the Nominees and whether the Preferred [Shares] should be considered to be property of the estate or should be clawed back or avoided." District Court Opinion, at 89. The District Court Opinion vacated all awards for relief against the Pach Shemen (one of the Petitioning Creditors, a Plan Proponent, and the Initial Backstop Party, and is an affiliate of Levona), including compensatory and punitive damages based upon violations of the Status Quo Injunction (as defined in the District Court Opinion), all awards of attorneys' fees, costs, and expenses related to the Involuntary Petitions and the Bondholder Litigation (as defined in the District Court Opinion). *Id.* at 124-25. In accordance with the District Court Opinion, Eletson Holdings, Eletson Corp, and Levona each submitted proposed judgments on February 23, 2024. *See* District Court Docket Nos. 94 and 95.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraph. In the Debtors' view, the District Court substantially confirmed the award of compensatory and punitive damages against Levona, vacating only the following limited aspects of the Award: (i) the finding that Murchinson and Pach Shemen are alter egos of Levona; (ii) the finding that the Status Quo Injunction remains in effect until confirmation of the Award by the Arbitrator; (iii) the finding that Levona caused or directed affiliates to purchase Exchange Notes for the purpose of wrongfully commencing and then actually causing the commencement of the Bondholder Litigation and the filing of the Involuntary Petitions against the Debtors; (iv) the finding that Levona wrongfully declared a default under the loan provided by Levona; (v) the award of attorneys' fees, costs and expenses relating to the involuntary bankruptcy petition and Bondholder litigation in the amount of $3,007,266.20; and (vi) the award of relief based upon violations of the Status Quo Injunction."

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "In the Debtors' view, the District Court vacated relief against Pach Shemen because Pach Shemen was not a signatory to the Eletson Gas LLC Agreement or a party to the Arbitration. However, the District Court explicitly noted that "Eletson may yet have the opportunity to seek to hold Murchinson and Pach Shemen responsible for Levona's obligations under the Award." [District Court Order at 82]."

On April 19, 2024, the District Court issued a memorandum and order (the "Memorandum and Order") remanding the Award to the arbitrator to clarify his findings regarding punitive damages (the "Remand"). *See* District Court Docket No. 106. The Memorandum and Order also directs the Eletson Holdings, Eletson Corp, and Levona to submit a joint letter to the District Court within two weeks of any "substantive decision" of the arbitrator. *Id.*

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "In the Debtors' view, the District Court ordered the Arbitrator to address two questions. First, whether the arbitrator would not have awarded punitive damages, but for the finding of a violation of the Status Quo Injunction, and second, whether the arbitrator would have applied a different multiple of the compensatory damages in his calculation of the punitive damages award in the absence of the finding of a violation of the Status Quo Injunction."

On May 3, 2024, Levona filed a motion in the District Court seeking reconsideration of the Memorandum and Order and asking the District Court to vacate any punitive damages awarded (the "Motion for Reconsideration"). *See* District Court Docket Nos. 107 and 108. On May 8, 2024, Eletson Holdings and Eletson Corp filed a letter in the District Court that explained that while the arbitrator has set May 24, 2024 as the deadline for final letter briefs on the Remand, the arbitrator will not rule on the Remand until the District Court rules on the Motion for Reconsideration. *See* District Court Docket No. 109. On May 8, 2024, the District Court directed Eletson Holdings, Eletson Corp, and Levona to meet to confer on whether they agree to brief the Motion for Reconsideration on an expedited basis and to stay the Remand pending a decision on the Motion for Reconsideration. *See* District Court Docket No. 110. The District Court also directed the parties to provide an update on May 10, 2024. *See id.* On May 10, 2024, Eletson Holdings and Eletson Corp filed a letter in the District Court that provided, among other things, that the parties have not agreed to stay the Remand, "would oppose an indefinite stay", they intend to file their opposition to the Motion for Reconsideration on May 10, 2024, and the briefing schedule for the Remand. *See* District Court Docket No. 111. On May 10, 2024, Levona also filed a letter in the District Court that provided, among other things, that the parties have not agreed to stay the Remand and asked the District Court to stay the Remand pending resolution on the Motion for Reconsideration. *See* District Court Docket No. 112.

On May 10, 2024, Eletson Holdings and Eletson Corp filed its opposition to the Motion for Reconsideration in the District Court. *See* District Court Docket No. 113. On May 13, 2024, the District Court directed Levona to reply to Eletson Holdings' and Eletson Corp's opposition by May 15, 2024, and stayed the Remand pending resolution on the Motion for Reconsideration. *See* District Court Docket No.

114. On May 15, 2024, Levona filed its reply in support of the Motion for Reconsideration. *See* District Court Docket No. 115. On May 30, 2024, Eletson Holdings and Eletson Corp filed a letter that asked the District Court to lift the stay it imposed on the Remand on May 13, 2024. *See* District Court Docket No. 117. On June 3, 2024, Levona filed a letter in response requesting that the District Court to continue to stay the Remand. *See* District Court Docket No. 118.

B. The Debtors' Assets

On October 10, 2023, the Debtors filed their schedules of assets and liabilities and statements of financial affairs [Docket Nos. 216-221] (together, the "Original Schedules"). The Original Schedules disclosed that the Debtors have no cash and the Debtors' only assets are equity interests in various subsidiaries and certain Litigation Claims (as defined below). The Original Schedules listed the value of the equity in each of the Debtors' subsidiaries as "$0."

On December 29, 2023, the Debtors filed an amended schedule A/B for Eletson Holdings [Docket Nos. 340] (the "Amended Schedules" and together, with the Original Schedules, the "Schedules"), disclosing an aggregate equity value of the Debtors' subsidiaries of $52.5 million. The Amended Schedules state that the $52.5 million valuation is based on "market value." At the section 341 meeting of the Debtors and their creditors held on January 5, 2024, however, the Debtors' Vice President stated that the $52.5 million number in the Amended Schedules was "book value" and that the actual value remains "unknown."

The Debtors' Schedules also identify certain Litigation Claims belonging to the Debtors' Estates, though the Schedules fail to identify these actions with specificity. Indeed, the Schedules merely state that the Debtors have "Claims against Wilmington Savings Fund Society, FSB", "Claims against Petitioning Creditors for Bad Faith Conduct," "potential Claims against various parties related to or arising from the Arbitration Award", and lastly, claims against Murchinson Ltd., Nomis Bay Ltd., and BPY Limited in these Bankruptcy Cases (collectively, the "Litigation Claims"). Further, the Debtors' Schedules do not state the nature of the Debtors' interest in the Litigation Claims.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraphs and believe that the assertions above are misleading and mischaracterize the Debtors' reporting. The Debtors believe that the Schedules are a fair and accurate reporting of the Debtors' assets."

C. The Debtors' Liabilities

The Debtors' liabilities, based on the Debtors' books and records are set forth in their Schedules and the Debtors' Plan (as defined below). The Debtors' liabilities based on their prepetition capital structure can generally be summarized as (1) the Old Notes, (2) the Exchange Notes, (3) the OCM Guarantees, (4) the Azure Guarantees, (5) the Eletson Corp Guarantees, (6) the Initial Petitioning Creditors'

Claims, and (7) Other Claims and Liabilities (each of which is defined and explained in greater detail below).

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the following paragraphs. The Debtors assert that the summaries below provided by the Petitioning Creditors are misleading and omit material details. The Debtors encourage creditors to review the Debtors' Plan and related Disclosure Statement for a more accurate description of the Debtors' liabilities. Further the Debtors have filed a number of objections to the asserted liabilities listed below."

1. *The Old Notes*

In December 2013, Debtors Eletson Holdings and Eletson Finance co-issued First Preferred Ship Mortgage Notes (the "Old Notes" and the holders thereof, the "Old Noteholders") under an indenture dated December 19, 2013, in the aggregate principal amount of $300 million (the "Old Indenture"). Deutsche Bank Trust Company Americas (the "Old Notes Trustee") serves as the trustee for the Old Notes. The Old Notes had a maturity date of January 15, 2022.

In May 2018, Eletson Finance and Eletson Holdings initiated an exchange offer process for the Old Notes (the "2018 Note Exchange"), which closed in July 2018. Pursuant to the 2018 Note Exchange, approximately 98% of the Old Noteholders exchanged their Old Notes for the Exchange Notes (as defined below); approximately 2% of the Old Noteholders did not participate in the 2018 Note Exchange and retained their Old Notes.

The Debtors' Schedules list the Old Notes Trustee as having a disputed unsecured Claim against Eletson Finance for approximately $24,000. *See* Docket No. 220. However, the Old Notes Trustee filed a Proof of Claim against Eletson Holdings pursuant to the Old Notes for $5,953,704.07 for the unpaid principal amount of $300 million plus applicable interest, fees, and other charges (the "Old Notes Claims"). *See* Proof of Claim No. 2-1 against Eletson Holdings.

2. *The Exchange Notes*

On July 2, 2018, the Debtors entered into an indenture (the "Exchange Note Indenture") pursuant to which the substantial majority of the Old Notes were exchanged for new First Preferred Ship Mortgage Notes due on January 15, 2022 (the "Exchange Notes" and the holders thereof, the "Exchange Noteholders"). The Exchange Notes were issued in an original face value amount of $314,068,360. Under the Exchange Note Indenture, Wilmington Savings Fund Society, FSB (the "Exchange Notes Trustee") serves as trustee and collateral agent for the Exchange Notes. The Exchange Notes were secured by certain assets pledged as collateral (collectively, the "Collateral"), including, among other things: (i) all outstanding common shares or membership interests in Eletson Finance and certain guarantors under the Exchange Note Indenture; (ii) thirteen shipping vessels owned by guarantors under the Exchange Note Indenture (the "Note Vessels"); (iii) the earnings arising from freights, hires and other earnings from the operation and use of or relating to the Note Vessels, and (iv) all

other cash and various accounts of Eletson MI and the guarantors set forth in the Exchange Note Indenture.

The Debtors concede that they breached their obligations under the Exchange Note Indenture long ago and, in fact, have "made no direct payments" under that contract, at any time. *See* Docket No. 41 ¶¶ 17, 64.

On June 24, 2019, in connection with their various breaches under the Exchange Note Indenture, the Debtors entered into a Restructuring Support Agreement (the "First RSA") with certain noteholders (the "Consenting Noteholders"), including VR Global Partners, L.P. As part of the First RSA and a consensual strict foreclosure executed in connection therewith, the Debtors transferred their interests in the 13 vessels that served as part of the Collateral for the Exchange Notes to a new entity called New Agathonissos Finance LLC ("NAF") for the benefit of the 2022 Noteholders in partial satisfaction of amounts owed under the Exchange Note Indenture and the Exchange Notes in the amount of $130 million. On August 9, 2019, the Consenting Noteholders terminated the First RSA.

On October 29, 2019, after the termination of the First RSA, the Debtors and the Consenting Noteholders entered into a second Restructuring Support Agreement (the "Second RSA").[11] The purpose of the Second RSA was to accomplish an alternative restructuring of the Old Notes and the Exchange Notes on the terms and conditions set forth therein and in a restructuring term sheet attached as an Exhibit to the Second RSA. That restructuring was to be effectuated through an out-of-court consent solicitation and exchange offer or through a joint prepackaged plan of reorganization in chapter 11 cases to be filed by the Debtors in the United States.

Under the Second RSA, the Debtors agreed to implement the restructuring contemplated therein on a timeline with milestones set forth in Exhibit C to the Second RSA. The timeline included twelve (12) separate milestones, starting with the entry into a memorandum of agreement, in form and substance acceptable to Eletson and the Consenting Noteholders, with respect to the sale of Eletson's interest in a particular vessel—the Salamina—as soon as reasonably practicable but in no event later than October 31, 2019. The Debtors also agreed under the Second RSA that any proceeds from the sale of the Salamina after payment of applicable professional fees would be paid pro rata to the Old Noteholders, the 2022 Noteholders, and claims arising under certain "Working Capital Facility Agreements" outstanding at the time.

As the Debtors have acknowledged themselves, they never satisfied a single milestone under the Second RSA, in material breach of the Second RSA's requirement (and fundamental purpose) that the Debtors would effectuate the contemplated restructuring within several months. As the Debtors acknowledged in discovery during the pendency of the Involuntary Petitions, the parties to the Second RSA decided to go in a different path and abandoned the milestones. In addition,

[11] The Debtors did not inform the Exchange Notes Trustee of their entry into the Second RSA despite their contractual obligation under the Exchange Note Indenture to do so.

certain of the Consenting Noteholders told the Debtors in January 2020 that the Second RSA was "dead."[12]

Despite entering into the First RSA and the Second RSA, the Debtors never actually attempted to restructure the Exchange Notes or the Old Notes in connection therewith (or after). Instead, the Debtors did nothing and allowed the Old Notes and the Exchange Notes to mature without repayment on January 15, 2022, resulting in approximately $100 million in additional interest accruing on the Exchange Notes between the execution of the Second RSA in October 2019 and the filing of the Involuntary Petitions in March 2023.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors dispute all of the allegations and assertions in this section. First, the Debtors asset that the Debtors made payments of PIK interest and undertook a tender offer which reduced the outstanding obligations under the Exchange Notes by approximately $8 million. Second, the Debtors assert that the Petitioning Creditors fail to state that as a result of the strict foreclosure agreement, the Exchange Note Indenture was amended to release all remaining Collateral that served as security under the Exchange Note Indenture. In the Debtors' view, the assertions regarding the Debtors' intent are meritless."

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "In the Debtors' view, the Petitioning Creditors' descriptions of the Second RSA are wholly deficient and omit material information regarding the terms and provisions of the Second RSA as well as its relationship to the Involuntary Petitions. As set forth in greater detail in the Debtors' Motion to Dismiss (as defined below), pursuant to the Second RSA, signatories were restricted from selling, transferring, or assigning any interest they had in the Exchange Notes unless the transfer was to another holder of the Exchange Notes or the recipient joined the Second RSA. The Debtors further assert that in June 2020, well after the Second RSA was executed, the Debtors, more than seventy percent (70%) of the 2022 Noteholders, and others entered into a certain Stipulation Waiver and Release (the "OCM Financing Stipulation"), wherein a majority of the 2022 Noteholders acknowledged that they "[were] parties to that certain [Second RSA] . . . ." *OCM Financing Stipulation* at p. 1. The Debtors state that like the Second RSA, the OCM Financing Stipulation included a restriction on the transfer of the Exchange Notes. In the Debtors' view, any transfers of the Exchange Notes made in violation of the terms of these documents are void ab initio. In the Debtors' view, notwithstanding these transfer restrictions, the Initial Petitioning Creditors, in particular Pach Shemen, purport to be the beneficial holders of Exchange Notes in an amount that is mathematically impossible absent a transfer of Exchange Notes that were subject to restrictions on transfer. As the Second RSA was never terminated, the Debtors believe that Pach Shemen is not a valid 2022 Noteholder. The Debtors believe that had these bankruptcy proceedings not been initiated, the

[12] *Declaration of Joshua Nemser In Support of (A) Involuntary Petitions and (B) Petitioning Creditors' Objection to the Debtors' Motion to Dismiss* [Docket No. 128] filed on July 18, 2023 ¶ 14.

Debtors would have successfully refinanced their obligations in accordance with the terms of the relevant prepetition documents."

Each of the Debtors' Schedules list the Exchange Notes Trustee as having a disputed unsecured Claim against each of the Debtors for approximately $320,195,000. *See* Docket Nos. 216, 218, 220. However, the Exchange Notes Trustee filed a Proof of Claim against each of the Debtors pursuant to the Exchange Note Indenture and the Exchange Notes for approximately $366,011,815 for the unpaid principal amount of $194,862,074 plus applicable interest, fees, and other charges (collectively, the "Exchange Notes Claims"). *See* Proof of Claim No. 14 against Eletson Holdings; Proof of Claim No. 2 against Eletson MI; and Proof of Claim No. 2-2 against Eletson Finance. The Exchange Notes Trustee also filed a Proof of Claim against each of the Debtors pursuant to the Exchange Note Indenture and the Exchange Notes for fees and expenses in the amount of $1,872,764.44. *See* Proof of Claim No. 20 against Eletson Holdings; Proof of Claim No. 3 against Eletson MI; and Proof of Claim No. 3 against Eletson Finance.

3. *The OCM Guarantees*

Four subsidiaries directly or indirectly owned by Eletson Holdings are each party to bareboat charter agreements regarding the use of certain vessels owned by entities affiliated or associated with Oaktree Capital Management. Each of these vessels are described in greater detail below. The Petitioning Creditors understand that the $0 to $52.5 million figures from the Debtors' Amended Schedules are largely on account of these four bareboat charter arrangements.

Kinaros Charter. On June 24, 2020, OCM Maritime Rhine LLC ("OCM Rhine") entered into a bareboat charter agreement ("Kinaros Charter") with non-Debtor Kinaros Special Maritime Enterprise for the use of a vessel owned by OCM Rhine named the Kinaros. Pursuant to the Kinaros Charter, Kinaros Special Maritime Enterprise was obligated to make payments to OCM Rhine related to the charter of the Kinaros. The obligations were guaranteed by Eletson Holdings pursuant to that certain guarantee executed by Eletson Holdings in favor of OCM Rhine dated June 24, 2020 (the "Kinaros Guaranty"). Pursuant to the Kinaros Guaranty, Eletson Holdings guaranteed the full payment for all amounts due under the Kinaros Charter. According to the Debtors' Schedules, OCM Rhine has a disputed unsecured Claim against Debtor Eletson Holdings for $11,750,000. *See* Docket No. 216. According to OCM Rhine's Proof of Claim, as of the Conversion Date, the principal balance outstanding under the Kinaros Charter is $11,750,000 with outstanding payment-in-kind interest obligations of $217,417. *See* Proof of Claim No. 5-1 ¶ 9. As of the Conversion Date, OCM Rhine has not declared any event of default under the Kinaros Charter, however, the Chapter 11 Cases constitute a default under the Kinaros Guaranty.

Kimolos Charter. On June 24, 2020, OCM Maritime Yukon LLC ("OCM Yukon") entered into a bareboat charter agreement ("Kimolos Charter") with non-Debtor Kimolos II Special Maritime Enterprise for the use of a vessel owned by OCM Thames named the Kimolos. Pursuant to the Kimolos Charter, Kimolos II Special Maritime Enterprise was obligated to make payments to OCM Yukon related to the charter of the Kimolos. The obligations were guaranteed by Eletson Holdings pursuant

to that certain guaranty executed by Eletson Holdings in favor of OCM Yukon dated June 24, 2020 (the "Kimolos Guaranty"). Pursuant to the Kimolos Guaranty, Eletson Holdings guaranteed the full payment for all amounts due under the Kimolos Charter. According to the Debtors' Schedules, OCM Yukon has a disputed unsecured Claim against Debtor Eletson Holdings for $12,450,000. *See* Docket No. 216. According to OCM Yukon's Proof of Claim, as of the Conversion Date, the principal balance outstanding under the Kimolos Charter is $12,450,000 with outstanding payment-in-kind interest obligations of $203,922. *See* Proof of Claim No. 6-1 ¶ 9. As of the Conversion Date, OCM Yukon has not declared any event of default under the Kimolos Charter, however, the Chapter 11 Cases constitute a default under the Kimolos Guaranty.

Fourni Charter. On June 24, 2020, OCM Maritime Autumn LLC ("OCM Autumn") entered into a bareboat charter agreement ("Fourni Charter") with non-Debtor Fourni Special Maritime Enterprise for the use of a vessel owned by OCM Autumn named the Fourni. Pursuant to the Fourni Charter, Fourni Special Maritime Enterprise was obligated to make payments to OCM Autumn related to the charter of the Fourni. The obligations were guaranteed by Eletson Holdings pursuant to that certain guaranty executed by Eletson Holdings in favor of OCM Autumn dated June 24, 2020 (the "Fourni Guaranty"). Pursuant to the Fourni Guaranty, Eletson Holdings guaranteed the full payment for all amounts due under the Fourni Charter. According to the Debtors' Schedules, OCM Autumn has a disputed unsecured Claim against Debtor Eletson Holdings for $12,450,000. *See* Docket No. 216. According to OCM Autumn's Proof of Claim, as of the Conversion Date, the principal balance outstanding under the Fourni Charter is $12,450,000 with outstanding payment-in-kind interest obligations of $229,239. *See* Proof of Claim No. 7-1 ¶ 9. As of the Conversion Date, OCM Autumn has not declared any event of default under the Fourni Charter, however, the Chapter 11 Cases constitute a default under the Fourni Guaranty.

Kastos Charter. On June 24, 2020, OCM Maritime Thames LLC ("OCM Thames") entered into a bareboat charter agreement ("Kastos Charter") with non-Debtor Kastos Special Maritime Enterprise for the use of a vessel owned by OCM Thames named the Kastos. Pursuant to the Kastos Charter, Kastos Special Maritime Enterprise was obligated to make payments to OCM Thames related to the charter of the Kastos. The obligations were guaranteed by Eletson Holdings pursuant to that certain guaranty executed by Eletson Holdings in favor of OCM Thames dated June 24, 2020 (the "Kastos Guaranty"). Pursuant to the Kastos Guaranty, Eletson Holdings guaranteed the full payment for all amounts due under the Kastos Charter. According to the Debtors' Schedules, OCM Thames has a disputed unsecured Claim against Debtor Eletson Holdings for $12,450,000. *See* Docket No. 216. According to OCM Thames' Proof of Claim, as of the Conversion Date, the principal balance outstanding under the Kastos Charter is $12,450,000 with outstanding payment-in-kind interest obligations of $229,239. *See* Proof of Claim No. 8-1 ¶ 9. As of the Conversion Date, OCM Thames has not declared any event of default under the Kastos Charter, however, the Chapter 11 Cases constitute a default under the Kastos Guaranty.

The Debtors' Schedules list OCM Autumn, OCM Yukon, and OCM Thames as each having a disputed unsecured Claim against Debtor Eletson Holdings for $12,450,000, and OCM Rhine as having a disputed unsecured Claim for $11,750,000

(collectively, the "OCM Guaranty Claimants"). *See* Docket No. 216. As described above, although the OCM Guaranty Claimants have not declared an event of default under their respective charter agreements, each of the OCM Guaranty Claimants filed protective Proofs of Claims against Eletson Holdings for amounts owed by Eletson Holdings arising from and in connection with the bareboat charter agreements explained above (collectively, the "OCM Guaranty Claims"). *See* Proof of Claim Nos. 5-8.

4. *The Azure Guarantees*

On August 24, 2017, Azure Nova Spring Co., Azure Nova Summer Co., Azure Nova Autumn Co., and Azure Nova Winter Co. (collectively, "Azure" or the "Azure Claimants") entered into bareboat charter agreements (collectively, the "Charters") with non-Debtors Antikeros Special Maritime Enterprise, Dhonoussa Special Maritime Enterprise, Polyaigos Special Maritime Enterprise and Strofades Special Maritime Enterprise (collectively, the "Azure Charterers") respectively, for the use and operation of vessels owned by Azure named the Antikeros, Dhonoussa, Polyaigos, and Strofades, respectively (collectively, the "Azure Vessels").

Pursuant to the Charters, the Azure Charterers were obligated to make payments to Azure related to the charter of the Azure Vessels. The obligations were guaranteed by Eletson Holdings and Eletson Corp pursuant to those certain guarantees executed by Eletson Holdings and Eletson Corp in favor of each Azure entity dated August 24, 2017 (collectively, the "Azure Guarantees"). Pursuant to the Azure Guarantees, Eletson Holdings guaranteed the full payment for all amounts due under the Charters. As security for Eletson Holdings' obligations under the Azure Guarantees, Eletson Holdings executed a share pledge agreement in favor of each Azure entity pursuant to which the equity of the respective Azure Charterer was placed as collateral to secure the obligations under the applicable Charter.

In March 2021, the Charters were terminated and the Azure Vessels were repossessed. As a result of this termination and repossession, two arbitrations were commenced by Azure, one against the Charterers seeking a determination of any amounts owed to Azure because of the termination of the Charters and repossession of the Azure Vessels and a second against Eletson Holdings for any obligations arising from the Azure Guarantees which are asserted by Azure to be in an amount of no less than $94,799,702. Eletson Holdings disputes that defaults have occurred, or that obligations exist under the respective Azure Guarantees.

The Debtors' Schedules list the Azure Claimants as each having disputed unsecured Claims against Eletson Holdings for $12,000,000. *See* Docket No. 216. Each of the Azure Claimants filed a separate Proof of Claim against Eletson Holdings, each asserting a Secured Claim. However, the full amount listed in each Proof of Claim is asserted as an unsecured deficiency claim against Eletson Holdings for $94,799,702.40 in

connection with the Charters (collectively, the "Azure Guaranty Claims"). *See* Proof of Claim Nos. 9-12.

5. *The Eletson Corp Guarantees*

Non-Debtor Eletson Corp is the operational and technical management entity for various Eletson entities (including various of Eletson Holdings' non-Debtor subsidiaries). As Eletson Corp's parent entity, Eletson Holdings guaranteed certain obligations of Eletson Corp on a number of its unsecured obligations owed towards various banking entities in Greece, including Aegean Baltic Bank S.A., Alpha Bank S.A., and Piraeus Bank A.E. (collectively, the "Corp Guaranty Claims").

The Debtors' Schedules list Aegean Baltic Bank S.A. as having a disputed unsecured Claim against Eletson Holdings for $4,000,019. *See* Docket No. 216. The Schedules list Piraeus Bank A.E. as having a disputed unsecured Claim against Eletson Holdings for $16,326,319. *See id*. Alpha Bank S.A. is also listed as having a disputed unsecured Claim against Eletson Holdings for $4,302,823. *See id.*

Aegean Baltic Bank S.A. filed a Proof of Claim against Eletson Holdings for $6,335,665.08 pursuant to a Eletson Corp guarantee for the unpaid principal of $5,555,514.40 plus applicable interest, fees, and other charges. *See* Proof of Claim No. 4. Hermes Acquisitions B DAC Serviced by Cepal Hellas also filed a Proof of Claim pursuant to a Eletson Corp guarantee for claims purchased from Alpha Bank S.A., totaling $4,302,198.44. *See* Proof of Claim No. 16. Lastly, Sunrise I NPL Finance DAC also filed a Proof of Claim against Eletson Holdings pursuant to a Eletson Corp guarantee for claims purchased from Piraeus Bank A.E., totaling $23,402,504.90. *See* Proof of Claim No. 22. The Sunrise I NPL Finance DAC Proof of Claim asserts a secured claim in the amount of $7,000,000 and an unsecured claim in the amount of $16,402,504.90. *See id.*[13]

6. *Initial Petitioning Creditors' Claims*

Each of the Initial Petitioning Creditors filed protective Proofs of Claims against each of the Debtors in the amounts of $2,234,807.36, $357,567.10, and $2,431.10, respectively, pursuant to the *Second Application of the Petitioning Creditors Pursuant to Section 503(b)(3)(A) and 503(b)(4) of the Bankruptcy Code, for Allowance of Professional Fees,* filed on December 18, 2023 [Docket No. 322]. *See* Proofs of Claims Nos. 17-19 against Eletson Holdings; Proofs of Claims Nos. 4-6 against Eletson MI; and Proofs of Claims Nos. 4-6 against Eletson Finance.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the

[13] Proof of Claim No. 22 is based on three facility agreements, one of which included a first priority "prenotation of mortgage under articles 1274 et seq. of the Greek Civil Code, over an office property…in the amount of up to seven million Euro…the property is estimated to be worth approximately that amount." Proof of Claim No. 22 at 5.

preceding paragraph and the purported validity of any Proof of Claim filed by the Initial Petitioning Creditors."

7. *Other Claims and Liabilities*

The Debtors have other outstanding Claims from amounts owed to creditors prior to the Petition Date. Such amounts include, among other things, prepetition Claims by certain individual Old Noteholders (the "Individual Old Noteholder Claims"), NAF (the "NAF Claims"), Levona (the "Levona Claim"), other miscellaneous scheduled claims (the "Miscellaneous Scheduled Claims"), and a prepetition tax Claim filed by the Internal Revenue Service (the "Tax Claim"). The Individual Old Noteholder Claims, NAF Claims, Levona Claim, and the Miscellaneous Scheduled Claims are explained in more detail below.

(a) The Individual Old Noteholder Claims

The Individual Old Noteholder Claims consist of the following and were not listed on the Schedules as Claims against any of the Debtors:

- Proof of Claim filed by Tracy Lee Gustafson against Eletson Holdings for bonds purchased in connection with the Old Notes totaling $117,978. *See* Proof of Claim No. 1;

- Proof of Claim filed by TR I/XII/W J. Fleishmnn/Dorette against Eletson Holdings for bonds purchased in connection with the Old Notes totaling $107,864.51. *See* Proof of Claim No. 3; and

- Proof of Claim filed by Middle East Shipping Agencies Overseas, Ltd. against Eletson Holdings for bonds purchased in connection with the Old Notes totaling $257,750 plus applicable interest, fees, and other charges. *See* Proof of Claim No. 15.

(b) NAF Claims

The NAF Claims consist of unsecured Claims against each of the Debtors for approximately $5,155,522. *See* Proof of Claim No. 13 against Eletson Holdings; Proof of Claim No. 1 against Eletson MI; and Proof of Claim No. 1 against Eletson Finance. The NAF Claims are based on amounts owed under the Old Notes and the Old Notes Trustee's fees and professional fees that the Old Notes Trustee had paid on behalf of the Debtors. *Id.* The Schedules for Eletson Holdings lists the NAF Claim as a disputed unsecured Claim for $5,155,522 and separately, as a disputed unsecured Claim for $24,000 on the Eletson Finance Schedule. *See* Docket Nos. 216, 220.

(c) Levona Claim

The Levona Claim consists of an unsecured Claim for damages in connection with the facts related to the Arbitration and these Chapter 11 Cases, totaling $262,500,000, filed against Eletson Holdings. *See* Proof of Claim No. 21.

(d) Miscellaneous Scheduled Claims

Eletson MI's Schedules list Regus Management Group LLC as having a Claim against Eletson MI for $"741,70" in connection with an office lease. *See* Docket No. 218. Eletson Finance's Schedules list Thompson Hine LLP as having a Claim against Eletson Finance for $8,225 in connection with the provision of services. *See* Docket No. 220.

(e) Tax Claim

The Tax Claim consists of priority Claim in the amount of $313.23 and a general unsecured Claim in the amount of $319.97, both filed against Eletson Holdings for estimated amounts of unpaid corporate taxes. *See* Proof of Claim No. 23-1 filed against Eletson Holdings.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the asserted validity of each of the purported claims filed against the Debtors discussed in this subsection, many of which are subject to objections."

III. THE BANKRUPTCY CASES

A. The Involuntary Petitions and Related Cases

On the Petition Date, the Initial Petitioning Creditors filed the Involuntary Petitions against each of the Debtors. They were later joined by 11 additional petitioning creditors, including the Exchange Notes Trustee.[14] *See* Docket No. 102.

On April 14, the Debtors moved to dismiss the Involuntary Petitions [Docket No. 40], which was later supplemented at various points in response to additional creditors that filed joinders to the Involuntary Petitions [Docket Nos. 70, 108, 121, 122] (as supplemented, the "Motion to Dismiss"). Over the next few months, the Debtors and their creditors engaged in months of litigation, including discovery and related motion practice, resulting in millions of dollars in administrative expenses by the Debtors and fees and expenses incurred by their creditors in pursuing their contractual rights to repayment from the Debtors.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraph. In the Debtors' view, Pach Shemen, the largest holder of

[14] The full list of creditors that filed the Involuntary Petitions and/or joined them are: Pach Shemen LLC, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein, Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust, Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, Ron Pike, and NAF. Watson Farley & Williams LLP and Paleokrassas & Partners Law Firm (trading as Watson Farley & Williams Greece) (together, "WFW") former counsel to the Debtors, joined the Involuntary Petitions [Docket No. 61] but later withdrew after the Debtors paid WFW an undisclosed amount [Docket No. 101].

Exchange Notes of the Initial Petitioning Creditors, obtained its claims against the Debtors mere months before filing the Involuntary Petitions. The Debtors believe that these claims were obtained in violation of the terms of the Second RSA and OCM Financing Stipulation, and that the filing of the Involuntary Petitions was an improper action taken in bad faith as part of a coordinated effort to harm the Debtors and provide a litigation advantage to Levona in the Arbitration. The Debtors have reserved all rights regarding the impropriety of the Involuntary Petitions."

Prior to the hearing on the Motion to Dismiss, upon the request of the Debtors, the Petitioning Creditors and the Exchange Notes Trustee, the Bankruptcy Court entered the *Order Appointing Hon. Allan L. Gropper (Ret.) as Mediator* [Docket No. 148] directing the parties towards a non-binding mediation (the "Initial Mediation") to address the issues surrounding the Motion to Dismiss. The Initial Mediation did not lead to any resolution. Just one day prior to the hearing on the Motion to Dismiss, the Debtors, the Petitioning Creditors, and the Exchange Notes Trustee entered into a stipulation which was read into the record on September 6, 2023 (the "Conversion Stipulation"). Pursuant to the Conversion Stipulation, the Debtors agreed to withdraw their Motion to Dismiss and voluntarily convert the pending Chapter 7 cases to cases under Chapter 11, and the Petitioning Creditors agreed not to object to the voluntary conversion. In addition, pursuant to the Conversion Stipulation, the Debtors, the Exchange Notes Trustee, and the Petitioning Creditors agreed to, among other things, the following: (i) the Petitioning Creditors and the Exchange Notes Trustee would not file a motion to appoint an examiner, trustee, or limit exclusivity during the first 120 days of the Chapter 11 Cases; (ii) the Debtors agreed to withdraw adversary proceeding Case No. 23-1132 related to the filing of the Involuntary Petitions, without prejudice, and agreed not to reinitiate such a proceeding for the longer of four months or the end of the confirmation and vacatur proceedings concerning the Award; (iii) the Debtors' and Petitioning Creditors' professionals agreed not object to other professionals seeking retention as estate professionals; (iv) the Debtors' agreed not to object to a substantial contribution motion brought by the Petitioning Creditors seeking up to $1.5 million, with the express agreement that the Petitioning Creditors could seek additional amounts exceeding that sum; and (v) the Petitioning Creditors agreed not to object to or assert rights of recovery against the pre-petition fees sought by the Debtors' counsel of up to $2 million. *See* Sept. 6, Tr. at 9. Finally, the Conversion Stipulation was entered into without prejudice to all causes of action, claims, or defenses that the parties might thereafter assert, including, without limitation, the Debtors' rights to object to claims brought in the Chapter 11 Cases. *Id.*

On September 13, 2023, the Debtors filed a motion to convert the Chapter 7 cases [Docket No. 201], to which the Petitioning Creditors responded that a motion was unnecessary, and the cases should be converted immediately [Docket No. 203]. Following a hearing held on September 20, 2023, on September 25, 2023 the Bankruptcy Court entered an order converting the Chapter 7 cases to cases under Chapter 11 of the Bankruptcy Code [Docket No. 215] (the "Conversion Order").

B. Events in the Chapter 11 Cases

Since the entry of the Conversion Order, the Debtors did not file any first day motions. The limited filings made by the Debtors, as well as certain other material

events in these Chapter 11 Cases, are described in greater detail below.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the characterization of the Debtors' filings in the preceding paragraph. The Debtors assert that the Debtors are holding companies without any ongoing operations, employees or bank accounts, and as such had no need to file any typical first day motions. Further, the Debtors state that the background and history of the Debtors as well as information regarding the Debtors' corporate structure was heavily litigated and discussed in the filings made prior to entry of the Conversion Order."

1. *Appointment of Creditors' Committee*

On October 20, 2023, the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee") appointed an official committee of unsecured creditors [Docket No. 233] (the "Creditors' Committee"). The Creditors' Committee is comprised of the following creditors: (a) Gene B. Goldstein, (b) Aegean Baltic Bank S.A., and (c) the Exchange Notes Trustee. The Old Notes Trustee serves as an ex officio member.

2. *Estate Professionals*

Pursuant to orders of the Bankruptcy Court, the Debtors and the Creditors' Committee have retained certain professionals pursuant to sections 327 and 328 of the Bankruptcy Code (collectively, the "Estate Professionals"). The Debtors' only Estate Professional is Reed Smith LLP, as counsel [Docket Nos. 235 and 350]; the Creditors' Committee's Estate Professionals are (a) Dechert LLP, as counsel [Docket Nos. 273 and 351] and (b) FTI Consulting, Inc., as financial advisor [Docket Nos. 349 and 375].

By order dated February 7, 2024 [Docket No. 398] (the "Interim Comp Order"), the Bankruptcy Court established procedures for the Debtors' payment of certain of the fees and expenses of the Estate Professionals during the pendency of these Chapter 11 Cases, including pursuant to the filing of monthly fee statements and periodic interim fee applications. As of the date hereof, the following monthly fee statements have been filed:

- *First Monthly Fee Statement of Dechert LLP for the Period From October 25, 2023 Through November 30, 2023* [Docket No. 399] ("Dechert's First Fee Statement") seeking reimbursement of fees and expenses totaling $ 743,688.18;

- *Second Monthly Fee Statement of Dechert LLP for the Period From December 1, 2023 Through December 31, 2023* [Docket No. 400] ("Dechert's Second Fee Statement") seeking reimbursement of fees and expenses totaling $586,096.76;

- *Third Monthly Fee Statement of Dechert LLP for the Period From January 1, 2024 Through January 31, 2024* [Docket No. 433] ("Dechert's Third Fee

Statement") seeking reimbursement of fees and expenses totaling $628,770.91;

- *Fourth Monthly Fee Statement of Dechert LLP for the Period From February 1, 2024 Through February 29, 2024* [Docket No. 529] ("Dechert's Fourth Fee Statement") seeking reimbursement of fees and expenses totaling $776,042.06;

- *Fifth Monthly Fee Statement of Dechert LLP for the Period From March 1, 2024 Through March 31, 2024* [Docket No. 609] ("Dechert's Fifth Fee Statement") seeking reimbursement of fees and expenses totaling $1,010,965.52;

- *Sixth Monthly Fee Statement of Dechert LLP for the Period from April 1, 2024 Through April 30, 2024* [Docket No. 703] ("Dechert's Sixth Fee Statement" and together with Dechert's First Fee Statement, Dechert's Second Fee Statement, Dechert's Third Fee Statement, Dechert's Fourth Fee Statement, and Dechert's Fifth Fee Statement, the "Dechert Fee Statements") seeking reimbursement of fees and expenses totaling $1,083,448.33;

- *First Monthly Fee Statement of FTI Consulting, Inc. for the Period From December 8, 2023 Through December 31, 2023* [Docket No. 401] ("FTI's First Fee Statement") seeking reimbursement of fees and expenses totaling $233,115.77;

- *Second Monthly Fee Statement of FTI Consulting, Inc. for the Period From January 1, 2024 Through January 31, 2024* [Docket No. 434] ("FTI's Second Fee Statement") seeking reimbursement of fees and expenses totaling $600,417.73;

- *Third Monthly Fee Statement of FTI Consulting, Inc., for the Period From February 1, 2024 Through February 29, 2024* [Docket No. 530] ("FTI's Third Fee Statement") seeking reimbursement of fees and expenses totaling $334,953.94;

- *Fourth Monthly Fee Statement of FTI Consulting, Inc., for the Period From March 1, 2024 Through March 31, 2024* [Docket No. 610] ("FTI's Fourth Fee Statement") seeking reimbursement of fees and expenses totaling $407,858.63;

- *Fifth Monthly Fee Statement of FTI Consulting, Inc. for the Period From April 1, 2024 Through April 30, 2024* [Docket No. 704] ("FTI's Fifth Fee Statement" and together with FTI's First Fee Statement, FTI's Second Fee Statement, FTI's Third Fee Statement, and FTI's Fourth Fee Statement, the "FTI Fee Statements") seeking reimbursement of fees and expenses totaling $815,339.24;

- *First Monthly Fee Statement of Reed Smith LLP, for the Period From January 1, 2024 Through January 31, 2024* [Docket No. 537] ("Reed Smith's First Fee Statement") seeking reimbursement of fees and expenses totaling $957,875.36;

- *Second Monthly Fee Statement of Reed Smith LLP, for the Period From February 1, 2024 Through February 29, 2024* [Docket No. 541] ("Reed Smith's Second Fee Statement") seeking reimbursement of fees and expenses totaling $929,877.18;

- *Third Monthly Fee Statement of Reed Smith LLP, for the Period From March 1, 2024 Through March 31, 2024* [Docket No. 618] ("Reed Smith's Third Fee Statement") seeking reimbursement of fees and expenses totaling $2,004,475.75; and

- *Fourth Monthly Fee Statement of Reed Smith LLP, for the Period from April 1, 2024 Through April 30, 2024* [Docket No. 702] ("Reed Smith's Fourth Fee Statement" and together with Reed Smith's First Fee Statement, Reed Smith's Second Fee Statement, and Reed Smith's Third Fee Statement, the "Reed Smith Fee Statements") seeking reimbursement of fees and expenses totaling $2,177,149.39.

As of the date hereof, the Debtors filed objections to the Dechert Fee Statements and the FTI Fee Statements. *See* Docket Nos. 431, 432, 464, 465, 563, 564, 633 634, 737, and 738. The Petitioning Creditors filed objections to the Reed Smith Fee Statements. *See* Docket Nos. 578, 659, and 729. The Creditors' Committee also filed objections to the Reed Smith Fee Statements. *See* Docket Nos. 577, 588, 660, and 731.

Pursuant to the Interim Comp Order, as of the date hereof, the following interim fee applications have been filed:

- *First Interim Fee Application for Dechert LLP for the Period from October 25, 2023 Through December 31, 2023* [Docket No. 417] ("Dechert's First Interim Fee Application") seeking interim allowance of fees and expenses totaling $1,329,784.94;

- *First Interim Fee Application of FTI Consulting, Inc. for the Period From December 8, 2023 Through December 31, 2023* [Docket No. 418] ("FTI's First Interim Fee Application") seeking interim allowance of fees and expenses totaling $233,115.77;

- *First Interim Fee Application of Reed Smith LLP, Counsel to the Debtors for the Period From September 25, 2023 Through December 31, 2023* [Docket No. 444] ("Reed Smith's First Interim Fee Application") seeking interim allowance and payment of fees and expenses totaling $2,527,171.78; and

- *Second Interim Fee Application of Reed Smith LLP, Counsel to the Debtors and Debtors in Possession, for Compensation and Reimbursement of Expenses for the Period January 1, 2024 to April 30, 2024* [Docket No. 776] ("Reed Smith's Second Interim Fee Application") seeking interim allowance and payment of fees and expenses totaling $6,069,386.60.

- *Second Interim Fee Application of Dechert LLP for Compensation for Services Rendered and Reimbursement of Expenses as Counsel to the Official Committee of Unsecured Creditors for the Period From January 1, 2024 Through April 30, 2024* [Docket No. 788] ("Dechert's Second Interim Fee Application") seeking interim allowance and payment of fees and expenses totaling $3,471,835.00.

- *Second Interim Fee Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses as Financial Advisor to the Official Committee of Unsecured Creditors for the Period from January 1, 2024 through April 30, 2024* [Docket No. 789] ("FTI's Second Interim Fee Application") seeking interim allowance of fees and expenses totaling $1,939,040.00.

As of the date hereof, the Debtors objected to Dechert's First Interim Fee Application and to FTI's First Interim Fee Application. *See* Docket Nos. 485 and 486. On March 14, 2024, the Petitioning Creditors and the Creditors' Committee objected to Reed Smith's First Interim Fee Application. *See* Docket Nos. 484 and 487. On March 18, 2024, the U.S. Trustee objected to Dechert's First Interim Fee Application and to FTI's First Interim Fee Application. *See* Docket No. 492. On April 12, 2024, the Debtors filed an omnibus reply in support Reed Smith's First Interim Fee Application, and the Creditors' Committee filed replies in support of Dechert's First Interim Fee Application and FTI's First Interim Fee Application. *See* Docket Nos. 583, 585, 586.

Following a hearing held on May 8, 2024, on May 14, 2024, the Bankruptcy Court entered a first interim order granting 80% of the fees in Dechert's First Interim Fee Application, FTI's First Interim Fee Application, and the "bankruptcy" fees set forth in Reed Smith's First Interim Fee Application subject to a full reservation of rights for the final fee hearing. [Docket No. 676]. Also, on May 8, 2024, the Bankruptcy Court heard argument, and reserved decision, on Reed Smith's "arbitration" fees. On June 7, 2024, the Bankruptcy Court issued an oral decision approving Reed Smith's fees relating to the Arbitration, and on June 12, 2024, entered an order requiring that such fees be paid by non-Debtor Eletson Corp [Docket No. 769].

A hearing on Reed Smith's Second Interim Fee Application, Dechert's Second Interim Fee Application, and FTI's Second Interim Fee Application is scheduled

for July 31, 2024, and objections are due on July 24, 2024. *See* Docket Nos. 776, 789, 788.

3. *Issues with the Debtors' Reporting Obligations*

(a) Schedules and Statements

Although the Conversion Date occurred on September 25, 2023, the Debtors failed to make any filings until October 10, 2023, when the Debtors filed the Original Schedules. See Docket Nos. 216-221. The Original Schedules were bereft of any detail, listing, for example, 73 subsidiaries each valued at $0, as well as the unvalued Litigation Claims against certain of the Petitioning Creditors. See Docket Nos. 2016 at 10-11 and 217 at 1-4, 11-27. It was not until December 29, 2023, over two months later—after the U.S. Trustee, the Creditors' Committee, and the Petitioning Creditors questioned those disclosures—that the Debtors filed the Amended Schedules, reducing the number of their disclosed subsidiaries to 60, but increasing the aggregate equity value in such subsidiaries from $0 to $52.5 million. *See* Docket No. 340 at 9-11.

(b) 2015.3 Reports

The Debtors did not file any Rule 2015.3 Reports (the "2015.3 Reports") until November 20, 2023, which was weeks late, and did so for only ten of their subsidiaries. *See* Docket No. 271.[15] Further, the Debtors initially failed to disclose a 2015.3 Report for Eletson Gas and, only after the U.S. Trustee demanded the Debtors do so, the Debtors filed a 2015.3 Report for Eletson Gas on November 30, 2023. *See* Docket No. 284 at 3. The Debtors did not file 2015.3 Reports for the remaining dozens of other subsidiaries until December 29, 2023. *See* Docket No. 341.

On February 12, 2024, the Debtors filed their second set of 2015.3 Reports. *See* Docket No. 409.

(c) Monthly Operating Reports

The Debtors have filed their monthly operating reports for the periods ending 9/30/2023, 10/31/2023, 11/30/2023, 12/31/2023, 1/31/2024, 2/29/2024, 3/31/2024, and 4/30/2024. [Docket Nos. 268-270, 276-277, 280, 325-327, 427-429, 508-510, 603-605, and 706-708] (the "Monthly Operating Reports"). The Monthly Operating Reports fail to disclose intercompany balances. Certain of the Monthly Operating Reports also contain various inaccuracies, including stating that the Debtors

[15] Bankruptcy Rule 2015.3 requires, among other things, that the Debtors file "periodic financial reports of the value, operations, and profitability of each entity that is not a publicly traded corporation or a debtor in a case under title 11, and in which the estate holders a substantial or controlling interest." Bankruptcy Rule 2015.3(a).

had not retained counsel (which they had, *see supra* B.2) and that the Debtors had not filed a chapter 11 plan or disclosure statement (which they had at the time, *see infra* C.1).

The Debtors' Monthly Operating Reports also state that the Debtors are not in compliance with their obligations to pay quarterly U.S. Trustee fees pursuant to 28 U.S.C. § 1930.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the allegations and characterizations of the Debtors' reporting obligations in these Chapter 11 Cases. The Debtors assert that as a threshold matter, the Debtors are current on all reporting obligations as noted by the Bankruptcy Court, and these filing contain accurate information to the best of the Debtors' knowledge. As previously stated, the Debtors have never taken the position that the Debtors have no assets, and filed "$0" on the Debtors' Schedules as the Debtors' assets were illiquid and of an undetermined value. The Debtors assert that the Debtors have disclosed all information required under the Bankruptcy Code and have repeatedly supplemented filings upon the request of parties in interest."

4. *The Bar Date and Claims Process*

(a) Bar Date and Claims

By order dated November 9, 2023 [Docket No. 264] (the "Bar Date Order"), the Bankruptcy Court established December 18, 2023 at 4:00 p.m. (prevailing Eastern Time) as the general bar date (the "General Bar Date") and March 25, 2024 at 4:00 p.m. (prevailing Eastern Time) as the governmental bar date (the "Governmental Bar Date").

As of the date hereof, approximately thirty-seven (37) Proofs of Claims were filed against the Debtors. After adjustments for duplicative Claims and other adjustments, the Petitioning Creditors estimate that Allowed General Unsecured Claims in these Chapter 11 Cases may range from approximately $505 million in a low scenario to $768 million in a high scenario. The low scenario of $505 million assumes allowance of the asserted amounts of the proofs of claims filed by the Old Notes Trustee ($5,953,704.07) [*see* Proof of Claim No. 2-1], the Exchange Notes Trustee ($366,011,815) [*see* Proof of Claim No. 14], the Azure Claimants ($94,799,702.40) [*see* Proof of Claim Nos. 9-12], Aegean Baltic Bank S.A., Alpha Bank S.A., and Piraeus Bank A.E, as the Eletson Corp Guarantee Claimants ($6,353,665.08, $4,302,198.44, and $23,402,504.90) [*see* Proof of Claims Nos. 4, 16, and 22], and NAF ($5,155,522) [*see* Proof of Claim No. 13]) but does not include the Levona Claim ($262,500,000) [*see* Proof of Claim No. 21-1]. The high scenario assumes all of these claims are allowed as well as the Levona Claim for a total of approximately $768 million. The actual allowed amount of General Unsecured Claims in these Chapter 11 Cases may vary.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the previous paragraph to the extent that the Petitioning Creditors assert that any of the Claims asserted against the Debtors, other than those undisputed non-contingent

Claims scheduled by the Debtors, are valid claims entitled to payment in any amount or are otherwise enforceable against the Debtors and/or their estates. The Debtors believe that the estimates provided by the Petitioning Creditors above are incorrect and the actual range of allowed claims against the Debtors and their estates will be significantly lower."

(b) Claims Objections

On January 28, 2024, the Debtors filed several objections and omnibus objections to Proofs of Claims. Specifically, the Debtors objected to the Proofs of Claims filed by the Initial Petitioning Creditors [Docket No. 377] (the "Initial Petitioning Creditors' Claim Objection"), Levona [Docket No. 378] (the "Levona Claim Objection"), NAF [Docket No. 379] (the "NAF Claim Objection"), and the Exchange Notes Trustee [Docket No. 380] (the "Exchange Notes Trustee Claim Objection"), as well as an omnibus objection to claims filed by the Individual Old Noteholders and the Old Notes Trustee, arguing that they are duplicative of the master Proofs of Claims filed by the Old Notes Trustee [Docket No. 376] (the "Omnibus Claim Objection" and collectively, with the Initial Petitioning Creditors' Claim Objection, the Levona Claim Objection, the NAF Claim Objection, and the Exchange Notes Trustee Claim Objection, the "Claims Objections").

At the Debtors' request, on February 12, 2024, the Bankruptcy Court approved an adjournment of all briefing and hearing dates and deadlines with respect to the Claims Objections pending further discussion at the February 27 Status Conference (as defined below). *See* Docket No. 405 (the "Adjournment Order"). A status conference on the Initial Petitioning Creditors' Claim Objection, the NAF Claim Objection, the Exchange Notes Trustee Claim Objection, and the Omnibus Claim Objection took place at a hearing on May 15, 2024 (the "May 15 Hearing"), along with the additional matters discussed herein. *See* Docket No. 635. A continued status conference on the Initial Petitioning Creditors' Claim Objection, the NAF Claim Objection, the Exchange Notes Trustee Claim Objection, and the Omnibus Claim Objection is scheduled for June 18, 2024 (the "June 18 Hearing"). *See* Docket No. 710. The Bankruptcy Court scheduled an evidentiary hearing on the Initial Petitioning Creditors' Claim Objection, the NAF Claim Objection, the Exchange Notes Trustee Claim Objection, and the Omnibus Claim Objection for July 23, 2024 and if necessary, July 24, 2024. *See* Docket No. 735.

The Objection Deadline on Omnibus Claim Objection, the Initial Petitioning Creditors' Claim Objection, the NAF Claim Objection, and the Exchange Notes Trustee Claim Objection was May 7, 2024 [Docket No. 635], and the following responses were filed: the Old Notes Trustee filed a response to the Omnibus Claim Objection [Docket No. 637], the Exchange Notes Trustee filed a response to the Exchange Notes Trustee Claim Objection [Docket No. 639], which was joined by the Petitioning Creditors [Docket No. 645], the Initial Petitioning Creditors filed a response to the Initial Petitioning Creditors' Claim Objection [Docket No. 643], and NAF filed a response to the NAF Claim Objection [Docket No. 644].

At the May 31 Status Conference, the Bankruptcy Court adjourned the Levona Claim Objection to a date to be determined.

5. *The Motions for Appointment of a Chapter 11 Trustee*

(a) The UCC Trustee Motion

On February 6, 2024, the Creditors' Committee filed a motion for the appointment of a chapter 11 trustee [Docket No. 394] (the "UCC Trustee Motion"), which was joined by: (i) the Old Notes Trustee on February 12, 2024 [Docket No. 404]; (ii) the Exchange Notes Trustee on February 15, 2024 [Docket No. 420]; and (iii) the Petitioning Creditors on March 12, 2024 [Docket No. 477]. On March 12, 2024, Intrum Hellas Societe Anonyme Management of Receivables from Loans and Credits as the servicing claims manager for SUNRISE I NPL FINANCE DAC, filed a statement in support of the UCC Trustee Motion [Docket No. 476].

Pursuant to the Adjournment Order, the Bankruptcy Court adjourned all briefing and hearing dates and deadlines with respect to the UCC Trustee Motion pending further discussion at the February 27 Status Conference. At the February 27 Status Conference, the Bankruptcy Court scheduled the UCC Trustee Motion, among others, for a three-day trial that occurred on April 9, 2024 through April 11, 2024 (the "April 9 Trial"), and directed the parties to submit a Scheduling Order (as defined below). On March 22, 2024, the Debtors filed an omnibus objection to the Petitioning Creditors' Trustee Motion (as defined below) and the UCC Trustee Motion [Docket No. 513] (the "Omnibus Objection"). On March 22, 2024, the Nominees also filed an omnibus objection to the UCC Trustee Motion, the UST Trustee Motion (as defined below), and the Petitioning Creditors' Trustee Motion [Docket No. 518] (the "Nominees' Omnibus Objection"). On April 2, 2024, the Creditors' Committee filed a reply in support of the UCC Trustee Motion. *See* Docket No. 549. On April 2, 2024, the Petitioning Creditors filed a reply in support of the Trustee Motions (as defined below). *See* Docket No. 547.

(b) The UST Trustee Motion

On February 16, 2024, the U.S. Trustee filed a second motion for the appointment of a chapter 11 trustee [Docket No. 424] (the "UST Trustee Motion"), which was joined by the Petitioning Creditors on March 12, 2024 [Docket No. 477].

At the February 27 Status Conference, the Bankruptcy Court scheduled the UST Trustee Motion for the April 9 Trial. In accordance with the Scheduling Order, on March 22, 2024, the Debtors filed an objection to the UST Trustee Motion and the Nominees filed the Nominees' Omnibus Objection. *See* Docket Nos. 512 and 518. On April 2, 2024, the U.S. Trustee filed a reply in support of the UST Trustee Motion. *See* Docket No. 544. On April 2, 2024, the Petitioning Creditors filed a reply in support of the Trustee Motions. *See* Docket No. 547.

(c) Petitioning Creditors' Emergency Trustee Motion

On March 11, 2024, the Petitioning Creditors filed the *Petitioning Creditors' Emergency Motion to Appoint a Trustee* [Docket No. 468] (the "Petitioning Creditors' Trustee Motion" and, together with the UCC Trustee Motion, and the UST Trustee Motion, the "Trustee Motions"), which was also heard at the April 9 Trial. *See* Docket Nos. 480 and 481. On March 22, 2024, the Debtors filed the Omnibus Objection and the

Nominees filed the Nominees' Omnibus Objection. *See* Docket Nos. 513 and 518. On April 2, 2024, the Petitioning Creditors filed a reply in support of the Trustee Motions. *See* Docket No. 547.

6. *April 9 Trial*

The April 9 Trial on the Trustee Motions began on April 9, 2024 and concluded on April 11, 2024. On April 18, 2024, the Debtors', the Nominees, the U.S. Trustee, the Creditors' Committee, and the Petitioning Creditors each filed post-trial briefs in further support of their respective positions. *See* Docket Nos. 594-598.

On May 29, 2024, the Bankruptcy Court issued a memorandum opinion and order [Docket No. 721] (the "Trustee Decision") denying the Trustee Motions and finding that the various movants had not met the high burden of demonstrating (i) that cause existed for the appointment of a trustee and (ii) that the appointment of a trustee was in the best interests of parties in interest.

On June 12, 2024, the Creditors' Committee appealed the Trustee Decision to the U.S. District Court for the Southern District of New York. *See* Docket No. 768.

7. *DIP Financing*

At the February 27 Status Conference, counsel to the Creditors' Committee raised the issue that the Debtors had not paid the undisputed portion of the Creditors' Committee's professionals' fees (the "Outstanding Fees"). After further discussion at the February 27 Status Conference, the Bankruptcy Court directed the parties to provide an update to the Bankruptcy Court by February 29, 2024. On February 29, 2024, the Debtors filed a letter [Docket No. 443] stating that the Debtors intended to pursue Bankruptcy Court approval for a debtor-in-possession financing loan with undisclosed terms as of that time from a non-Debtor subsidiary, Eletson Gas, to pay the Outstanding Fees.

At a status conference on March 6, 2024, the parties discussed the foregoing fee issues, among other things, and the Bankruptcy Court directed the Debtors to share their proposed debtor-in-possession financing term sheet with the parties, and update the Bankruptcy Court by end of day on Friday, March 8, 2024. On Thursday, March 7, 2024, counsel for the Debtors provided counsel for the Creditors' Committee (and not the Petitioning Creditors) with a copy of a proposed term sheet for the Original DIP Facility (as defined below) mere hours before it was filed on the docket.

On March 7, 2024, the Debtors filed the *Debtors' Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to Obtain Postpetition Financing (B) Granting Liens and Providing Superiority Administrative Expense Status (C) Modifying the Automatic Stay, (D) Scheduling a Final Hearing and (E) Granting Related Relief* [Docket No. 458] (the "DIP Motion") for approval of a senior secured, superpriority debtor-in-possession financing facility (the "Original DIP Facility") on the terms set forth in the Original DIP term sheet, attached to the DIP Motion as Exhibit C (the "Original DIP Term Sheet"). The proposed lender is "EMC Gas Corporation and such other of its affiliates that agree

to participate in the DIP Facility" (the "DIP Lender")—a subsidiary of Eletson Gas, which is itself a subsidiary of Eletson Holdings. Eletson Holdings owns 100% of the common stock of Eletson Gas and there is substantial overlap among their officers and directors.

On March 8, 2024, the Petitioning Creditors submitted a financing proposal to counsel for the Debtors that the Petitioning Creditors believed was significantly better for the Debtors and their estates (the "PC Proposal") than that set forth in the Original DIP Term Sheet.[16] Among other things, the PC Proposal is on an entirely *unsecured and administrative claims-only (not superpriority)* basis and provides substantially more liquidity ($10 million) for the Debtors than the grossly inadequate $4 million under the Original DIP Facility. The PC Proposal would also not result in a default if and when the Bankruptcy Court grants the pending Trustee Motions and, in the case of a default, would not permit the lender to foreclose on the Debtors' assets (as there is no collateral).

After the Petitioning Creditors delivered the PC Proposal to the Debtors, on March 15, 2024, the Debtors received a revised term sheet from the DIP Lender that was "economically identical" to the PC Proposal (the "Revised DIP Term Sheet"), which the Debtors "tentatively accepted." Docket No. 513, ¶ 45. As of the date hereof, the Revised DIP Term Sheet has not been filed with the Bankruptcy Court.

The Omnibus Objection provides that the Debtors' need for DIP financing was "resolved in the short term" and on March 17, 2024, the Debtors informed the Bankruptcy Court that they "were given consent by the financiers of the [special maritime entity subsidiaries ("SMEs")] to permit some portion of the funds held by the SMEs to be made available to [Eletson] Holdings as a dividend." *Id.* This "provided the Debtors with the requisite liquidity to immediately pay all outstanding and payable administrative expenses" including the Outstanding Fees. *Id.* The Omnibus Objection further provides that on March 18, 2024, counsel to the Creditors' Committee confirmed receipt of payment of the Outstanding Fees. *Id.*

On March 18, 2024, the Debtors adjourned the DIP Motion to the April 9 Trial. *See* Docket No. 494. The Omnibus Objection provides that the "Debtors are still evaluating whether they are still in need of the DIP Facility." Docket No. 513, ¶ 45. As of the date hereof, the U.S. Trustee objected to the DIP Motion.[17] *See* Docket No. 482. On March 28, 2024, the Debtors adjourned the DIP Motion to April 16, 2024. *See* Docket No. 539. On April 10, 2024, the Debtors adjourned the DIP Motion to May 8, 2024. *See* Docket No. 572. On April 26, 2024, the Debtors adjourned the DIP Motion to June 18, 2024. *See* Docket No. 619. On June 7, 2024, the Debtors withdrew the DIP Motion without prejudice. *See* Docket No. 758.

[16] The PC Proposal is attached to the Petitioning Creditors' Trustee Motion as Exhibit B.

[17] The Omnibus Objection provides that on "March 18, 2024 the [U.S. Trustee] stated that they had no objection to the DIP Facility and deferred to the Debtors' business judgment on the selection of unsecured postpetition facilities." Docket No. 513, ¶ 45.

8. *Vessel Arrest*

On May 2, 2024, the Creditors' Committee filed a letter (the "May 2 Letter"), informing the Bankruptcy Court that one of the vessels owned by the SMEs, which are wholly owned subsidiaries of Eletson Holdings may have been arrested (the "Vessel Arrest"). *See* Docket No. 630. The May 2 Letter provides that the Debtors did not inform the Creditors' Committee or the Bankruptcy Court of the Vessel Arrest until the Creditors' Committee and the Petitioning Creditors asked the Debtors. *See id.* ("[the Debtors confirmed that the vessel had been arrested in Freeport, Bahamas on April 25 and provided some information concerning the arrest.").

On May 3, 2024, the Debtors filed a response to the May 2 Letter (the "May 3 Letter"). *See* Docket No. 631. The May 3 Letter describes and attaches the information the Debtors provided to the Creditors' Committee regarding the Vessel Arrest, and states that the Debtors do not expect to suffer any damages as a result, among other things. *Id.* The May 3 Letter also provides that the claim that led to the Vessel Arrest was made by a former charterer, who is also the current charterer of two other SMEs. *Id.*

At a hearing held on other matters on May 8, 2024, the parties provided a further update on the Vessel Arrest and explained that the Vessel Arrest was only lifted after that former charterer paid into court its charter hire payments that it would otherwise have made for the two other SMEs. As a result of those payments, those two SMEs will not produce any earnings to Eletson Holdings for a month. The Debtors informed the Bankruptcy Court that they would continue to provide information about the impact of the Vessel Arrest.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the characterizations of the arrest and Debtors' communication with the Creditors' Committee. The Debtors assert that Counsel for Debtors was in contact with the Creditors' Committee regarding the vessel arrest on April 29, 2024, and provided updated and detailed reports from the officers of the Bareboat Charterer detailing the facts and circumstances concerning the arrest. The Debtors assert that the arrest did not relate to the performance of the vessel's voyage or carriage of cargo onboard. Instead, the Debtors assert that the arrest was brought by a previous charter of the vessel to obtain security for an old claim against the SME related to purported consequential delay damage related to the transit of the vessel through the Panama Canal in May 2023. The Debtors state that the arrest was dealt with swiftly and efficiently, without causing delay."

C. The Debtors' Plan and Related Negotiations

1. *The Debtors' Unconfirmable, Insider "New Value" Plan*

Per the Conversion Stipulation, the Petitioning Creditors agreed, among other things, not to oppose or seek to terminate the Debtors' exclusive right to file a

chapter 11 plan for the first 120 days after the Conversion Date.[18] In the Petitioning Creditors' opinion, during the 120 days post-conversion, the Debtors did nothing to progress these Chapter 11 Cases in good faith. The Debtors did not reach out to the Petitioning Creditors to discuss any form of consensual resolution of the Debtors' obligations, much less discuss a plan during the 120-day exclusivity period. The Petitioning Creditors understand that Debtors also refused to engage with the Creditors' Committee, even after instructed by the Bankruptcy Court to do so.

On January 23, 2024—the very last day of the Debtors' exclusivity period—the Debtors filed a proposed chapter 11 plan of reorganization [Docket No. 370] (the "Debtors' Initial Plan") and a related disclosure statement [Docket No. 371] (the "Debtors' Initial Disclosure Statement").

Under the Debtors' Initial Plan, creditors will receive almost no recoveries, while the Debtors' existing shareholders will retain their equity interests in Eletson Holdings despite the Debtors proposing to provide creditors almost no recoveries. The Debtors propose to fund their plan with an up to $10 million contribution by their existing shareholders in an undisclosed amount of cash and/or other assets (the "Initial Shareholder New Value Contribution"), which proposed funding was not subject to a market test or made available to any parties other than the Debtors' insiders.

On April 8, 2024—the eve of the April 9 Trial on the Trustee Motions, the Debtors filed an amended version of the Debtors' Initial Plan [Docket No. 570] (the "Debtors' Amended Plan").

The Petitioning Creditors' believe that neither the Debtors' Initial Plan nor the Debtors' Amended Plan was proposed in good faith. It is the Petitioning Creditors' view that the Debtors' Amended Plan is unconfirmable for at least four reasons. *First*, the Debtors' Amended Plan violates the absolute priority rule and bedrock bankruptcy principles and case law, including Supreme Court precedent, that shareholders cannot be given the exclusive right to invest new value in the debtor absent a market test. The Debtors' Amended Plan allows the Debtors' shareholders to retain their equity interests, unimpaired for a contribution of undisclosed cash and /or other assets with an aggregate value of $30 million (the "Amended Shareholder New Value Contribution" and together with the Initial Shareholder New Value Contribution, the "Shareholder New Value Contribution"). *Second*, the Debtors' Amended Plan violates the "best interests" of creditors test because nearly every single class of claims, if not all, would receive more in a hypothetical chapter 7 liquidation where 100% of the value of the Debtors would be available for creditors prior to shareholders receiving value on account of their interests. *Third*, the Debtors' Amended Plan impermissibly classifies general unsecured claims in a way that is designed to gerrymander an impaired accepting class of claims by separately classifying similar claims without a valid business purpose. *Fourth*, the Debtors' Amended Plan lacks any indicia of good faith,

[18] Section 1121(b) of the Bankruptcy Code provides that "[e]xcept as otherwise provided in this section, only the debtor may file a plan until after 120 days after the date of the order for relief under this chapter." 11 U.S.C. § 1121(b). The initial 120-day exclusivity period is subject to extension by the Bankruptcy Court for "cause." 11 U.S.C. § 1121(d).

including that it has not been discussed with the Petitioning Creditors or the Creditors' Committee prior to filing and impairs classes of claims despite having the ability to keep them unimpaired. Additionally, the Debtors' Amended Plan would provide the Debtors' directors and officers with broad releases for both prepetition and postpetition conduct, through various exculpation and injunction provisions, even though the Creditors' Committee (and others) has identified material claims against the directors and officers. Finally, the Debtors' Amended Plan improperly caps the fees incurred by counsel to the Creditors' Committee.

The Debtors' Amended Plan was not accompanied by an amended disclosure statement, and it was not until April 26, 2024 that the Debtors filed an amended version of the Debtors' Initial Disclosure Statement [Docket No. 621] (the "Debtors' Amended Disclosure Statement").

On May 13, 2024, the Debtors filed further amended versions of the Debtors' Amended Plan [Docket No. 671] (the "Debtors' Second Amended Plan") and the Debtors' Amended Disclosure Statement [Docket No. 672] (the "Debtors' Second Amended Disclosure Statement"). On May 14, 2024, the Debtors filed a valuation analysis [Docket No. 687] (the "Debtors' Valuation Analysis"). Just like the Debtors' prior filings, the Petitioning Creditors believe that the Debtors' Second Amended Plan was not proposed in good faith and the Debtors' Second Amended Disclosure Statement lacks adequate information for creditors to cast an informed vote. The Debtors' Second Amended Disclosure Statement still does not contain any financial projections. There are also conclusory explanations that the Petitioning Creditors believe are inconsistent with the facts about how the Debtors "marketed" financing opportunities for their plan and "negotiated" the Shareholder New Value Contribution with their shareholders and insiders. The Debtors' Second Amended Plan also appears to have materially reduced creditors' recoveries by providing for a "Gas Ownership Settlement" that expressly provides that the Debtors' contemplated litigation trust will not include any claims or causes of action against Levona and permits the Gas Ownership Defendants (defined as Eletson Gas, the Nominees, and/or any officers or directors of the same) to settle not only potentially valuable claims against Levona but also the claims and causes of action in connection with the transfer of the Gas Preferred Shares. These provisions are not explained in the Debtors' Second Amended Disclosure Statement, were made without any negotiation with the Debtors' creditors, and are further evidence of the Debtors' bad faith.

When the Debtors' filed the Debtors' Initial Plan and the Debtors' Initial Disclosure Statement, the Debtors also filed a motion for approval of the Debtors' Initial Disclosure Statement and procedures for the solicitation of votes with respect to the Debtors' Initial Plan [Docket No. 372] (the "Debtors' Solicitation Motion"). The Debtors' Solicitation Motion was scheduled to be heard at the May 15 Hearing. *See* Docket No. 635 and 655. On May 9, 2024, Levona and the Petitioning Creditors filed objections to the Debtors' Solicitation Motion, which the Debtors replied to on May 13, 2024. *See* Docket Nos. 648, 651, 668, and 670. Pursuant to the Debtors' request, the Bankruptcy Court extended the Creditors' Committee's objection deadline on the Debtors' Solicitation Motion to May 13, 2024 at 4:00 p.m. *See* Docket No. 650. On May 13, 2024, the Creditors' Committee filed an objection and reservation of rights to the Debtors' Solicitation Motion [Docket No. 669], which was joined by the Exchange Notes

Trustee [Docket No. 674], and which the Debtors' replied to May 14, 2024. *See* Docket No. 686.

On May 14, 2024, the Debtors' filed a revised proposed order approving the Debtors' Solicitation Motion. *See* Docket No. 690.

At the May 15 Hearing, the Bankruptcy Court considered the Debtors' Solicitation Motion, in addition to the other matters, and continued the May 15 Hearing to give the Debtors an opportunity to revise the Debtors' Second Amended Plan and the Debtors' Second Amended Disclosure Statement to address various issues raised at the May 15 Hearing.

On May 30, 2024, the Bankruptcy Court scheduled a status conference for May 31, 2024 [Docket No. 723] (the "May 31 Status Conference"). The morning of the May 31 Status Conference, the Debtors filed further amended versions of the Debtors' Second Amended Plan [Docket No. 725] (the "Debtors' Revised Second Amended Plan") and the Debtors' Second Amended Disclosure Statement [Docket No. 726] (the "Debtors' Revised Second Amended Disclosure Statement"). Just like the Debtors' prior filings, the Petitioning Creditors believe that the Debtors' Revised Second Amended Plan was not proposed in good faith and the Debtors' Revised Second Amended Disclosure Statement lacks adequate information for creditors to cast an informed vote. The Debtors' Revised Second Amended Disclosure Statement contains conclusory and misleading statements about how the Debtors negotiated the "Collections Contribution" and the Shareholder New Value Contribution, among other things. The Debtors' Revised Second Amended Disclosure Statement also does not clearly explain the Retained Causes of Action Contribution or the Excess SME Proceeds concept, which impacts creditors' recoveries under the Debtors' Revised Second Amended Plan.

On June 6, 2024, the Debtors filed further amended versions of the Debtors' Revised Second Amended Plan and the Debtors' Revised Second Amended Disclosure Statement. *See* Docket Nos. 744 and 746.

On June 12, 2024, the Petitioning Creditors and the Creditors' Committee (joined by the Exchange Notes Trustee) each filed supplemental objections to the Debtors' Solicitation Motion [Docket Nos. 771, 772 & 773] (the "Supplemental DS Objections"). In general, the Supplemental DS Objections argue that the Debtors' further revised disclosure statements continue to lack "adequate information" and describe a chapter 11 plan that is patently unconfirmable. As such, the Supplemental DS Objections request that the Court deny the Debtors' Solicitation Motion and reject the Debtors' request to solicit their plan. On June 14, 2024, the Debtors filed a reply to the Supplemental DS Objections. *See* Docket No. 785. On June 14, 2024, the Debtors filed further amended versions of the Debtors' Revised Second Amended Plan and the Debtors' Revised Second Amended Disclosure Statement. *See* Docket Nos. 786 and 787.

A hearing with respect to the Debtors' Solicitation Motion is currently scheduled for June 18, 2024.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the characterization of the various iterations of the Debtors' Plan and associated Disclosure Statements. The Debtors assert that as a threshold issue, the assertion that the Debtors' Plan is patently unconfirmable as an unmarketed new value plan is a conclusion of law that is without merit and contrary to the facts of these Chapter 11 Cases. As noted by the Bankruptcy Court, the Debtors made the affirmative decision to allow the exclusivity period to expire to market test the Debtors' Plan in accordance with settled case law. It is the Debtors' view that as both the Debtors and the Petitioning Creditors have made significant changes to their plans and increased the value provided to creditors, it is clear the Debtors' marketing process is working. In the Debtors' view, the assertion that the Debtors' Plan was not proposed in good faith is equally meritless. In the Debtors' view, the Debtors have engaged in good faith with parties in interest in these Chapter 11 Cases, including the Creditors' Committee, to materially improve the terms of the Debtors' Plan and increase the recovery for Creditors entitled to a recovery under the Debtors' Plan. The Debtors encourage all Creditors to review the terms of the Debtors' Plan and associated Disclosure Statement for an accurate description of the terms of the Debtors' Plan, a more fulsome and accurate description of the Debtors' plan process and an understanding of the recovery creditors would be entitled to under the Debtors' Plan."

2. *The Petitioning Creditors' Motion to Terminate Exclusivity*

On January 29, 2024, the Petitioning Creditors filed a motion to terminate the Debtors' exclusivity period [Docket No. 384] (the "Exclusivity Termination Motion"), which was joined by the Exchange Notes Trustee [Docket No. 419]. On March 12, 2024, the Creditors' Committee filed a statement in support of the Exclusivity Termination Motion [Docket No. 473]. The Exclusivity Termination Motion argues that the Debtors forfeited exclusivity by filing the Debtors' Initial Plan, which is an unconfirmable new value plan (*id.* at 18), and that even if the Debtors had not filed an unconfirmable new value plan, termination is warranted under the *Adelphia* factors (*id*. at 19-29). The Exclusivity Termination Motion also argues that the Debtors have repeatedly demonstrated that they have no intention of advancing these Chapter 11 Cases to a good faith resolution. *Id*. at 18, 22.

Pursuant to the Adjournment Order, the Bankruptcy Court adjourned all briefing and hearing dates and deadlines with respect to the Exclusivity Termination Motion pending further discussion at the February 27 Status Conference. At the February 27 Status Conference, the Bankruptcy Court scheduled the Exclusivity Termination Motion for the April 9 Trial.

On March 25, 2024, the Debtors' exclusivity periods expired under the Bankruptcy Code without the Debtors seeking any extension.

3. *Mediation*

On February 13, 2024, the Debtors filed a motion to compel mediation regarding the Debtors' Initial Plan and other issues affecting these Chapter 11 Cases [Docket No. 412] (the "Motion to Compel Mediation"). On February 14, 2024, the

Petitioning Creditors and the Creditors' Committee each filed letters in response to the Motion to Compel Mediation [Docket Nos. 414 and 415]. The Petitioning Creditors asserted that the Motion to Compel Mediation was unnecessary, intended to create additional delay and cost, and the timing of the filing was further indication of the Debtors' lack of good faith in participating in the mediation. Nevertheless, the Petitioning Creditors indicated that they were ready, willing, and able to participate in mediation as soon as possible. The Creditors' Committee agreed with the Petitioning Creditors, and further suggested that the parties use the time leading up to the February 27 Status Conference to explore "whether it would be feasible to reach a mediated resolution of these cases" and proposed that Judge Allan L. Gropper, (Ret.) who previously presided over the Initial Mediation of these parties in September 2023, serve as the mediator. *See* Docket No. 415 at 1.

On February 15, 2024, the Bankruptcy Court adjourned all briefing and hearing dates and deadlines with respect to the Motion to Compel Mediation pending further discussion at the February 27 Status Conference. At the February 27 Status Conference, the Bankruptcy Court directed the parties to participate in the Chapter 11 Mediation (as defined below).

4. *February 27 Status Conference*

In accordance with the Bankruptcy Court's Adjournment Order entered on February 12, 2024, the parties met and conferred regarding a joint status report setting forth their respective positions, which status report was filed on February 26, 2024 [Docket No. 435]. At the status conference held on February 27, 2024 (the "February 27 Status Conference"), the Bankruptcy Court directed the parties to mediate (the "Chapter 11 Mediation") before Judge Allan L. Gropper, (Ret.) (the "Mediator"). On March 13, 2024, the Bankruptcy Court entered the order re-appointing the Mediator [Docket No. 479] (the "Mediation Order"), which directed the Debtors, the Petitioning Creditors, the Creditors' Committee, the Nominees, Levona, the Exchange Notes Trustee, Eletson Corp, and Eletson Gas to mediate the Mediation Matters (as defined in the Mediation Order). The Chapter 11 Mediation began on March 27, 2024. The Chapter 11 Mediation continued thereafter. While the parties negotiated and engaged in the Chapter 11 Mediation in good faith, the parties were not able to reach settlement on the Mediation Matters.

At the February 27 Status Conference, the Bankruptcy Court also scheduled the April 9 Trial on the UCC Trustee Motion, the UST Trustee Motion, and the Exclusivity Termination Motion. On March 8, 2024, the Bankruptcy Court entered the scheduling order on the UCC Trustee Motion, the UST Trustee Motion, and the Exclusivity Termination Motion [Docket No. 467] (the "Scheduling Order"), which set March 22, 2024 as the objection deadline and April 2, 2024 as the reply deadline on the UCC Trustee Motion, the UST Trustee Motion, and the Exclusivity Termination Motion.[19] *See* Docket No. 467.

[19] Subsequently, the Petitioning Creditors' Trustee Motion and the DIP Motion were scheduled to be heard at the April 9 Trial. *See* Docket Nos. 481 and 494.

5. *Expiration of Exclusivity*

On March 25, 2024, the Debtors' exclusivity periods expired under the Bankruptcy Code without the Debtors seeking any extension. Accordingly, on March 26, 2024, the Petitioning Creditors as Plan Proponents filed a prior version of the Plan and Disclosure Statement. *See* Docket Nos. 531 and 532.

On April 10, 2024, the Petitioning Creditors filed a motion for approval of the prior Disclosure Statement and procedures for the solicitation of votes with respect to a prior version of the Plan [Docket No. 574] (the "Petitioning Creditors' Solicitation Motion"). The Petitioning Creditors' Solicitation Motion was heard at the May 15 Hearing. *See* Docket No. 632 and 656. On May 9, 2024, the Debtors filed an objection to the Petitioning Creditors' Solicitation Motion, which the Petitioning Creditors replied to on May 13, 2024. *See* Docket Nos. 653 and 667. On May 14, 2024, the Creditors' Committee filed a statement in support of the Petitioning Creditors' Solicitation Motion. *See* Docket No. 689. No other parties filed any pleadings with respect to the Petitioning Creditors' Solicitation Motion.

D. The Petitioning Creditors' Plan and Related Negotiations

Following the expiration of the Debtors' exclusivity periods, on March 26, 2024, the Plan Proponents filed an initial version of the Plan [Docket No. 531] (the "PC Initial Plan") and related disclosure statement [Docket No. 532]. Following the filing of the PC Initial Plan, the Plan Proponents and their advisors engaged in substantial negotiations with various creditors and constituents in these Chapter 11 Cases, including the Creditors' Committee and their advisors, among others. Following these discussions, on May 10, 2024, the Plan Proponents filed a *Notice of Filing of (1) Anticipated Modifications to the Petitioning Creditors' Joint Chapter 11 Plan of Reorganization of Eletson Holdings Inc. and its Affiliated Debtors and (2) Certain Appendices Related to the Petitioning Creditors' Disclosure Statement Related Thereto* [Docket No. 658]. On May 13, 2024, the Plan Proponents filed an amended version of the Plan and an amended Disclosure Statement.

On May 14, 2024, the Plan Proponents filed further amended versions of the Plan and the amended Disclosure Statement [Docket Nos. 695 and 696]. Among other things, the Plan and Disclosure Statement contain a number of significant changes from that set forth in the PC Initial Plan, such as:

- Decreasing the Backstop Premium from 10% to 8%;
- Increasing the GUC Cash Pool from US$12,500,000 to US$13,500,000;
- Increasing the Convenience Claim Threshold Amount from US$200,000 to US$1,000,000;
- Increasing the Convenience Claim Cap from US$1,000,000 to US$2,500,000

- Increasing the recovery percentage for Holders of Allowed Convenience Claims from 10% to 15%;

- Giving all General Unsecured Claimholders the option to become Backstop Parties; and

- Establishing the composition of the New Board and certain governance matters relating thereto.

At the May 15 Hearing, the Bankruptcy Court approved the Petitioning Creditors' Solicitation Motion and the Rights Offering Procedures Motion (as defined below), but declined to enter the orders approving the respective motions until the Debtors addressed the various issues raised at the May 15 Hearing on the Debtors' Second Amended Plan and the Debtors' Second Amended Disclosure Statement.

At the May 31 Status Conference, the parties discussed the Debtors' Revised Second Amended Plan and the Debtors' Revised Second Amended Disclosure Statement and the Bankruptcy Court continued the hearing on the Debtors' Revised Second Amended Disclosure Statement to June 7, 2024. *See* Docket No. 736. The Bankruptcy Court also directed the parties to submit a joint status report to the Bankruptcy Court on June 6, 2024. *Id.*

On June 6, 2024, the Plan Proponents filed further amended versions of the PC Initial Plan and PC Initial Disclosure Statement [Docket Nos. 740, 741].

E. The Petitioning Creditors' "Alternative Plan"

At the May 15 Hearing, the Petitioning Creditors expressed their desire to submit an alternative offer based on the structure of the Debtors' Amended Plan. After the May 15 Hearing, the Petitioning Creditors continued to express interest in submitting an alternative offer, but the Debtors did not engage and could not identify who at the Debtors would receive and evaluate such bid. *See* Docket Nos. 712, 718 & 720. In order to progress these cases, on June 5, 2024, the Petitioning Creditors provided an alternative bid term sheet (the "PC Alternative Term Sheet ") to counsel for the Debtors and the Creditors' Committee and the next day filed the PC Alternative Term Sheet on the docket. *See* Docket No. 745. The PC Alternative Term Sheet sets forth the terms of a comprehensive restructuring of the existing debt and other obligations of the Debtors that is based on the Debtors' Amended Plan but provides significant improvements for creditors. *Id.*

On June 11, 2024, the Petitioning Creditors filed the PC Alternative Plan and the related disclosure statement [Docket No. 763] (the "PC Alternative DS"). A motion to consider approval of the PC Alternative DS [Docket No. 764] (the "PC Alternative Solicitation Motion") is scheduled for the June 18 Hearing consistent with the Court's direction at a hearing held on June 7, 2024. On June 14, 2024, the Petitioning Creditors filed financial wherewithal information related to the PC Alternative Plan. *See* Docket No. 781. On June 14, 2024, the Debtors filed an objection to the PC Alternative Solicitation Motion and the Creditors' Committee filed an objection and

reservation of rights to the PC Alternative Solicitation Motion. *See* Docket Nos. 783 and 784.

IV. SUMMARY OF THE PC ALTERNATIVE PLAN

The following table summarizes the classification and treatment of all claims against and interests in the Debtors under both the Debtors' Plan and the PC Alternative Plan. Please note that the description in the column titled "Debtors' Plan" is taken verbatim from the Debtors' Disclosure Statement and the redline changes in the column titled "PC Alternative Plan Treatment and Estimated Recovery" indicates the changes made to the PC Alternative Plan from the Debtors' Plan.

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC Alternative Plan Treatment and Estimated Recovery
OCM Guaranty Claims (Class 1) **Approx. $49,100,000**	Except to the extent that a Holder of an Allowed OCM Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each OCM Guaranty Claim, each of the OCM Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, Reorganized Debtor or the OCM Entities, provided however, that the Reorganized Debtor shall be obligated to guaranty fifty percent (50%) of the obligations of the SMEs subject to the OCM Guarantees. Holders of OCM Guaranty Claims will receive no cash distributions under the Plan on account of their OCM Guaranty Claims. Debtors' Estimated Recovery: Impaired (50%) Class 1 is Impaired and Holders of Class 1 Claims are entitled to vote to accept or reject the Debtors' Plan.	Except to the extent that a Holder of an Allowed OCM Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each OCM Guaranty Claim, each of the OCM Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, ~~Reorganized Debtor or OCM Entities, provided, however, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the obligations of the SMEs subject to the OCM Guarantees~~ the Reorganized Debtor or the OCM Entities. PC Alternative Estimated Recovery: Unimpaired (100%) Class 1 is Unimpaired and Holders of Class 1 Claims are deemed to accept the PC Alternative Plan.
Corp Guaranty Claims (Class 2) **Approx. $27,768,000**	The Corp Guaranty Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Corp Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for, each Corp Guaranty Claim, (i) each Holder of an Allowed Corp Guaranty Claim shall receive its pro rata distribution of the Eletson Corporation Guaranty	Except to the extent that a Holder of an Allowed Corp Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each Corp Guaranty Claim, ~~(i)~~ each holder of an Allowed Corp Guaranty Claim shall receive, at its ~~pro rata distribution of the Eletson Corporation~~ election: (i) (A) its Pro Rata, share among Corp Guaranty ~~Recovery~~ Claims, of $1,250,000;

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC Alternative Plan Treatment and Estimated Recovery
	Recovery[20] and (ii) each of the Corp Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, Reorganized Debtor or Corp Guaranty counterparties, provided however, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the obligations of Eletson Corporation subject to the Corp Guarantees. Debtors' Estimated Recovery: 53.6% Class 2 is Impaired and Holders of Class 1 Claims are entitled to vote to accept or reject the Debtors' Plan.	provided, for the avoidance of doubt, the Pro Rata share calculation in this subclause (A) shall be calculated based on the aggregate amount of all Allowed Corp Guaranty Claims whether or not Holders of such Claims receive the treatment in this subclause (A); and ~~(ii~~ (B) each of the Corp Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, the Reorganized Debtor or Corp Guaranty counterparties,; provided, however, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the obligations of Eletson Corporation subject to the Corp Guarantees.; or (ii) its Pro Rata share, among Corp. Guaranty Claims, of $3,000,000; *provided*, for the avoidance of doubt, the Pro Rata share calculation in this subclause (ii) shall be calculated based on the aggregate amount of all Allowed Corp Guaranty Claims whether or not Holders of such Claims receive the treatment in this subclause (ii); *provided*, if a Holder of a Corp Guaranty Claim does not submit a Ballot or submits a Ballot but fails to affirmatively elect the treatment set forth in Article II.C.2(b)(i) of the Plan, such Holder shall be deemed to have elected the treatment specified in Article II.C.2(b)(ii) of the Plan with respect to its Allowed Corp Guaranty Claim. PC Alternative Estimated Recovery: Up to 54.5% Class 2 is Impaired and Holders of Class 2 Claims are entitled to vote to accept or reject the PC Alternative Plan.

[20] Under the Debtors' Plan, the "Eletson Corp Guaranty Claim Recovery" is defined as "$1,000,000.00 to be paid Pro Rata to Holders of Corp Guaranty Claims."

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC Alternative Plan Treatment and Estimated Recovery
Azure Guaranty Claims (Class 3) **Approx. $94,799,000**	Except to the extent that a holder of an Allowed Azure Guaranty Claim agrees to less favorable treatment, if not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release, and satisfaction of the Azure Guaranty Claims, by wire transfer of immediately available funds, their Pro Rata portion of the Azure Guaranty Recovery.[21] Debtors' Estimated Recovery: .21% Class 3 is Impaired and Holders of Class 3 Claims are entitled to vote to accept or reject the Debtors' Plan.	Except to the extent that a holder of an Allowed Azure Guaranty Claim agrees to less favorable treatment, If not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Azure Guaranty Claims, the Disbursing Agent shall pay to the Holders of Azure Guaranty Claims, by wire transfer of immediately available funds, their Pro Rata portion of the Azure Guaranty Recovery. PC Alternative Estimated Recovery: .21% Class 3 is Impaired and Holders of Class 3 Claims are entitled to vote to accept or reject the PC Alternative Plan.
Trade Creditor Claims (Class 4) **Approx. $2,750,000**	The Trade Creditor Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Trade Creditor Claim agrees to less favorable treatment, if not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Trade Creditor Claims, each Holder of an Allowed Trade Creditor Claim shall receive, in exchange for such Allowed Trade Creditor Claim, Cash in an amount equal to 15% of the Face Amount of such Holder's Trade Creditor Claim from the Trade Creditor Reserve; *provided*, that in the event the aggregate distributions to Holders of Trade Creditor Claims exceeds the Trade Creditor Claim Cap, Holders of Trade Creditor Claims shall receive their Pro Rata Share of the Trade Creditor Claim Cap.[22] Debtors' Estimated Recovery: 15%	Except to the extent that a Holder of an Allowed Trade Creditor Claim agrees to less favorable treatment, if not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Trade Creditor Claims, each Holder of an Allowed Trade Creditor Claim shall receive, in exchange for such Allowed Trade Creditor Claim, Cash in an amount equal to 15% of the Face Amount of such Holder's Trade Creditor Claim from the Trade Creditor Claim Reserve; provided, that in the event the aggregate distributions to Holders of Trade Creditor Claims exceeds the Trade Creditor Claim Cap, Holders of Trade Creditor Claims shall receive their Pro Rata Share of the Trade Creditor Claim Cap.

[21] Under the Debtors' Plan, the "Eletson Corp Guaranty Claim Recovery" is defined as "the lesser of (i) $200,000 and (ii) such other amount as determined by the Debtors and Azure in full and complete settlement, release, and satisfaction of the Azure Guaranty Claims."

[22] Under the Debtors' Plan, (a) the "Trade Creditor Claim Reserve" is defined as "a reserve created in the amount of the Trade Creditor Claim Cap to fund recoveries for Trade Creditor Claims" and (b) the "Trade Creditor Claim Cap" is defined as "$1,000,000.00."

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC Alternative Plan Treatment and Estimated Recovery
	Class 4 is Impaired and Holders of Class 4 Claims are entitled to vote to accept or reject the Debtors' Plan.	PC Alternative Estimated Recovery: 15% Class 4 is Impaired and Holders of Class 4 Claims are entitled to vote to accept or reject the PC Alternative Plan.
Noteholder Election Recovery Claims (Class 5) **Approx. [__]**[23]	The Noteholder Election Recovery Claims are Allowed Claims. Claims may only be treated as Noteholder Election Recovery Claims upon an affirmative and irrevocable election of a Holder of a Claim classified in Class 6A or 6B to have their Claim treated in Class 5. Except to the extent that a Holder of an Allowed Noteholder Election Recovery Claim agrees to less favorable treatment, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release, and satisfaction of the Noteholder Election Recovery Claims each Holder of an Allowed Noteholder Election Recovery Claim shall receive in full settlement, release, and satisfaction of such Noteholder Election Recovery Claim that is due and payable from the Noteholder Election Recovery Reserve, the lesser of (i) the Face Amount of such Holder's Noteholder Election Recovery Claim, (ii) such Holder's Pro Rata portion of the Noteholder Election Recovery Cap, or (iii) $70,000.[24] Debtors' Estimated Recovery: 1%-100% Class 5 is Impaired and Holders of Class 5 Claims are entitled to vote to accept or reject the Debtors' Plan.	The Noteholder Election Recovery Claims are Allowed Claims. Claims may only be treated as Noteholder Election Recovery Claims upon the affirmative and irrevocable election of a Holder of a Claim classified in Class 6A or 6B to have their Claim treated in Class 5. Except to the extent that a Holder of an Allowed Noteholder Election Recovery Claim agrees to less favorable treatment, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Noteholder Election Recovery Claims each Holder of an Allowed Noteholder Election Recovery Claim shall receive in full settlement, release, and satisfaction of such Noteholder Election Recovery Claim that is due and payable from the Noteholder Election Recovery Reserve, the lesser of (i) the Face Amount of such Holder's Noteholder Election Recovery Claim, (ii) such Holder's Pro Rata portion of the Noteholder Election Recovery Cap,[25] or (iii) ~~$70~~$100,000. Notwithstanding the foregoing, if the Bankruptcy Court determines that the ~~existence of Class 5 and/or the~~ Noteholder Election Recovery ~~Claims~~ violates any provisions of the Bankruptcy Code, Holders of Class 5 Noteholder Election Recovery Claims ~~will be deemed to hold Claims under Class 6A or Class 6B in~~

[23] The Debtors' disclosure statement [Docket No. 746, Ex. A] (the "Debtors' Disclosure Statement") states that "[t]he Noteholder Election Recovery Claims are only payable upon an affirmative election of certain Creditors to be treated in Class 5. Given the inherent uncertainty in which Creditors will elect Class 5 treatment, no estimate can be provided at this time."

[24] Under the Debtors' Plan, the "Noteholder Election Recovery Cap" is defined as $7,000,000.

[25] Under the PC Alternative Plan, the "Noteholder Election Recovery Cap" is defined as $8,000,000.

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC Alternative Plan Treatment and Estimated Recovery
		~~accordance with said Holder's original Claim classification.~~ shall receive such Holder's Pro Rata portion of the Noteholder Election Recovery Cap. PC Alternative Estimated Recovery: 1%-100% Class 5 is Impaired and Holders of Class 5 Claims are entitled to vote to accept or reject the PC Alternative Plan.
Non-Petitioning Creditor Exchange Note Claims (Class 6A) **Approx. $179,000-$380,000,000**	Except to the extent that a Holder of an Allowed Non-Petitioning Creditor Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6A Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6A Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of the Plan. Debtors' Estimated Recovery: 4.6-17% Class 6A is Impaired and Holders of Class 6A Claims are entitled to vote to accept or reject the Debtors' Plan.	The Non-Petitioning Creditor Note Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Non-Petitioning Creditor Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6A Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6A Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan.[26] PC Alternative Estimated Recovery: 4.6-17% *plus* additional value through the increase in distributions to the Litigation Trust Class 6A is Impaired and Holders of Class 6A Claims are entitled to vote to accept or reject the PC Alternative Plan.
Petitioning Creditor Exchange Note Claims (Class 6B) **Approx. $0-$337,000,000**	The Petitioning Creditor Exchange Note Claims are Disputed Claims and may only become Allowed by Final Order of the Bankruptcy Court. To the extent the Petitioning Creditor Exchange Note Claims are deemed Allowed Claims the Petitioning Creditor Exchange Note Claims are equitably subordinated pursuant to section 510(c) of the Bankruptcy Code and are only entitled to a recovery upon the satisfaction	~~The Petitioning Creditor Exchange Note Claims are Disputed Claims and may only become Allowed by Final Order of the~~ Only to the extent the Bankruptcy Court. ~~To the extent the~~ enters a Final Order equitably subordinating the Petitioning Creditor Exchange Note Claims ~~are deemed Allowed Claims the Petitioning Creditor Exchange Note Claims are~~

[26] While the stated language of the treatment section of the Non-Petitioning Creditor Exchange Note Claims is the same under both the Debtors' Plan and the PC Alternative Plan, as described herein, the PC Alternative Plan provides for greater distributions to the Litigation Trust that will benefit holders of the Litigation Trust Interests in Classes 6A and 6B.

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC Alternative Plan Treatment and Estimated Recovery
	of all claims in Class 6A. In the event Petitioning Creditor Exchange Note Claims are found to be Allowed Claims and all Class 6A Non-Petitioning Creditor Exchange Note Claims are paid in full, and except to the extent that a Holder of an Allowed Petitioning Creditor Exchange Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6B Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6B Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of the Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of the Plan. Debtors' Estimated Recovery: 0-.1% Class 6B is Impaired and Holders of Class 6B Claims are entitled to vote to accept or reject the Debtors' Plan.	~~equitably subordinated~~ pursuant to section 510(c) of the Bankruptcy Code ~~and~~, then such Holders are only entitled to a recovery upon the satisfaction of all Claims in Class 6A. In the event Petitioning Creditor Exchange Note Claims are found to be Allowed Claims (not equitably subordinated) and all Class 6A Non-Petitioning Creditor Exchange Note Claims are paid in full, and except to the extent that a Holder of an Allowed Petitioning Creditor Exchange Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6B Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6B Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of the Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan. Notwithstanding the foregoing, if the Bankruptcy Court determines it is unable to equitably subordinate the claims of Holders of Class 6B Claims through the Confirmation Order, Holders of Class 6B Claims will be deemed to hold claims under Class 6A and will be entitled to their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan. PC Alternative Estimated Recovery: Same as Class 6A Class 6B is Impaired and Holders of Class 6B Claims are entitled to vote to accept or reject the PC Alternative Plan.
Interests (Class 7)	On the Effective Date, all Interests shall be discharged, cancelled, released, and extinguished. In exchange for the Shareholder New Value Contribution, the Holders making such Shareholder New Value Contribution shall receive their pro rata share of equity of the Reorganized Debtor in a pro rata amount equal to their portion of the Shareholder New Value Contribution made.	On the Effective Date, all Interests shall be discharged, cancelled, released, and extinguished. ~~In exchange for~~, without any distributions to Holders. For the ~~Shareholder New Value Contribution,~~ avoidance of doubt, on the ~~Holders making such Shareholder New Value Contribution~~ Effective Date, the Plan Sponsor shall receive ~~their pro rata share~~ all of the equity ~~of~~ in the Reorganized

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC Alternative Plan Treatment and Estimated Recovery
	Debtors' Estimated Recovery: 100% Class 7 is Impaired, and Holders of Interests are entitled to vote to accept or reject the Plan.	Debtor ~~in a pro rata amount equal to their portion of the Shareholder New Value Contribution made.~~ PC Alternative Estimated Recovery: 0% Class 7 is Impaired, and Holders of Interests are conclusively deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

A. Other Miscellaneous Plan Provisions

The PC Alternative Plan contains various provisions relating to: (a) the means for implementing the Plan, and operations and governance of the Debtors after the Effective Date (*see* Article IV;), (b) procedures for making distributions from the Debtors and Reorganized Holdings and the rights and powers of any Disbursing Agent (*see* Article VII); (c) procedures for the reconciliation of Claims and Proofs of Claim and related matters, such as objections and estimation for any Disputed Claims (*see* Article VII.F,G.); (d) the treatment of executory contracts and unexpired leases (*see* Article VI); (e) conditions precedent to consummation of the Plan (*see* Article VIII), (f) the effect of confirmation (including the injunction and exculpation provisions (as explained in greater detail below)) (*see* Article IX); and (g) miscellaneous other implementation and effectuating provisions, including the retention of the Bankruptcy Court's jurisdiction with respect to certain issues (*see* Articles X, XI).

B. Certain Matters Relating to the Exchange Notes and the Old Notes

The PC Alternative Plan contains certain provisions in Article VII.J of the PC Alternative Plan (titled "Cancellation of Instruments and Agreements") that impacts distributions to Holders of Old Notes Claims and Exchange Notes Claims. Among other things, Article VII.J of the PC Alternative Plan provides that:

> [T]he Exchange Note Indenture and the Old Notes Indenture shall remain in effect solely for the purposes of (a) allowing the applicable Holders of Claims to receive their respective distributions under this Plan as provided herein, (b) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to facilitate the distributions under this Plan to the applicable Holders of Claims as provided herein and otherwise comply with any obligations they may have under this Plan, including the cancellation of existing security interests, (c) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to preserve their respective rights to payment of fees, expenses, and indemnification obligations as against any money or property distributable to the relevant Holder of Exchange Note Claims and Old Notes Claims, as applicable, under this Plan, and to deduct such fees and expenses from such distributions, including in respect of

> payment and the right to exercise their charging liens, if any, against such distributions, (d) permitting the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to perform any functions that are necessary to effectuate the foregoing, and (e) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to assert any other right, privilege, benefit, or protection granted to either of them under the relevant documentation other than against the Reorganized Debtor and the Exculpated Parties; *provided*, *however*, that the foregoing shall not affect the discharge of the Debtors with respect to the Exchange Noteholder Claims and the Old Notes Claims as provided for herein, or result in any expenses or liability to the Reorganized Debtor, except to the extent set forth in or provided for under this Plan. Notwithstanding anything to the contrary herein, the terms and provisions of this Plan shall not alter, modify, or amend any existing contract or agreement between any of the Exchange Notes Trustee, the Old Notes Trustee and any current or former Exchange Noteholder or Old Noteholder, as applicable, and any such contract or agreement shall remain in full force and effect according to its terms following the Effective Date.

PC Alternative Plan, Art. VII.J.

In broad strokes, Article VII.J of the PC Alternative Plan affirms the ability of the Exchange Notes Trustee and the Old Notes Trustee to exercise their respective "charging lien" to recover from noteholders' distributions under the PC Alternative Plan amounts necessary to satisfy the Exchange Notes Trustee's and the Old Notes Trustee's fees and expenses related to their respective indentures. Such amounts will reduce noteholders' recoveries under the PC Alternative Plan on a pro rata basis and are expected to be approximately (a) in the case of the Exchange Notes Trustee, approximately $400,000, and (b) in the case of the Old Notes Trustee, between approximately $3,000,000 and $4,000,000. To the extent that any noteholders have paid the Exchange Notes Trustee's and/or Old Notes Trustee's fees and expenses prior to the Effective Date, such fees and expenses will be reimbursed in accordance with any agreements between such noteholder(s) and the Exchange Notes Trustee and/or Old Notes Trustee

C. Litigation Trust Causes of Action

The Debtors' Plan provides that only those certain claims and causes of action set forth on Exhibit 6 to the Debtors' Disclosure Statement will be transferred to the Litigation Trust and that any and all other claims and causes of action not expressly set forth therein will be retained by the Reorganized Debtor. *See* Debtors' Plan Art.V.B. For any such retained causes of action, the Debtors' Plan provides that 75% of the net cash recoveries on account of such retained causes of action will be contributed by the Reorganized Debtor to the Litigation Trust (including net of the costs of collection and net of any amounts setoff by the Reorganized Debtor for amounts owed to any defendant under a retained cause of action). *See* Debtors' Plan Art.I.B.150. The Debtors' Plan also provides that for any "Unknown Causes of Action" the Debtors and their Independent Committee (not the creditors, the Litigation Trust Trustee, or the Litigation

Oversight Committee) will determine whether such Unknown Causes of Action will be contributed to the Litigation Trust. *See* Debtors' Plan Art.V.B.

On the other hand, the PC Alternative Plan transfers to the Litigation Trust (a) all of the Debtors' claims and causes of action (not just those identified on any schedule) other than the ongoing Arbitration (which is subject to the same 75% / 25% sharing as under the Debtors' Plan) and (b) to the extent there are unknown causes of action discovered in the future, all such unknown causes of action will be contributed by the Reorganized Debtor to the Litigation Trust. *See* PC Alternative Plan Art.I.B.105. Thus, the PC Alternative Plan provides for more claims and causes of action to be transferred to the Litigation Trust than the Debtors' Plan and, correspondingly, a higher return to creditors.

The PC Alternative Plan does not provide for the release of any claims or causes of action belonging to the Debtors or their estates or any claims of any third parties against any non-debtors. The Debtors' Plan, however, contains certain injunction provisions that would prevent third party non-debtors (including the Debtors' creditors) from bringing direct claims against non-debtors, such as the Debtors' directors, officers, shareholders, and professionals. *See* Debtors' Plan Art.IX.A.

The PC Alternative Plan contains certain usual and customary discharge and injunction provisions consistent with the Bankruptcy Code and as part of implementing the restructuring set forth in the PC Alternative Plan. Each of the foregoing is described in greater detail in Articles IX.A – D of the PC Alternative Plan.

V. LIQUIDATION ANALYSIS (BEST INTERESTS OF CREDITORS' TEST)

In support of the Plan Proponents' belief that Holders of Claims in each impaired Class will receive more under the PC Alternative Plan than if the Debtors' assets were liquidated under chapter 7 of the Bankruptcy Code, attached to this Disclosure Statement as **Appendix F** is a liquidation analysis (the "Liquidation Analysis") prepared by Batuta Capital Advisors LLC ("Batuta") at the direction of the Plan Proponents. The Liquidation Analysis assumes that the Chapter 11 Cases were converted to chapter 7 cases and that each Debtors' assets are liquidated under the direction of a chapter 7 trustee.

The assumptions used in developing the Liquidation Analysis are inherently subject to significant uncertainties and contingencies. Accordingly, there can be no assurances that the values assumed in the Liquidation Analysis would be realized if the Debtors were actually liquidated. In addition, any liquidation would take place in the future at which time circumstances may exist that cannot presently be predicted. A description of the procedures followed and the assumptions and qualifications made by the Plan Proponents in connection with the Liquidation Analysis are set forth in the notes thereto.

THESE LIQUIDATION VALUES HAVE BEEN PREPARED SOLELY FOR USE IN THIS DISCLOSURE STATEMENT AND DO NOT REPRESENT VALUES THAT ARE APPROPRIATE FOR ANY OTHER PURPOSE. NOTHING CONTAINED IN THE LIQUIDATION ANALYSIS IS INTENDED TO BE OR CONSTITUTES A CONCESSION BY OR ADMISSION OF ANY DEBTOR FOR ANY PURPOSE.

VI. FINANCIAL PROJECTIONS (FEASIBILITY)

In connection with confirmation of the PC Alternative Plan, the Bankruptcy Court must determine that the PC Alternative Plan is feasible in accordance with section 1129(a)(11) of the Bankruptcy Code (which section requires that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors). To support the Plan Proponents' belief that the PC Alternative Plan is feasible, Batuta has prepared the projections for Reorganized Holdings, as set forth in **Appendix G** (the "Financial Projections"). Accordingly, the Plan Proponents believe that all Plan obligations will be satisfied without the need for further reorganization of the Debtors.

VII. VALUATION

Batuta, at the direction of the Plan Proponents, has performed an analysis of the estimated value of Reorganized Holdings, which is set forth in the valuation analysis in **Appendix H** (the "Valuation Analysis"). The Valuation Analysis is based on commonly accepted valuation methodologies.

The Valuation Analysis is based upon a number of estimates and assumptions that are inherently subject to significant uncertainties and contingencies beyond the control of the Plan Proponents and Reorganized Holdings. Accordingly, there can be no assurance that the ranges reflected in the Valuation Analysis would be realized if the PC Alternative Plan were to become effective, and actual results could vary.

THE VALUATION ANALYSIS REPRESENTS A HYPOTHETICAL VALUATION OF REORGANIZED HOLDINGS AND ITS ASSETS, WHICH ASSUMES THAT REORGANIZED HOLDINGS CONTINUES AS AN OPERATING BUSINESS. THE ESTIMATED VALUE SET FORTH IN THE VALUATION ANALYSIS DOES NOT PURPORT TO CONSTITUTE AN APPRAISAL OR NECESSARILY REFLECT THE ACTUAL MARKET VALUE THAT MIGHT BE REALIZED THROUGH A SALE OR LIQUIDATION OF REORGANIZED HOLDINGS, ITS SECURITIES OR ITS ASSETS, WHICH MAY BE MATERIALLY DIFFERENT THAN THE ESTIMATES SET FORTH IN THE VALUATION ANALYSIS.

VIII. SOLICITATION PROCEDURES AND DEADLINES

A. Solicitation Packages

The Plan Proponents are causing solicitation packages (the "Solicitation Packages") to be distributed to Holders of Claims entitled to vote on the PC Alternative Plan. Such Solicitation Packages include:

- a cover sheet from the Plan Proponents describing the contents of such Solicitation Package;

- a notice of the hearing to confirm the PC Alternative Plan (the "Confirmation Hearing Notice");

- this Disclosure Statement with the PC Alternative Plan annexed thereto;

- the order of the Bankruptcy Court approving this Disclosure Statement and the solicitation of votes with respect to the PC Alternative Plan [Docket No. [•]] (the "Solicitation Approval Order"), excluding the exhibits attached thereto,

- a ballot to cast a vote on the PC Alternative Plan (each, a "Ballot"); and

- such other solicitation materials that the Bankruptcy Court may direct.[27]

Copies of this Disclosure Statement, the PC Alternative Plan, all appendices and exhibits attached thereto and hereto, and all other pleadings filed and orders entered in these Chapter 11 Cases can be obtained by contacting the Voting Agent (a) in writing at Eletson Holdings Inc., et al., Ballot Processing Center c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, California 90245, (b) via email at https://www.kccllc.net/Eletson/inquiry, or (c) by telephone at 888-647-1737 (Domestic) or 310-751-2624 (International).

B. Voting Procedures and Voting Deadline

After carefully reviewing the PC Alternative Plan, this Disclosure Statement, and the detailed instructions accompanying your Ballot, please indicate your acceptance or rejection of the PC Alternative Plan by voting in favor of (*i.e.*, to accept) or against the Plan (*i.e.*, to reject) on the Ballot. To be counted, your Ballot must be duly completed, executed, and **actually received** by 5:00 p.m. (prevailing Eastern Time) on [_____] [__], 2024 (the "Voting Deadline"). Ballots may be delivered either via regular mail, courier, or delivery services to the Voting Agent at the at the following address: Eletson Holidngs Inc., *et al.*, Ballot Processing Center c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, California 90245.

Where applicable, ballots can be submitted via the Voting Agent's e-ballot platform by visiting https://www.kccllc.net/Eletson, clicking on the "Submit E-Ballot" section of the website and following the directions to submit their electronic Ballot.

If you are a Beneficial Holder of Claims in Class 5A or Class 5B and received a Ballot for Beneficial Holders (a "Beneficial Holder Ballot"), you must complete and return the Beneficial Holder Ballot to your broker, commercial bank, transfer agent, trust company, dealer, or other intermediary or nominee, or their mailing agent (each a "Nominee") so that it is received by your Nominee in sufficient

[27] Instructions on how to vote are included with the Solicitation Package and are described below.

time for your Nominee to submit a master ballot prior to the Voting Deadline.

If you have any questions about how to vote, the Solicitation Package you receive, or the amount of your claim, or if you wish to receive additional copies of the Plan, this Disclosure Statement, or any exhibits or appendices thereto or hereto, please contact the Voting Agent at: 888-647-1737 (Domestic) or 310-751-2624 (International) or via email at https://www.kccllc.net/eletson/inquiry.

C. Confirmation Hearing and Deadline for Objections to Plan Confirmation

The Bankruptcy Court has scheduled a hearing to consider Confirmation of the Plan for **[•], 2024 at [•] a.m. / p.m. (prevailing Eastern Time) (the "Confirmation Hearing").** The Plan Proponents may adjourn the Confirmation Hearing by filing a notice on the docket of the Chapter 11 Cases or by announcing an adjournment on the record of a hearing or status conference held with the Bankruptcy Court.

Any objections to Confirmation of the PC Alternative Plan must be filed with the Bankruptcy Court and served on the parties indicated in the boxes immediately below by no later than [•] **a.m. / p.m. (prevailing Eastern Time) on [•], 2024 (the "Objection Deadline").** Unless an objection to Confirmation is timely filed and served, such objection may not be considered by the Bankruptcy Court at the Confirmation Hearing. Such objection must be filed with the Bankruptcy Court and served so that it is **actually received** by the Bankruptcy Court and the following persons by no later than the Objection Deadline:

Counsel for Petitioning Creditors	Togut, Segal & Segal LLP One Penn Plaza, Suite 3335 New York, New York 10119 Attn: Kyle J. Ortiz, Esq. (kortiz@teamtogut.com) and Bryan M. Kotliar, Esq. (bkotliar@teamtogut.com)
Counsel for the Creditors' Committee	Dechert LLP 1095 Avenue of Americas New York, NY 10036 Attn: Stephen Zide, Esq. (stephen.zide@dechert.com) and David Herman, Esq. (david.herman@dechert.com)
The U.S. Trustee	Office of the United States Trustee – NYO Department of Justice Alexander Hamilton Custom House One Bowling Green New York, NY 10004

	Attn: Daniel Rudewicz, Esq. (Daniel.Rudewicz@usdoj.gov)

IX. RISK FACTORS TO BE CONSIDERED

A. Overview

The statements contained in this Disclosure Statement are made by the Plan Proponents as of the date hereof unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth herein since that date. The Plan Proponents have no duty to update this Disclosure Statement except as may be required by applicable law.

The Plan Proponents have relied upon information provided by the Debtors in connection with the preparation of this Disclosure Statement. Although the Plan Proponents have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not independently verified the information contained in this Disclosure Statement.

The contents of this Disclosure Statement should not be construed as legal, business, or tax advice, and nothing contained in the PC Alternative Plan will constitute an admission of, or be deemed evidence of, the tax or other legal effects of the PC Alternative Plan on the Plan Proponents or on Holders of Claims. Each Holder of a Claim should consult his, her, or its own legal counsel and accountant as to legal, tax, and other matters concerning his, her, or its Claim. This Disclosure Statement may not be relied upon for any purpose other than to determine whether to vote to accept the PC Alternative Plan.

B. Certain Considerations

1. *Failure to Confirm the PC Alternative Plan*

If the PC Alternative Plan is not confirmed and consummated, there can be no assurance that the Chapter 11 Cases will continue rather than be converted to liquidation cases under chapter 7 of the Bankruptcy Code. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a plan and requires, among other things, that the value of distributions to dissenting creditors and shareholders not be less than the value of distributions such creditors and shareholders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. If the PC Alternative Plan is not confirmed, the PC Alternative Plan may be withdrawn, amended, or modified.

2. *The PC Alternative Plan May Not be Accepted by Sufficient Holders of Impaired Claims*

The PC Alternative Plan is subject to a vote of Holders of Impaired Claims in voting Classes and to Confirmation by the Bankruptcy Court. Article VI hereof summarizes the numerous requirements for Confirmation of the PC Alternative Plan,

including that the PC Alternative Plan must be accepted by at least one Class of Impaired Claims. The Plan Proponents represent the majority of the holders of the Notes Claims, and are expected to support and vote in favor of the PC Alternative Plan. However, until all votes are collected, there can be no assurance that the requisite acceptances to confirm the PC Alternative Plan will be obtained. Thus, while the Plan Proponents believe that the PC Alternative Plan is confirmable under the standards set forth in section 1129 of the Bankruptcy Code, there is no guarantee that the PC Alternative Plan will be accepted by the requisite Classes entitled to vote on the PC Alternative Plan.

3. *Uncertainty of Extraterritorial Recognition of Plan Confirmation*

The Debtors are incorporated in Liberia and some of their interests are governed by the laws of foreign jurisdictions other than the United States. Although the Plan Proponents will make every effort to ensure that any Confirmation Order entered by the Bankruptcy Court and the steps taken pursuant to the Confirmation Order to implement the PC Alternative Plan are recognized and are effective in all applicable jurisdictions, it is possible that if a creditor or stakeholder were to challenge the PC Alternative Plan, a foreign court may refuse to recognize the effect of the Confirmation Order.

4. *No Assurance of Ultimate Recoveries*

There can be no assurances of the actual recoveries to the Debtors' claimholders. The Plan Proponents cannot assure the Debtors' claimholders that they will be able to resell any consideration received in respect of their claims at current values or at all.

5. *Classification and Treatment of Claims and Interests*

Section 1122 of the Bankruptcy Code requires that the PC Alternative Plan classify Claims against the Debtors. The Bankruptcy Code also provides that, except for certain Claims classified for administrative convenience, the PC Alternative Plan may place a Claim in a particular Class only if such Claim is substantially similar to the other Claims of such Class. The Plan Proponents believe that all Claims have been appropriately classified in the PC Alternative Plan.

To the extent that the Bankruptcy Court finds that a different classification is required for the PC Alternative Plan to be confirmed, the Plan Proponents may seek to (a) modify the PC Alternative Plan to provide for whatever classification might be required for confirmation, and (b) use the acceptances received from any creditor pursuant to the solicitation for the purpose of obtaining the approval of the Class or Classes of which such creditor ultimately is deemed to be a member. There can be no assurance that the Bankruptcy Court, after finding that a classification was inappropriate and requiring a reclassification, would approve the PC Alternative Plan based upon such reclassification without requiring the Plan Proponents to resolicit votes.

6. *Nonconsensual Confirmation*

In the event any impaired class of claims entitled to vote on a plan of reorganization does not accept a plan of reorganization, a bankruptcy court may nevertheless confirm such plan at the proponent's request if at least one impaired class has accepted the plan (with such acceptance being determined without including the vote of any "insider" in such class), and as to each impaired class that has not accepted the plan, the bankruptcy court determines that the plan "does not discriminate unfairly" and is "fair and equitable" with respect to the dissenting impaired classes.

7. *Non-Occurrence of Effective Date*

Although the Plan Proponents believe that the Effective Date will occur reasonably soon after the Confirmation Date, there can be no assurance as to such timing or as to whether it will occur. Moreover, if the conditions precedent to the Effective Date of the PC Alternative Plan are not met, the PC Alternative Plan may be vacated by the Bankruptcy Court.

8. *Risks of Failure to Satisfy Conditions Precedent*

Article VIII of the PC Alternative Plan provides for certain conditions that must be satisfied (or waived) prior to the Confirmation Date and for certain other conditions that must be satisfied (or waived) prior to the Effective Date. Some of the conditions are outside of the Plan Proponents' control. There can be no assurance that any or all of the conditions in the PC Alternative Plan will be satisfied (or waived). Accordingly, even if the PC Alternative Plan is confirmed by the Bankruptcy Court, there can be no assurance that the PC Alternative Plan will be consummated. If the PC Alternative Plan is not consummated, there can be no assurance that the Chapter 11 Cases would not be converted to chapter 7 liquidation cases or that any new chapter 11 plan would be as favorable to Holders of Claims as the current PC Alternative Plan. Either outcome may materially reduce distributions to Holders of Claims.

9. *Distributions to Holders of Allowed Claims Under the PC Alternative Plan*

Projected distributions are based upon good faith estimates of the total amount of Claims ultimately Allowed and the funds available for distribution. Both the actual amount of Allowed Claims in a particular Class and the funds available for distribution for such Class may differ from the Plan Proponents' estimates. If the total amount of Allowed Claims in a Class is higher than the Plan Proponents' estimates or the funds available for distribution to such Class are lower than the Plan Proponents' estimates, the percentage recovery to holders of Allowed Claims in such Class will be less than projected.

10. *Funding Necessary for the Consummation of the PC Alternative Plan*

The Plan Proponents contemplate that all Cash necessary for Reorganized Holdings to make payments required by the PC Alternative Plan and for post-

Confirmation operations shall be obtained from (a) existing Cash held by Reorganized Holdings on the Effective Date, (b) proceeds from the Rights Offering, and (c) the operations of Reorganized Holdings. To the extent the PC Alternative Plan obligates any other Debtor entities to make any payments or Distributions or take any other action under the PC Alternative Plan, the amount of such payments or Distributions or the cost of taking such actions shall be funded solely by Reorganized Holdings.

11. *Future Litigation*

Given the litigious history of these Chapter 11 Cases, there is a risk that new litigation claims may be asserted against Reorganized Holdings or the Backstop Parties. Future litigation could result in material judgement(s) against Reorganized Holdings. Such litigation, and any judgement in connection therewith, could have a material negative effect on Reorganized Holdings.

12. *Conversion to Chapter 7*

If the Bankruptcy Court finds that it would be in the best interests of the Holders of Claims, the Bankruptcy Court may convert the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be appointed or elected to liquidate the Debtors' assets for distribution in accordance with the priorities under the Bankruptcy Code. The Plan Proponents believe that liquidation under chapter 7 would result in significantly smaller distributions being made to creditors than those provided in a Chapter 11 plan because of (a) the likelihood that assets would have to be sold in a disorderly fashion over a short period of time, rather than reorganizing or selling the business as a going concern at a later time in a controlled manner, (b) additional administrative expenses involved in the appointment of a chapter 7 trustee, and (c) additional expenses and claims, including claims resulting from the rejection of certain executory contracts and unexpired leases in connection with the cessation of operations.

13. *Reorganized Holdings May Not Be Able to Achieve Their Anticipated Financial Results*

Actual financial results may differ materially from anticipated results. If Reorganized Holdings does not achieve projected revenue or cashflow levels, Reorganized Holdings may lack sufficient liquidity to continue operating their business consistent after the Effective Date.

14. *Projections are Subject to Inherent Uncertainty Due to the Numerous Assumptions Upon Which They Are Based*

Unanticipated events and circumstances occurring subsequent to the approval of this Disclosure Statement and/or Confirmation of the PC Alternative Plan by the Bankruptcy Court may affect the actual financial results of Reorganized Holdings' operations. Actual results achieved may vary from anticipated results.

15. *Certain Information Herein Was Provided by the Debtors and Relied Upon by the Plan Proponents' Advisors*

Counsel to and other advisors retained by the Plan Proponents have relied upon information provided by the Debtors, as well as information obtained from discovery, in connection with the preparation of this Disclosure Statement and the PC Alternative Plan. Although counsel to and other advisors retained by the Plan Proponents have attempted to verify the information contained herein, certain statements rely on documents and representations received from the Debtors. The Debtors' records are incomplete, and the Debtors and certain other parties did not fully comply with discovery requests. Although the Plan Proponents have undertaken great efforts to provide accurate and complete information in this Disclosure Statement, the Plan Proponents cannot warrant or represent that the information contained herein is complete and accurate.

The statements contained in this Disclosure Statement are made by the Plan Proponents as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has not been a change in the information set forth herein since that date. While the Plan Proponents have used their reasonably diligent efforts to ensure the accuracy of all of the information provided in this Disclosure Statement and in the PC Alternative Plan, the Plan Proponents nonetheless cannot, and do not, confirm the current accuracy of all statements appearing in this Disclosure Statement.

The financial information contained in this Disclosure Statement has not been audited unless explicitly stated otherwise. In preparing this Disclosure Statement, the Plan Proponents have relied predominantly on financial data derived from the Debtors' books and records that was available at the time of such preparation, together with information gathered through discovery. While the Plan Proponents believe that the financial information received from the Debtors' and relied upon in preparing this Disclosure Statement fairly reflects the financial condition of the Debtors, the Plan Proponents are unable to warrant or represent that the financial information contained herein and attached hereto is without inaccuracies.

16. *No Admissions Are Made by this Disclosure Statement*

The information and statements contained in this Disclosure Statement will neither constitute an admission of any fact or liability by the Plan Proponents nor be deemed evidence of the tax or other legal effects of the PC Alternative Plan on the Debtors, Holders of Allowed Claims or any other parties in interest. Except as otherwise provided in the PC Alternative Plan, the vote by a Holder of an Allowed Claim for or against the PC Alternative Plan does not constitute a waiver or release of any Claims or rights of the Plan Proponents to object to that Holder's Claim, or recover any preferential, fraudulent or other voidable transfer or assets, regardless of whether any Claims or Causes of Action of the Debtors or their estates are specifically or generally identified herein.

In addition, no reliance should be placed on the fact that a particular litigation Claim or projected objection to a particular Claim is, or is not, identified in this

Disclosure Statement. The Plan Proponents may seek to investigate, file, and prosecute objections to Claims and may object to Claims after the Confirmation or Effective Date of the PC Alternative Plan irrespective of whether this Disclosure Statement identifies such Claims or objections to Claims.

X. CONCLUSION AND RECOMMENDATION

The Plan Proponents believe that Confirmation and implementation of the Plan is preferable to the Debtors' Plan. The Plan Proponents urge all Holders of Claims entitled to vote to cast their Ballots to accept the Plan in accordance with the instructions provided herein and in the Solicitation Packages.

Dated: June 17, 2024
New York, New York

Respectfully submitted,

TOGUT, SEGAL & SEGAL LLP

/s/ Bryan M. Kotliar

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Counsel for the Petitioning Creditors

APPENDIX A

Petitioning Creditors' Alternative Chapter 11 Plan for
Eletson Holdings Inc. and its Debtor Affiliates
(Clean)

THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN. ACCEPTANCES OR REJECTIONS WILL NOT BE SOLICITED UNTIL THE BANKRUPTCY COURT HAS APPROVED A DISCLOSURE STATEMENT.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Eletson Holdings Inc., *et al.*,[1]	Case No. 23-10322 (JPM)
Debtors.	(Jointly Administered)

PETITIONING CREDITORS' ALTERNATIVE CHAPTER 11 PLAN FOR ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS

TOGUT, SEGAL & SEGAL LLP
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New York, New York 10119
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Kyle J. Ortiz
Bryan M. Kotliar
Martha E. Martir
Amanda C. Glaubach

Counsel for the Petitioning Creditors[2]

Dated: June 17, 2024
New York, New York

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[1] The Debtors in these chapter 11 cases are: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. The address of the Debtors' corporate headquarters is 118 Kolokotroni Street, GR 185 35 Piraeus, Greece. The Debtors' mailing address is c/o Eletson Maritime, Inc., 1 Landmark Square, Suite 424, Stamford, Connecticut 06901.

[2] The "Petitioning Creditors" consist of Pach Shemen LLC, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein ("Goldstein"), Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust ("Goldstein Trust", and together with Goldstein, "Mr. Goldstein"), Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike. While Togut, Segal & Segal LLP represents Mr. Goldstein as a "Petitioning Creditor," Mr. Goldstein is not a "Plan Proponent" for purposes of this Plan.

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PETITIONING CREDITORS' ALTERNATIVE CHAPTER 11 PLAN FOR ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS

Pursuant to Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, certain of the Petitioning Creditors,[3] as Plan Proponents, hereby propose the following plan of reorganization for the resolution of the outstanding Claims against and Interests in Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC, debtors and debtors-in-possession (collectively and as defined below the "Debtors"), in the above-captioned and numbered case.

The Plan effects a restructuring of the Debtors' outstanding obligations owed to its creditor constituencies and is created for the purposes, among others, of making distributions to the Holders of Allowed Claims and Interests, and otherwise restructuring the outstanding obligations of the Estates, all as more fully set forth in this Plan.

ARTICLE I.

RULES OF INTERPRETATION, COMPUTATION OF TIME, GOVERNING LAW, RESERVATION OF RIGHTS AND DEFINED TERMS

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

1. For purposes herein: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) any reference herein to an existing document or exhibit Filed, or to be Filed, shall mean such document or exhibit, as it may have been or may be amended, modified or supplemented; (d) unless otherwise specified, all references herein to Sections, Articles and Exhibits are references to Sections, Articles and Exhibits hereof or hereto; (e) the words "herein," "hereof" and "hereto" refer to the Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy

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[3] While Gene B. Goldstein and Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust are Petitioning Creditors and represented by Togut, Segal & Segal LLP, neither is a "Plan Proponent" for purposes of the Plan because of Mr. Goldstein's role as a member of the Committee.

Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

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

3. Except to the extent that the Bankruptcy Code or Bankruptcy Rules are applicable, and subject to the provisions of any contract, instrument, release, indenture or other agreement or document entered into in connection herewith, the rights and obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof.

B. *Defined Terms*

Unless the context requires otherwise, the following terms shall have the following meanings when used in capitalized form herein:

1. "Administrative Bar Date" means the date which is the 30th day after the Effective Date.

2. "Administrative Budget" means (i) the initial budget for the period following the Effective Date, setting forth in reasonable detail the anticipated Post-Confirmation Expenses of the Litigation Trust, together with any amendments or modifications thereto, as prepared by the Plan Proponents pursuant to Article IV.N of this Plan which shall be determined by the Plan Proponents with the consent of the Committee, which consent shall not be unreasonably withheld, in an amount no less than $200,000 which shall be drawn from the Distributable Cash; and (ii) any modified budget, setting forth in reasonable detail the anticipated Post-Confirmation Expenses of the Litigation Trust, together with any amendments or modifications thereto, as prepared by the Litigation Trust Trustee and approved by the Litigation Trust Oversight Committee pursuant to Article IV.N of this Plan.

3. "Administrative Claim" means a Claim for costs and expenses of administration under sections 503(b), 507(a)(2), 507(b) or 1114(e)(2) of the Bankruptcy Code, including, but not limited to: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the businesses of the Debtors (including wages, salaries or commissions for services and payments for goods and other services and leased premises); (b) compensation for legal, financial advisory, accounting and other services and reimbursement of expenses awarded or allowed under sections 328, 330(a) or 331 of the Bankruptcy Code or otherwise; (c) all fees and charges assessed against the Estates under chapter 123 of Title 28 United States Code, 28 U.S.C. §§ 1911-1930; and (d) all requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3)(D) and 503(b)(4) of the Bankruptcy Code, including, but not limited to, the Plan Proponents Fees and Expenses.

4. "Administrative Fund" means the reserve established for the Post-Confirmation Expenses in accordance with Article IV.N herein, which reserve may be

augmented with Litigation Trust Assets by the Litigation Trust Trustee in consultation with and at the direction of the Litigation Trust Oversight Committee; *prov*ided, *however*, on the Effective Date, the initial Administrative Fund shall not exceed the amount of $200,000 necessary to monetize the Litigation Trust Causes of Action as of the Effective Date.

5. "Allowed Claim" or "Allowed Interest" means, respectively, a Claim or Interest: (i) that has been Scheduled and (a) is not Scheduled as disputed, contingent or unliquidated and (b) as to which no Proof of Claim has been filed; (ii) as to which a timely Proof of Claim has been filed as of the relevant Claims Bar Date to which (x) no objection thereto, or motion to subordinate, disallow or otherwise limit recovery, has been made, and (y) the Litigation Trust Trustee has determined that no objection, or motion to subordinate, disallow or otherwise limit recovery, will be made to such Claim or Interest; (iii) as to which a timely Administrative Claim Request has been filed to which (x) no objection thereto, or application to equitably subordinate or otherwise limit recovery has been made, and (y) the Litigation Trust Trustee has determined that no objection, or application to equitably subordinate or otherwise limit recovery, will be made to such Administrative Claim Request; or (iv) that has been allowed by a Final Order or pursuant to the terms of this Plan. An Allowed Claim shall not include interest on the amount of any Claim except with respect to an Allowed Secured Claim as permitted by section 506(b) of the Bankruptcy Code or as specifically provided in this Plan, or by Final Order of the Bankruptcy Court. If the Litigation Trust Trustee shall object to any Claim in accordance with section 502(d) of the Bankruptcy Code, such Claim shall not be an Allowed Claim until the avoidable transfer is returned, a Final Order has been entered that no avoidable transfer exists, or an agreement or settlement is reached that is approved by the Bankruptcy Court or pursuant to provisions in the Plan.

6. "Allowed _____ Claim" or "Allowed _____ Interest" means an Allowed Claim or Allowed Interest, as the case may be, of a specified Class or an Allowed Claim that is an Administrative Claim, Priority Claim, Secured Claim, General Unsecured Claim or Interest, as the case may be.

7. "Arbitration" means the arbitration proceeding titled *Eletson Holdings, Inc., et al. v. Levona Holdings Ltd.* before Justice Belen at JAMS Arbitration Ref. No. 5425000511, initiated by Eletson Holdings and Eletson Corp. against Levona Holdings Ltd.

8. "Assets" means all assets of the Debtors, of any nature whatsoever, including, without limitation, all property of the Estates under and pursuant to Section 541 of the Bankruptcy Code; Cash; Causes of Action including Avoidance Actions; rights; interests; and property, real and personal, tangible and intangible.

9. "Avoidance Actions" means those avoidance actions available in these Chapter 11 Cases pursuant to Chapter 5 of the Bankruptcy Code.

10. "Azure" means collectively Azure Nova Spring Company, Ltd., Azure Nova Summer Company, Ltd., Azure Nova Autumn Company, Ltd. and Azure Nova Winter Company, Ltd.

11. "Azure Guarantees" means those certain guarantees dated as of August 24, 2017, executed by Eletson Holdings in favor of the obligations of certain Eletson affiliates to Azure.

12. "Azure Guaranty Claims" means any and all guaranty related Claims arising from the Azure Guarantees.

13. "Azure Guaranty Recovery" means the lesser of (i) $200,000 and (ii) such other amount as determined by the Plan Proponents or the Reorganized Debtor, as applicable, and Azure in full and complete settlement, release and satisfaction of the Azure Guaranty Claims.

14. "Ballots" means the ballots accompanying the Disclosure Statement upon which Holders of Impaired Claims and Interests in the Debtors entitled to vote shall indicate their acceptance or rejection of the Plan in accordance with the Plan and the Voting Instructions.

15. "Bankruptcy Code" means Title 11 of the United States Code, and the applicable portions of Title 28 of the United States Code.

16. "Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of New York.

17. "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure, as amended from time to time, as applicable to the Chapter 11 Cases, promulgated under 28 U.S.C. § 2075 and the General, Local and Chambers Rules of the Bankruptcy Court.

18. "Bar Date Order" means the *Order Establishing Deadlines for Filing Proofs of Claim and Claims Related to Gap Period and Approving Form and Manner of Notice Thereof* [D.I. 264].

19. "Beneficial Holder" means the Person or Entity holding the beneficial interest in a Claim or Interest.

20. "Business Day" means any day, other than a Saturday, Sunday or "legal holiday" (as defined in Bankruptcy Rule 9006(a)) in New York, York.

21. "Cash" means cash and cash equivalents in certified or immediately available funds, including, but not limited to, bank deposits, checks and similar items.

22. "Cause of Action" means, but is not limited to the following: all claims as defined in section 101(5) of the Bankruptcy Code, actions, choses in action, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, controversies, agreements, promises, variances, trespasses, damages, judgments, third-party claims, counterclaims and cross claims (including, but not limited to, all claims in any avoidance, recovery, inequitable conduct, subordination or other actions against Insiders and/or any other Persons under the Bankruptcy Code, including sections 510, 542, 543, 544, 545, 547, 548, 549, 550, 551 and 553) of the Debtors, the Debtors in Possession and/or the Estates against any Person based on law or equity,

including, but not limited to, under the Bankruptcy Code, whether direct, indirect, derivative, or otherwise and whether asserted or unasserted, known or unknown.

23. "Chapter 11 Cases" means the chapter 11 bankruptcy cases of the Debtors initiated pursuant to that *Order Converting These Cases to Cases Under Chapter 11* [D.I. 215], jointly administered under the name Eletson Holdings Inc. Case No. 23-10322.

24. "Claim" means any claim(s) against the Debtors as such term is defined in Bankruptcy Code § 101(5).

25. "Claim Holder" means the Holder of a Claim.

26. "Claims Bar Date" means (i) December 18, 2023, and (ii) such other date(s) fixed by order(s) of the Bankruptcy Court, by which all Persons, including governmental units, asserting a Claim against the Debtors, must have filed a Proof of Claim or Administrative Claim Request or be forever barred from asserting such Claim.

27. "Class" means a category of Claims or Interests as set forth in Article II herein.

28. "Class 6 Claims" means the aggregate Claims of Class 6A and Class 6B.

29. "Collections Contribution" means a one time-cash payment equal to (i) 90% of the first $21 million of cash recoveries under the Final Award; *plus* (ii) 50% of the next $20 million of cash recoveries under the Final Award; *plus* (iii) 75% of cash recoveries in excess of $41 million under the Final Award; *provided*, *however*, for purposes of the foregoing, "cash recoveries" shall mean cash actually collected under the Final Award following the date of the Final Award (*i.e.*, September 29, 2023) by Eletson Corporation and/or the Gas Ownership Defendants.

30. "Committee" means the Official Committee of Unsecured Creditors as constituted by the Office of United States Trustee in the Chapter 11 Cases. [D.I. 233.]

31. "Committee Professionals" means (a) Dechert LLP, (b) FTI Consulting, Inc., and (c) any other Person or Entity employed by the Committee pursuant to a Final Order in accordance with sections 327 and 1103 or 363 of the Bankruptcy Code and to be compensated for services rendered or incurred through the Effective Date pursuant to sections 327, 328, 329, 330 and 331 or 363 of the Bankruptcy Code.

32. "Committee Professional Fees" means all fees and expenses (including, but not limited to, success fees, if any) for services rendered by all Committee Professionals in the Chapter 11 Cases through the Effective Date that the Bankruptcy Court has not denied by Final Order, regardless of whether a fee application has been filed for such fees.

33. "Committee Professional Fee Claims" means all Committee Professional Fees which remain unpaid as of the Effective Date.

34. "Confirmation" means the entry of the Confirmation Order.

35. "Confirmation Date" means the date upon which the Confirmation Order is entered by the Bankruptcy Court on its docket, within the meaning of Bankruptcy Rule 5003.

36. "Confirmation Hearing" means that hearing before the Bankruptcy Court wherein the Plan Proponents seek confirmation of the Plan as provided for in section 1128 of the Bankruptcy Code.

37. "Confirmation Order" means the order of the Bankruptcy Court, in form and substance satisfactory to the Plan Proponents, confirming this Plan pursuant to section 1129 of the Bankruptcy Code, and approving the transactions contemplated herein.

38. "Consolidating Debtors" means collectively Eletson Finance (US) LLC and Agathonissos Finance LLC.

39. "Conversion Date" means September 25, 2023.

40. "Corp Guarantees" means an executed guaranty or similar security agreement other than the Azure Guarantees and the OCM Guarantees executed by Eletson Holdings guaranteeing the obligations of Eletson Corporation.

41. "Corp Guaranty Claims" means any guaranty related Claims arising from the Corp Guarantees.

42. "Creditor" shall have the meaning in section 101(10) of the Bankruptcy Code.

43. "CVRs" means the Plan Sponsor's agreement to contribute and deliver to the Litigation Trust Trustee a one time-cash payment equal to the amount of the Collections Contribution; *provided*, *however*, *that*, to the extent the Final Award is transferred from Eletson Gas and/or the Preferred Owners to Eletson Holdings or the Reorganized Debtor, as applicable, and/or otherwise paid to Eletson Holdings, then the Plan Sponsor shall not have an obligation to contribute and deliver the CVRs, in which case the proceeds of the foregoing shall be transferred to the Litigation Trust as Litigation Trust Distributable Proceeds.

44. "Debtor Privilege" means any attorney-client privilege, work product protection, joint interest privilege or other privilege or immunity attaching to any documents or communications (in any form, including, without limitation, written, electronic or oral) held by the Debtors.

45. "Debtors" means collectively Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC.

46. "DIP Agent" means the administrative agent set forth in the DIP Documents.

47. "DIP Claim" means any Claim in respect of the Debtors' obligations under the DIP Documents, including principal, interests and other fees and expenses owing

pursuant to the DIP Documents and in accordance therewith held by or otherwise owed to the DIP Agent and/or DIP Lenders.

48. "DIP Credit Agreement" means the credit agreement governing the terms and conditions of the postpetition financing facility entered into by the Debtors, DIP Agent and DIP Lenders and approved pursuant to order of the Bankruptcy Court.

49. "DIP Documents" means the DIP Credit Agreement and related documents.

50. "DIP Facility" means the postpetition financing facility approved by the Bankruptcy Court pursuant to the DIP Order.

51. "DIP Lenders" means the lenders under the DIP Credit Agreement and any successors and permitted assigns.

52. "DIP Order" means the interim or final order, as applicable, entered by the Bankruptcy Court approving the DIP Facility and authorizing the DIP Documents.

53. "Disallowed Claim" means a Claim or any portion thereof that (i) has been disallowed by a Final Order, (ii) is Scheduled as zero or as contingent, disputed or unliquidated and as to which no Proof of Claim or Administrative Claim Request has been timely filed or deemed timely filed with the Bankruptcy Court, (iii) is not Scheduled and as to which no Proof of Claim or Administrative Claim Request has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any order of the Bankruptcy Court or otherwise deemed timely filed under applicable law or this Plan, (iv) has been withdrawn by agreement of the Debtors, the Plan Proponent, or the Litigation Trust Trustee and the Holder thereof, or (v) has been withdrawn by the Holder thereof.

54. "Disbursing Agent" means the Litigation Trust Trustee, the Reorganized Debtor, or third party, as applicable, in accordance with Article VII.A.

55. "Disclosure Statement" means the disclosure statement relating to this Plan (including all exhibits thereto, as amended, supplemented, or modified from time to time) that is prepared and distributed in accordance with the Bankruptcy Code and approved by the Bankruptcy Court.

56. "Disclosure Statement Order" means the order approving the Disclosure Statement, which was entered by the Bankruptcy Court on [_], 2024 [D.I._].

57. "Disputed" means, for purposes of this Plan, any Claim or Interest: (a) listed on the Schedules as unliquidated, disputed or contingent and for which a timely objection has been filed; or (b) as to which any Debtor or any other party in interest has interposed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules which has not been withdrawn or determined by a Final Order; *provided*, *however*, that a Claim shall not be a Disputed Claim to the extent it becomes an Allowed Claim or a Disallowed Claim.

58. "Distributable Cash" means all remaining Cash or cash equivalents comprising of the Equity Investment after (i) payment of the Allowed Administrative Claims, including, among others, Professional Fee Claims and Committee Fee Claims, (ii) funding of the Administrative Fund, (iii) funding of the Azure Guaranty Recovery, (iv) funding the Eletson Corporation Guaranty Recovery, (v) funding the Trade Creditor Claim Reserve, and (vi) funding the Noteholder Recovery Election Reserve. Notwithstanding the foregoing, (a) any excess amounts, if any, remaining in the Trade Creditor Claim Reserve, the Noteholder Election Recovery Reserve, and the Professional Fee Reserve, after final distributions on account of Allowed Trade Creditor Claims, Noteholder Election Recovery Claims, Professional Fee Claims, or Committee Professional Fee Claims, as applicable, (b) any excess amounts remaining in the Administrative Fund, and (c) the SME Revenue, shall, in each case, also be deemed Distributable Cash.

59. "Distribution Record Date" means the Effective Date unless a different date is ordered by the Bankruptcy Court.

60. "District Court Confirmation Proceedings" means those proceedings before the United States District Court for the Southern District of New York regarding the confirmation of the Final Award issued in the Arbitration.

61. "Effective Date" means the date selected by the Plan Proponents on which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions specified in Article VIII herein have been (i) satisfied or (ii) waived pursuant to the applicable provisions of this Plan.

62. "Eletson Corporation" means non-Debtor Eletson Corporation.

63. "Eletson Corporation Guaranty Recovery" means Cash in the aggregate amount of distributions to Holders of Corp Guaranty Claims pursuant to the elections described in Article II.C.2(b).

64. "Eletson Gas" means non-Debtor Eletson Gas LLC.

65. "Eletson Holdings" means Eletson Holdings, Inc.

66. "Entity" means an entity as defined in section 101(15) of the Bankruptcy Code.

67. "Equity Investment" means, collectively, a contribution provided by or caused to be provided by the Plan Sponsor, consisting of (a) Cash in an aggregate amount of $41 million and (b) the CVRs.

68. "Estate" means the estate of each Debtor created by section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

69. "Excess SME Cash Flow Proceeds" means the future cash contributions of the Reorganized Debtor to the Litigation Trust during the Excess SME Proceeds Period of 20% of the consolidated excess cash flow (calculated on a semi-annual basis) of the

consolidated operating revenues of the SMEs less the consolidated operating expenses for the previous six-month period, up to a maximum of $5 million in the aggregate.

70. "Excess SME Proceeds" means the Excess SME Cash Flow Proceeds and the Excess SME Sale Proceeds.

71. "Excess SME Proceeds Period" means the earlier of the four-year anniversary of the Effective Date or the date on which the sale of all of the SMEs and/or the SME Vessels has been consummated.

72. "Excess SME Sale Proceeds" means 20% of the gross proceeds from the sale of any SME and/or SME Vessel less said SME's existing debt (including any unpaid obligations under the terms of the applicable bareboat charter and any trade obligations applicable to the operation of such SME Vessel which were incurred but not paid prior to the sale closing date) up to a maximum of $5 million in the aggregate.

73. "Exchange Notes" means those certain 9.625% First Preferred Ship Mortgage Notes due 2022 in an original Face Amount of $300 million issued by the Debtors that were exchanged by noteholders pursuant to the that May 25, 2018 exchange offer.

74. "Exchange Noteholder" means a Holder of the Exchange Notes.

75. "Exchange Note Indenture" means that certain Indenture, dated as of July 2, 2018, by and among the Debtors, as co-issuers, the guarantors party thereto, and the Exchange Notes Trustee, as trustee and collateral agent (as amended, amended and restated, modified, or supplemented from time to time).

76. "Exchange Notes Trustee" means Wilmington Savings Fund Society, FSB, in its capacity as trustee and collateral trustee under the Exchange Notes Indenture, including any successor and permitted assigns thereto.

77. "Exculpated Parties" means, collectively, and in each case solely in its capacity as such, (a) the Plan Proponents, (b) the Committee and all members thereto, and (c) with respect to each of the foregoing Entities and Persons in the foregoing clauses (a) through (b), each of their Related Parties, solely to the extent such Related Parties are fiduciaries of the Estates or otherwise to the fullest extent provided for pursuant to section 1125(e) of the Bankruptcy Code.

78. "Face Amount" means (i) when used in reference to a Disputed or Disallowed Claim, the full stated liquidated amount claimed by the Holder of such Claim in any Proof of Claim timely filed with the Bankruptcy Court or otherwise deemed timely filed by any Final Order of the Bankruptcy Court or other applicable bankruptcy law, and (ii) when used in reference to an Allowed Claim, the allowed amount of such Claim.

79. "File" or "Filed" means file or filed with the Bankruptcy Court in the Chapter 11 Cases.

80. "Final Award" means the final arbitral award issued against Levona Holdings Ltd. in the Arbitration.

81. "Final Decree" means the decree contemplated under Bankruptcy Rule 3022.

82. "Final Order" means an order or judgment of the Bankruptcy Court as entered on the docket of the Chapter 11 Case that has not been reversed, stayed, modified or amended and as to which the time to appeal, petition for certiorari, or seek reargument or rehearing has run or as to which any right to appeal, reargue, petition for certiorari or seek rehearing has been waived in writing or, if an appeal, reargument, petition for certiorari or rehearing thereof has been pursued or granted then such an appeal, reargument, petition for certiorari or rehearing has been denied, and the time to take any further appeal or to seek certiorari or further reargument or rehearing has expired. Notwithstanding, and in lieu of the foregoing, insofar as the Confirmation Order confirming this Plan is concerned, Final Order means such order or judgment with respect to which no stay is in effect.

83. "Gas Ownership Defendants" means Eletson Gas, the Preferred Owners and/or any officers or directors of the same.

84. "General Unsecured Claim" means any Claim against any Debtor that is not an Administrative Claim, Priority Claim, a Secured Claim or an Interest, as of the Petition Date that is neither secured by collateral nor entitled to priority under the Bankruptcy Code or any Final Order of the Bankruptcy Court.

85. "Governmental Unit" has the meaning set forth in Section 101(27) of the Bankruptcy Code.

86. "Holder" and collectively, "Holders" means a Person or Entity holding an Interest or Claim, and with respect to a vote on the Plan, means the Beneficial Holder as of the Distribution Record Date or any authorized signatory who has completed and executed a Ballot in accordance with the Voting Instructions.

87. "Impaired" means with respect to any Class of Claims or Interests, any Claims or Interests that are impaired within the meaning of § 1124 of the Bankruptcy Code.

88. "Impaired Claim" means a Claim classified in an Impaired Class of Claims.

89. "Impaired Class" means each of the Classes that is not an Unimpaired Class.

90. "Initial Petitioning Creditors" means Pach Shemen, VR Global Partners, L.P., and Alpine Partners (BVI) L.P. and (ii) Levona to the extent Levona is deemed to be a creditor of the Debtors by order of the Bankruptcy Court.

91. "Intercompany Interest" means any Interest of a Debtor or a Non-Debtor Affiliate that is held by another Debtors, including (a) all issued, unissued, authorized or

outstanding shares or stock and (b) any interest, including but not limited to, any warrant, options, conversion privileges or contract rights to purchase or acquire any equity security or membership interest of any of the Debtors at any time.

92. "Interest" means any common equity interest in Eletson Holdings, including, but not limited to, all issued, unissued, authorized or outstanding shares or stock.

93. "Involuntary Petitions" means the chapter 7 petitions filed by certain of the Petitioning Creditors against each Debtor.

94. "Involuntary Proceedings" means (a) when used with reference to a particular Debtor, the case under chapter 7 of the Bankruptcy Code commenced by such Debtor in the Bankruptcy Court from the Petition Date through the Conversion Date and (b) when used with reference to all of the Debtors, the procedurally consolidated and jointly administered cases under chapter 7 of the Bankruptcy Code commenced by the Debtors in the Bankruptcy Court from the Petition Date through the Conversion Date.

95. "IRS" means the Internal Revenue Service.

96. "Known Causes of Action" means, collectively, except for the Retained Causes of Action, any and all Causes of Action known as of the Effective Date, including, but not limited to, Causes of Action related to or arising under: (i) the purported transfer of the Preferred Shares of Eletson Gas; (ii) the transfer of the Final Award from Eletson Holdings to Eletson Gas and the Preferred Owners; (iii) Levona Holdings, Ltd.; (iv) any Avoidance Actions; (v) any Debtor or its Related Parties; (vi) any Non-Debtor Affiliate or its Related Parties; (vii) any non-Debtor direct or indirect subsidiary or its Related Parties; and (viii) any Eletson Insider and its Related Parties.

97. "Levona" means Levona Holdings Ltd. and/or its alter egos.

98. "Liberian Law" means the governing laws of the Republic of Liberia.

99. "Liens" means any mortgage, pledge, deed of trust, assessment, security interest, lease, lien, adverse claim, levy, charge or other encumbrance of any kind, including any "lien" as defined in section 101(37) of the Bankruptcy Code, or a conditional sale contract, title retention contract or other contract to give any of the foregoing.

100. "Litigation Trust" means the trust that will be created to pursue the Litigation Trust Causes of Action and effect distributions to applicable holders of Litigation Trust Interests following the Effective Date in accordance with the terms of this Plan and the Litigation Trust Agreement.

101. "Litigation Trust Agreement" means the trust agreement described in Article IV of this Plan and substantially in the form to be filed with the Plan Supplement that, among other things, shall be drafted and filed by the Committee (in form and substance satisfactory to the Plan Proponents), and establishes the Litigation Trust, and describes the powers, duties and responsibilities of the agreement respecting the transfer

of documents, information, and Litigation Trust Privileges and privileges of the Reorganized Debtor (solely in its capacity as successor to the Debtors) and solely related to the Litigation Trust Causes of Action to be entered into with the Litigation Trust Trustee; *provided*, *however*, that to the extent the terms of Article IV of this Plan conflict with the Litigation Trust Agreement, the terms of the Litigation Trust Agreement shall control.

102. "Litigation Trust Assets" means the Litigation Trust Causes of Actions, the Excess SME Proceeds, the CVRs, the Retained Causes of Action Contribution, and the Distributable Cash; *provided*, that neither the Debtors nor the Reorganized Debtor shall have any obligations to provide any funding to the Litigation Trust.

103. "Litigation Trust Beneficiaries" means holders of the Litigation Trust Interests.

104. "Litigation Trust Causes of Action" means any and all claims and Causes of Action of the Debtors occurring prior to the Effective Date (other than the Retained Causes of Action), whether a Known Cause of Action or Unknown Cause of Action, arising under state or federal law, Liberian Law or Marshall Islands Law, including, but not limited to, all Pending Adversary Proceedings, objections to Claims, and Avoidance Actions owned by, or asserted on behalf of, or that may be asserted by or on behalf of, the Debtors or their Estates listed on the Litigation Trust Causes of Action Schedule.

105. "Litigation Trust Causes of Action Schedule" means the schedule, to be included in the Plan Supplement, providing additional details on the Known Causes of Action that will be transferred to the Litigation Trust and constitute the Litigation Trust Causes of Action.

106. "Litigation Trust Distributable Proceeds" means all actual proceeds of (i) the Litigation Trust Causes of Action, net of any amounts (a) used to repay any funding for the Litigation Trust in accordance with the terms of such funding, (b) used to pay the Litigation Trust Expenses, and (c) as otherwise provided in accordance with the Litigation Trust Agreement, (ii) the remaining Distributable Cash after satisfaction of the Litigation Trust Expenses, (iii) the CVRs, (iv) the Retained Causes of Action Contribution, and (v) the cash provided by the Excess SME Proceeds.

107. "Litigation Trust Expenses" means all reasonable fees, costs and expenses of and incurred by the Litigation Trust, including legal and other professional fees, costs and expenses, administrative fees and expenses, insurance fees, taxes and escrow expenses, which shall be paid in accordance with the Litigation Trust Agreement and the terms of this Plan; *provided*, *however*, that neither the Debtors nor the Reorganized Debtor shall be required in any event to pay the Litigation Trust Expenses.

108. "Litigation Trust Interests" means the interests in the Litigation Trust to be distributed on a Pro Rata basis to holders of Claims in Class 6 as set forth herein, which shall entitle such Holder to its Pro Rata portion (based on the percentage of Litigation Trust Interests held by such Holder) of Litigation Trust Distributable Proceeds.

109. "Litigation Trust Oversight Committee" means the committee of up to five (5) members formed on the Effective Date and composed of members selected by the Committee. The initial members of the Litigation Trust Oversight Committee shall be identified in the Plan Supplement to be filed prior to the Confirmation Hearing or identified by the Litigation Trust Trustee pursuant to the terms of the Litigation Trust Agreement, as applicable.

110. "Litigation Trust Privileges" means any attorney-client privilege, work product protection, joint interest privilege or other privilege or immunity attaching to any documents or communications (in any form, including, without limitation, written, electronic or oral) held by the Debtors related exclusively to Litigation Trust Causes of Action which shall be transferred to the Litigation Trust along with the Litigation Trust Causes of Action.

111. "Litigation Trust Trustee" means the individual selected by the Committee pursuant to Article IV of this Plan to act as trustee of the Litigation Trust in accordance with the provisions of this Plan and the Litigation Trust Agreement.

112. "Marshall Islands Law" means the governing law of the Republic of the Marshall Islands.

113. "NAF Claim" means the Claim asserted by New Agathonissos Finance LLC to the extent any portion of said Claim is deemed an Allowed Claim.

114. "Non-Debtor Affiliate" means any person that is an affiliate of the Debtor within the meaning of section 101(2) of the Bankruptcy Code.

115. "Non-Petitioning Creditors Exchange Note Claims" means claims asserted by Exchange Noteholders other than the Initial Petitioning Creditors on account of the Exchange Notes.

116. "Noteholder Election Recovery" means the recovery provided to Holders of Noteholder Election Recovery Claims paid from the Noteholder Election Recovery Reserve which for each individual Holder of a Noteholder Election Recovery Claim shall be the lesser of (i) the Face Amount of such Holder's Noteholder Election Recovery Claim, (ii) such Holder's Pro Rata portion of the Noteholder Election Recovery Cap, or (iii) $100,000; *provided*, *that*, to the extent the Bankruptcy Court does not approve the Noteholder Election Recovery, Holders' of Noteholder Election Recovery Claims shall receive such Holder's Pro Rata portion of the Noteholder Election Recovery Cap.

117. "Noteholder Election Recovery Cap" means $8,000,000.

118. "Noteholder Election Recovery Claims" means the Claims of any Holder of a Claim in Class 6A or 6B that affirmatively and irrevocably elects to have their Non-Petitioning Creditor Exchange Note Claim, Petitioning Creditor Exchange Note Claim or Old Note Claim, as applicable, treated as a Claim under Class 5 with recovery drawn from the Noteholder Election Recovery Reserve.

119. "Noteholder Election Recovery Reserve" means a reserve created in the amount of the Noteholder Election Recovery Claim Cap to fund recoveries for Noteholder Election Recovery Claims.

120. "Objection Deadline" means that date which is one year after the Effective Date or such later date as the Court may allow upon request by the Litigation Trust Trustee, by which the Litigation Trust Trustee or any party in interest has to file an objection to any Claim not previously allowed.

121. "OCM Entities" means collectively OCM Maritime Rhine LLC, OCM Maritime Yukon LLC, OCM Maritime Autumn LLC and OCM Maritime Thames LLC.

122. "OCM Guarantees" means the guarantees executed by Eletson Holdings in favor of the obligations of the SMEs to the OCM Entities.

123. "OCM Guaranty Claims" means Claims arising from the OCM Guarantees.

124. "Old Noteholders" means the Holders of the Old Notes.

125. "Old Notes" means those certain 9.625% First Preferred Ship Mortgage Notes due 2022 in an original Face Amount of $300 million issued by the Debtors that were not converted by holders of Old Notes pursuant to that May 25, 2018 exchange offer.

126. "Old Notes Claim" means Claims arising from the Old Notes and the NAF Claim.

127. "Old Notes Indenture" means that certain indenture, dated as of December 19, 2013, among Eletson Holdings and Eletson Finance, as co-issuers, the guarantor parties thereto, and the Old Notes Trustee, as trustee and collateral trustee (as amended, amended and restated, modified, or supplemented from time to time).

128. "Old Notes Trustee" means Deutsche Bank Trust Company Americas, in its capacity as trustee and collateral trustee under the Old Notes Indenture, including any successor and permitted assigns thereto.

129. "Pach Shemen" means Pach Shemen LLC.

130. "Pending Adversary Proceedings" means all adversary proceedings commenced by the Debtors which are currently pending in the Bankruptcy Court.

131. "Person" means any individual, corporation, limited liability company, general partnership, limited partnership, limited liability partnership, association, joint stock company, joint venture, estate, trust, unincorporated organization, government or any political subdivision thereof or other entity.

132. "Petition Date" means March 7, 2023, the date on which certain of the Petitioning Creditors filed Involuntary Petitions for relief commencing the Bankruptcy Cases.

133. "Petitioning Creditors" means, collectively, Pach Shemen, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein, Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust, Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike.

134. "Petitioning Creditors Exchange Note Claims" means any and all claims asserted by any Initial Petitioning Creditor arising from said Initial Petitioning Creditor's purporting to be the Beneficial Holder of any Exchange Notes.

135. "Plan" means this chapter 11 plan, either in its present form or as it may be altered, amended, modified or supplemented from time to time in accordance with the Plan, the Bankruptcy Code and the Bankruptcy Rules.

136. "Plan Consideration" means the Equity Investment, the SME Revenue, the Retained Causes of Action Contribution, and the Excess SME Proceeds.

137. "Plan Consolidation" means the consolidation of the Consolidating Debtors into Eletson Holdings as set forth in Article IV.B of this Plan.

138. "Plan Proponents" means the Petitioning Creditors other than Gene B. Goldstein and Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust.

139. "Plan Proponents Fees and Expenses" means any and all of the Plan Proponents' reasonable and documented professional fees and out-of-pocket expenses incurred in connection with the Chapter 11 Cases as may be approved by the Bankruptcy Court as a substantial contribution to the Chapter 11 Cases pursuant to sections 503(b)(3)(D) and 503(b)(4) of the Bankruptcy Code.

140. "Plan Sponsor" means Pach Shemen or one or more of its affiliate(s) or designee(s).

141. "Plan Supplement" means a document supplementing the Plan to be submitted with the Court no later than ten (10) days prior to the objection deadline for the Confirmation Hearing.

142. "Preferred Owners" means collectively Desimuso Trading Company, Apargo Limited, and Fentalon Limited.

143. "Preferred Shares" means the Preferred Shares of non-Debtor Eletson Gas LLC.

144. "Post-Confirmation Expense" means any fees, costs and expenses (including, without limitation, United States Trustee Quarterly Fees, Litigation Trust Expenses, attorneys' fees, the fees of other professionals, and any taxes imposed on the Litigation Trust or in respect of its Assets) necessary to complete the reorganization contemplated herein and the Litigation Trust after the Effective Date.

145. "Priority Claim" means a Claim entitled to priority pursuant to Bankruptcy Code § 507 that is not an Administrative Claim

146. "Professional" or, collectively, "Professionals" means a Person or Entity (a) employed by the Debtors pursuant to a Final Order in accordance with sections 327 or 363 of the Bankruptcy Code and to be compensated for services rendered or incurred through the Effective Date pursuant to sections 327, 328, 329, 330 and 331 or 363 of the Bankruptcy Code, or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code by a Final Order.

147. "Professional Fees" means all fees and expenses (including, but not limited to, success fees, if any) for services rendered by all Professionals in the Chapter 11 Cases through the Effective Date that the Bankruptcy Court has not denied by Final Order, regardless of whether a fee application has been filed for such fees.

148. "Professional Fee Claims" means all Professionals Fees which remain unpaid as of the Effective Date.

149. "Professional Fee Reserve" means a reserve in the amount of Professional Fee Claims and Committee Professional Fee Claims pending allowance by the Bankruptcy Court as of the Effective Date.

150. "Professional Claims Bar Date" means 5:00 p.m. (prevailing Eastern Time) on the date that is the first Business Day that is forty-five (45) days after the Effective Date.

151. "Proof of Claim" means a Claim for which a proof of claim on Official Form 410 has been filed on or before the Claims Bar Date.

152. "Pro Rata" means the proportion that the Face Amount of a Claim in a particular Class or Classes bears to the aggregate Face Amount of all Claims (including Disputed Claims but excluding Disallowed Claims) in such Class or Classes, unless this Plan provides otherwise.

153. "Record Holder" means the Holder of a Claim or Interest on the Distribution Record Date.

154. "Related Parties" means, subject to any exclusions expressly set forth in the Plan, (a) any Entity or Person; (b) such Entity's or Person's predecessors, predecessors in interest, successors and assigns, parents, owners, subsidiaries, affiliates, affiliated investment funds or investment vehicles, managed or advised accounts, funds, or other entities, and investment advisors, sub-advisors, or managers; (c) with respect to each of the foregoing in clauses (a) and (b), such Entity's or Person's respective current and former officers, directors, principals, equity holders (regardless of whether such interests are held directly or indirectly, and any fund managers, fiduciaries, or other agents with any involvement related to the Debtors), members, partners, employees, agents, sub-agents, trustees, advisory board members, financial advisors, attorneys, accountants, actuaries, managers, investment managers, investment bankers,

consultants, representatives, management companies, fund advisors and other professionals; and (d) with respect to each of the foregoing in clauses (a)–(c), such Entity's or Person's respective heirs, executors, estates, servants, and nominees.

155. "Reorganized Debtor" means Eletson Holdings on and after the Effective Date.

156. "Reorganized Debtor Organizational Documents" means the applicable bylaws, charter documents, articles of incorporation, certificates of incorporation, certificates of formation, limited liability company operating agreements, and related documents regarding the corporate existence and governance of the Reorganized Debtor.

157. "Restructuring Transactions" means the transactions described in Article IV of this Plan.

158. "Retained Causes of Action" means any and all claims and Causes of Action existing as of the Effective Date that are necessary, warranted, and/or appropriate to collect the entirety of the monetary value of the Final Award issued in the Arbitration retained by the Reorganized Debtor which may be pursued by the Reorganized Debtor for the benefit of the Reorganized Debtor and Litigation Trust through the Retained Causes of Action Contribution.

159. "Retained Causes of Action Contribution" means 75% of the net cash recoveries on account of Retained Causes of Action; *provided*, *however*, for purposes of the foregoing, "net cash recoveries" shall mean cash actually collected under any Retained Causes of Action net of costs of collection incurred by the Reorganized Debtor and/or its affiliates and subsidiaries and net of any amounts setoff by the Reorganized Debtor and/or its affiliates and subsidiaries for any amounts owed to any defendant under a Retained Cause of Action.

160. "Scheduled" with respect to any Claim, means listed on the Schedules.

161. "Schedules" mean the schedules of assets and liabilities, schedules of executory contracts, and the statements of financial affairs filed by the Debtors pursuant to section 521 of the Bankruptcy Code, the Official Bankruptcy Forms and the Bankruptcy Rules, as they have been and may be amended and supplemented from time to time.

162. "Secured Claim" means a Claim that is secured by a Lien on property in which an Estate has an interest or that is subject to setoff under section 553 of the Bankruptcy Code in each case as of the Petition Date, to the extent that the value of the Claim Holder's interest in such Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code.

163. "SMEs" means each of Fourni Special Maritime Enterprises, Kastos Special Maritime Enterprises, Kimolos II Special Maritime Enterprise, and Kinaros Special Maritime Enterprise.

164. "SME Revenue" means any excess cash on hand of each of the SMEs existing as of the Effective Date after subtracting therefrom (i) any amounts, as necessary to satisfy the projected operating expenses of the SMEs not otherwise reasonably expected to be satisfied by anticipated revenues of the SMEs (on a consolidated basis) through the SME Revenue Period; and (ii) $250,000 (on a consolidated basis).

165. "SME Vessels" means each of and collectively, the vessels known as the Fourni, Kastos, Kimolos, and Kinaros as operated by the SMEs.

166. "SME Revenue Period" means the period beginning on the first Business Day after the Effective Date and ending one hundred and eighty (180) days later.

167. "Stay Relief Order" means the *Stipulation and Order Granting Alleged Debtor's Motion for Relief from Stay to Proceed with, or to Confirm the Inapplicability of, the Automatic Stay to Prepetition Arbitration Proceedings* [D.I. 48].

168. "Trade Creditor" means any creditor whose Claim has been Allowed and is not a creditor classified in Class 1, Class 2, Class 3, Class 5, Class 6A or Class 6B.

169. "Trade Creditor Claim" means any Allowed General Unsecured Claim against the Debtors held by a Trade Creditor.

170. "Trade Creditor Claim Cap" means $1,000,000.00.

171. "Trade Creditor Claim Reserve" means a reserve created in the amount of the Trade Creditor Claim Cap to fund recoveries for Trade Creditor Claims.

172. "Unclassified Claims" means those Administrative and Priority Claims described in Article II herein.

173. "Unimpaired Claims" means Claims in an Unimpaired Class.

174. "Unimpaired Class" means an unimpaired Class within the meaning of section 1124 of the Bankruptcy Code.

175. "United States Trustee" means the Office of the United States Trustee for Region 2.

176. "United States Trustee Quarterly Fee" means the quarterly fees payable to the United States Trustee accrued over the course of these Chapter 11 Cases pursuant to 28 U.S.C. § 1930(a)(6).

177. "Unknown Causes of Action" means, collectively, any and all Causes of Action which currently exist or may subsequently arise but relate to facts and circumstances arising prior to the Effective Date that are not fully or currently known by the Plan Proponents on the Effective Date.

178. "Voting Class" means any class of Claims and Interests entitled to vote on the Plan.

179. "Voting Deadline" means the date, as stated in the Voting Instructions, of [_], 2024, at 5:00 p.m. prevailing Eastern Time for all Holders of Claims, which is the date and time by which all votes must be received in accordance with the procedures set forth in the Disclosure Statement Order, or such other date and time as may be established by the Bankruptcy Court by which all Ballots must be received.

180. "Voting Instructions" mean the instructions for voting on the Plan contained in Article II of the Disclosure Statement entitled "Voting On and Confirmation of the Plan" and in the Ballots.

C. *Exhibits*

All Exhibits to this Plan, if any, are incorporated by reference into and are made a part of this Plan as if set forth in full herein.

ARTICLE II.

CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS

A. *Classification*

The classification of Claims (except for Administrative Claims) and Interests listed below is for all purposes, including, without limitation, voting, confirmation and distributions under this Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. Consistent with section 1122 of the Bankruptcy Code, a Claim or Interest shall be deemed classified by the Plan in a particular Class only to the extent such Claim or Interest satisfies the definition of such Class and shall be deemed classified in a different Class to the extent any remainder or other portion of such Claim or Interest satisfies the definition of such different Class. NO RELIANCE SHOULD BE PLACED ON THE FACT THAT A PARTICULAR CLAIM OR INTEREST IS CLASSIFIED IN A CERTAIN CLASS FOR VOTING PURPOSES. A Claim is in a particular Class only to the extent such Claim is an Allowed Claim in such Class and has not been paid or otherwise settled before the Effective Date. The classification of Claims and Interests pursuant to this Plan is as follows:

		Class	*Status*		*Voting Rights*
Class 1	—	OCM Guaranty Claims	Unimpaired	—	Not Entitled to vote (Deemed to Accept)
Class 2	—	Corp Guaranty Claims	Impaired	—	Entitled to vote
Class 3	—	Azure Guaranty Claims	Impaired	—	Entitled to vote
Class 4	—	Trade Creditor Claims	Impaired	—	Entitled to vote

Class 5		Noteholder Election Recovery Claims	Impaired	—	Entitled to vote
Class 6A	—	Non-Petitioning Creditor Exchange Note Claims	Impaired	—	Entitled to vote
Class 6B	—	Petitioning Creditor Exchange Note Claims	Impaired	—	Entitled to vote
Class 7	—	Interests	Impaired	—	Not Entitled to vote (Deemed to Reject)

B. *Unclassified Claims: Administrative Claims*

As provided in section 1123(a)(1) of the Bankruptcy Code, Administrative Claims shall not be classified for the purposes of voting or receiving distributions under this Plan. Rather, all such Claims shall be treated separately as unclassified Claims on the terms set forth in this Article II.B.

a. Administrative Claims (other than Professional Fee Claims, DIP Claims or Committee Professional Fee Claims)

The Disbursing Agent shall pay each Holder of an Allowed Administrative Claim (excluding Professional Fee Claims, DIP Claims and Committee Professional Fee Claims) the full amount of such Allowed Administrative Claim, without interest, in Cash, as soon as practicable after the later of: (i) the occurrence of the Effective Date, or (ii) the date such Administrative Claim becomes an Allowed Claim. Notwithstanding anything herein to the contrary, a Holder of an Allowed Administrative Claim may be paid on such other date or dates and upon such other less favorable terms as may be agreed upon by such Holder and the Disbursing Agent. Notwithstanding anything else herein, all United States Trustee Quarterly Fees payable to the United States Trustee under 28 U.S.C. § 1930 and any interest that accrues thereon under 31 U.S.C. § 3717 shall be paid in full on the Effective Date. All fees that arise under 28 U.S.C. § 1930 and any interest that accrues thereon under 31 U.S.C. § 3717 after the Effective Date shall be paid in full when due until the Chapter 11 Cases are closed, dismissed, or converted, whichever occurs first. Notwithstanding any other provision herein, the United States Trustee shall not be required to file a proof of claim or a request for payment of United States Trustee Quarterly Fees.

b. Professional Fee Claims and Committee Professional Fee Claims

Prior to the Effective Date, the Debtors may pay any Professional Fees (other than Committee Professional Fees) which the Bankruptcy Court has allowed pursuant to sections 503(b)(2) - (b)(6) of the Bankruptcy Code from the Petition Date through the Effective Date. Prior to the Effective Date the Debtors may pay any Committee Professional Fees for all Committee Professional Fee Claims which are allowable or allowed pursuant to sections 503(b)(2) - (b)(6) of the Bankruptcy Code from the Conversion Date through the Effective Date. From and after the Effective Date, the

Disbursing Agent shall pay Professionals and the Committee Professionals the respective Professional Fees and the Committee Professional Fees awarded by Final Order of the Bankruptcy Court, as soon as practicable after the later of (i) the Effective Date, and (ii) within three (3) Business Days of entry of such Final Order, in accordance with the terms of any order entered by the Bankruptcy Court governing the payment of fees and expenses during the course of the Chapter 11 Cases.

On the Effective Date, any objections previously filed to any applications for payment of the Committee Professional Fees shall be deemed withdrawn (with prejudice) on the Effective Date. Further, after the occurrence of the Effective Date, neither the Disbursing Agent, the Reorganized Debtor, the Litigation Trust, Litigation Trust Trustee, nor the Litigation Trust Oversight Committee shall assert any objection to any Committee Professional Fee Claims.

Any final application for allowance of Professional Fee Claims and Committee Professional Fee Claims for services rendered and costs incurred through the Effective Date must be filed with the Bankruptcy Court and served on counsel for the Debtors, counsel for the Litigation Trust, the Litigation Trust Trustee and on the United States Trustee at the addresses listed in Article XI.L of this Plan so that it is received no later than forty-five (45) days after the Effective Date. In the event an application for allowance of Professional Fee Claims and Committee Professional Fee Claims is not filed by the appropriate date, such Professional Fee Claims and Committee Professional Fee Claims shall be forever barred and shall not be enforceable against the Debtors, their Estates, the Litigation Trust, the Litigation Trust Trustee and their successors, their assigns or their Assets. Allowed Professional Fee Claims and Committee Professional Fee Claims must be paid in full and Professional Fee Claims and Committee Professional Fee Claims pending allowance by the Bankruptcy Court must be reserved for in full in the Professional Fee Reserve prior to any payment to Holders of Allowed Claims in (a) Class 3 (Azure Guaranty Claims); (b) Class 4 (Trade Creditor Claims); (c) Class 5 (Noteholder Election Recovery Claims); (d) Class 6A (Non-Petitioning Creditor Exchange Note Claims); (e) Class 6B (Petitioning Creditor Exchange Note Claims); and (f) Administrative Claims; *provided*, excess amounts remaining in the Professional Fee Reserve after the Bankruptcy Court enters Final Orders with respect to the Professional Fee Claims and the Committee Professional Fee Claims, shall be Distributable Cash.

c. DIP Claims

As of the Effective Date, the DIP Claims, if any, shall be Allowed and deemed to be Allowed Claims in the full amount outstanding under the DIP Documents, including principal, interest, fees and expenses.

Except to the extent that the Holder of an Allowed DIP Claim agrees to less favorable treatment, in full and final satisfaction, compromise, settlement, release and discharge of, and in exchange for, each Allowed DIP Claim, each such Holder of an Allowed DIP Claim shall receive payment in full in Cash of such holders Allowed DIP Claim on the Effective Date.

Immediately upon receipt of the payments set forth in this section, the DIP Documents shall be deemed cancelled. The DIP Agent and DIP Lenders shall take all

actions to effectuate and confirm such termination and discharge as reasonably requested by the Debtors or the Reorganized Debtor, as applicable.

d. Administrative Claims and Substantial Contribution Claim Filing Deadline

Each Holder of an Administrative Claim (excluding Professional Fee Claims and Committee Professional Fee Claims that are not a substantial contribution claim) must file an Administrative Claim Request with the Bankruptcy Court prior to the Administrative Bar Date.

e. Plan Proponents Fees and Expenses

To the extent allowed by the Bankruptcy Court and not previously paid, the Plan Proponents Fees and Expenses shall be paid in full, in Cash, from Distributable Cash by the Litigation Trust.

C. *Treatment of Classified Claims*

1. **Class 1 — OCM Guaranty Claims**

(a) *Classification:* Class 1 consists of all OCM Guaranty Claims.

(b) *Treatment*: The OCM Guaranty Claims are Allowed Claims. Except to the extent that a Holder of an Allowed OCM Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each OCM Guaranty Claim, each of the OCM Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, the Reorganized Debtor or the OCM Entities.

(c) *Voting*: Class 1 is Unimpaired and the Holders of Class 1 Claims are not entitled to vote to accept or reject the Plan.

2. **Class 2 — Corp Guaranty Claims**

(a) *Classification*: Class 2 consists of all Corp Guaranty Claims.

(b) *Treatment*: The Corp Guaranty Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Corp Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each Corp Guaranty Claim, each holder of an Allowed Corp Guaranty Claim shall receive, at its election:

(i) (A) its Pro Rata share, among Corp Guaranty Claims, of $1,250,000; *provided*, for the avoidance of doubt, the Pro Rata share calculation in this subclause (A) shall be calculated based on the aggregate amount of all Allowed Corp Guaranty Claims whether or not Holders of such Claims receive the treatment in this subclause (A); and

(B) each of the Corp Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, the Reorganized Debtor or Corp Guaranty counterparties; *provided*, *however*, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the obligations of Eletson Corporation subject to the Corp Guarantees; or

(ii) its Pro Rata share, among Corp Guaranty Claims, of $3,000,000; *provided*, for the avoidance of doubt, the Pro Rata share calculation in this subclause (ii) shall be calculated based on the aggregate amount of all Allowed Corp Guaranty Claims whether or not Holders of such Claims receive the treatment in this subclause (ii);

provided, if a Holder of a Corp Guaranty Claim does not submit a Ballot or submits a Ballot but fails to affirmatively elect the treatment set forth in Article II.C.2(b)(i) of the Plan, such Holder shall be deemed to have elected the treatment specified in Article II.C.2(b)(ii) of the Plan with respect to its Allowed Corp Guaranty Claim.

(c) *Voting*: Class 2 is Impaired and the Holders of Class 2 Claims are entitled to vote to accept or reject the Plan.

3. **Class 3 — Azure Guaranty Claims**

(a) *Classification*: Class 3 consists of the Azure Guaranty Claims.

(b) *Treatment*: The Azure Guaranty Claims are Allowed Claims. Except to the extent that a holder of an Allowed Azure Guaranty Claim agrees to less favorable treatment, If not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Azure Guaranty Claims, the Disbursing Agent shall pay to the Holders of Azure Guaranty Claims, by wire transfer of immediately available funds, their Pro Rata portion of the Azure Guaranty Recovery.

(c) *Voting*: Class 3 is Impaired and Holders of Class 3 Claims are entitled to vote to accept or reject the Plan.

4. **Class 4 — Trade Creditor Claims**

(a) *Classification*: Class 4 consists of the Trade Creditor Claims.

(b) *Treatment*: The Trade Creditor Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Trade Creditor Claim agrees to less favorable treatment, if not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction

of the Trade Creditor Claims, each Holder of an Allowed Trade Creditor Claim shall receive, in exchange for such Allowed Trade Creditor Claim, Cash in an amount equal to 15% of the Face Amount of such Holder's Trade Creditor Claim from the Trade Creditor Claim Reserve; *provided*, that in the event the aggregate distributions to Holders of Trade Creditor Claims exceeds the Trade Creditor Claim Cap, Holders of Trade Creditor Claims shall receive their Pro Rata Share of the Trade Creditor Claim Cap.

(c) *Voting*: Class 4 is Impaired and Holders of Class 4 Claims are entitled to vote to accept or reject the Plan.

5. **Class 5 — Noteholder Election Recovery Claims**

(a) *Classification*: Class 5 consists of all Allowed Noteholder Election Recovery Claims.

(b) *Treatment*: The Noteholder Election Recovery Claims are Allowed Claims. Claims may only be treated as Noteholder Election Recovery Claims upon the affirmative and irrevocable election of a Holder of a Claim classified in Class 6A or 6B to have their Claim treated in Class 5. Except to the extent that a Holder of an Allowed Noteholder Election Recovery Claim agrees to less favorable treatment, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Noteholder Election Recovery Claims or as soon as practicable thereafter, each Holder of an Allowed Noteholder Election Recovery Claim shall receive in full settlement, release, and satisfaction of such Noteholder Election Recovery Claim that is due and payable from the Noteholder Election Recovery Reserve, the lesser of (i) the Face Amount of such Holder's Noteholder Election Recovery Claim, (ii) such Holder's Noteholder Election Recovery Claim's Pro Rata portion of the Noteholder Election Recovery Cap, or (iii) 100,000.

Notwithstanding the foregoing, if the Bankruptcy Court determines that the Noteholder Election Recovery violates any provisions of the Bankruptcy Code, Holders of Class 5 Noteholder Election Recovery Claims shall receive such Holder's Pro Rata portion of the Noteholder Election Recovery Cap.

(c) *Voting:* Class 5 is Impaired and Holders of Class 5 Claims are entitled to vote to accept or reject the Plan.

6. **Class 6A — Non-Petitioning Creditor Note Claims**

(a) *Classification*: Class 6A consists of all Allowed Non-Petitioning Creditor Exchange Note Claims and Old Note Claims.

(b) *Treatment*: The Non-Petitioning Creditor Note Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Non-Petitioning Creditor Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6A Claim shall receive in full settlement, release, and satisfaction

of such Allowed Class 6A Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan.

(c) *Voting*: Class 6A is Impaired and Holders of Class 6A Claims are entitled to vote to accept or reject the Plan.

7. **Class 6B — Petitioning Creditor Exchange Note Claims**

(a) *Classification*: Class 6B consists of all Allowed Petitioning Creditor Exchange Note Claims.

(b) *Treatment*: Only to the extent the Bankruptcy Court enters a Final Order equitably subordinating the Petitioning Creditor Exchange Note Claims pursuant to section 510(c) of the Bankruptcy Code, then such Holders are only entitled to a recovery upon the satisfaction of all Claims in Class 6A. In the event Petitioning Creditor Exchange Note Claims are found to be Allowed Claims (not equitably subordinated) and all Class 6A Non-Petitioning Creditor Exchange Note Claims are paid in full, and except to the extent that a Holder of an Allowed Petitioning Creditor Exchange Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6B Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6B Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of the Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan.

Notwithstanding the foregoing, if the Bankruptcy Court determines it is unable to equitably subordinate the claims of Holders of Class 6B Claims through the Confirmation Order, Holders of Class 6B Claims will be deemed to hold claims under Class 6A and will be entitled to their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan.

(c) *Voting*: Class 6B is Impaired and Holders of Class 6B Claims are entitled to vote to accept or reject the Plan.

8. **Class 7 — Interests**

(a) *Classification*: Class 7 consists of all Interests.

(b) *Treatment*: On the Effective Date, all Interests shall be discharged, cancelled, released, and extinguished, without any distributions to Holders. For the avoidance of doubt, on the Effective Date, the Plan Sponsor shall receive all of the equity in the Reorganized Debtor.

(c) *Voting*: Class 7 is Impaired, and Holders of Interests is conclusively deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

ARTICLE III.

ACCEPTANCE OR REJECTION OF THE PLAN

A. *Voting Classes*

Except as otherwise provided in order(s) of the Bankruptcy Court pertaining to solicitation of votes on this Plan, Holders of Claims in Class 2 (Corp Guaranty Claims), Class 3 (Azure Guaranty Claims), Class 4 (Trade Creditor Claims), Class 5 (Noteholder Election Recovery Claims), Class 6A (Non-Petitioning Creditor Exchange Note Claims), and Class 6B (Petitioning Creditor Exchange Note Claims) shall be entitled to vote to accept or reject this Plan. Holders of Claims in Class 1 (OCM Guaranty Claims) and Holders of Interests in Class 7 (Interests) shall not be entitled to vote to accept or reject the Plan.

B. *Classes Presumed to Accept this Plan and Reject this Plan*

Class 1 (OCM Guaranty Claims) is presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code. Class 7 (Interests) is presumed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code.

C. *Acceptance by Impaired Classes*

An Impaired Class of Claims shall have accepted the Plan if (a) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims and Interests actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims and Interests actually voting in such Class have voted to accept the Plan.

D. *Elimination of Vacant Classes; Presumed Acceptance by Non-Voting Classes*

Any Class of Claims or Interests that does not have a holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court in an amount greater than zero as of the date of the Confirmation Hearing shall be considered vacant and deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the holders of such Claims or Interests in such Class shall be deemed to have accepted the Plan.

E. *Non-Consensual Confirmation*

The Plan Proponents will seek Confirmation of the Plan under section 1129(b) of the Bankruptcy Code if any Voting Class fails to accept the Plan in accordance with section 1129(a)(8) of the Bankruptcy Code. The Plan Proponents reserve the right (a) to

request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code and/or (b) to modify the Plan in accordance with Article XI.K hereof.

F. *Controversy Concerning Impairment*

If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

ARTICLE IV.

MEANS FOR IMPLEMENTATION OF THE PLAN

A. *Implementation of the Plan and Sources of Consideration for Plan Distributions*

The Plan Sponsor and the Reorganized Debtor, as applicable, will fund distributions and other sources and uses contemplated by the Plan with the Plan Consideration and the transfer and assignment of the Litigation Trust Assets to the Litigation Trust.

1. **The Equity Investment**

The Plan Proponents propose to implement and consummate this Plan on and after the Effective Date. Within ten (10) Business Days of entry of the Confirmation Order, the Plan Sponsor shall contribute, or cause to be contributed, to the Reorganized Debtor the full amount of the cash portion of the Equity Investment which shall be a contribution of Cash in a total aggregate value of $41 million dollars.

The cash portion of the Equity Investment will be utilized as follows: *first*, for the payment of Administrative Claims, including, among others, the Professional Fee Claims, DIP Claims (if any), and the Committee Professional Fee Claims (including the funding of the Professional Fee Reserve); *second*, to fund the Administrative Fund as set forth in Article IV.N; *third*, to fund the Azure Guaranty Recovery; *fourth*, to fund the Eletson Corporation Guaranty Recovery; *fifth*, to fund the Trade Creditor Claim Reserve; *sixth*, to fund the Noteholder Election Recovery Reserve; and *seventh*, to fund the Litigation Trust.

The CVRs constitutes an additional portion of Equity Investment, and the Plan Sponsor shall contribute the applicable amount of the CVRs to the Litigation Trust within thirty (30) Business Days of the receipt of a final, non-appealable, determination payment in satisfaction of the Final Award consistent with the terms of the Stay Relief Order and the Plan. The CVRs shall be secured by the Plan Sponsor's equity in the Reorganized Debtor.

2. **Distributable Cash**

Immediately upon the satisfaction of the payments provided for in Article IV A.1, the remaining cash portion of the Equity Investment shall become Distributable

Cash which shall be transferred to the Litigation Trust in accordance with the terms of this Plan and the Litigation Trust Agreement. Distributable Cash shall also include the SME Revenue transferred to the Litigation Trust as set out in the Litigation Trust Agreement.

3. **Excess SME Proceeds**

Beginning on January 31, 2025, and on July 31 and January 31 of each subsequent calendar year during the SME Excess Proceeds Period, the Reorganized Debtor shall transfer any SME Excess Proceeds for the immediately preceding six-month period to the Litigation Trust in accordance with the instructions provided to the Reorganized Debtor by the Litigation Trust Trustee. On each payment date the SME Excess Proceeds paid shall be accompanied with a reasonable accounting supporting the amounts of the Excess SME Proceeds transferred to the Litigation Trust. The Reorganized Debtor shall confer with the Litigation Trust Trustee with respect to any questions on the accounting and provide such information as the Litigation Trust Trustee shall reasonably request in connection therewith.

Neither the Litigation Trust nor Litigation Trust Trustee shall have any rights to direct the Reorganized Debtor in the operation and/or management of the SMEs after the Effective Date, during the Excess SME Revenue Period or otherwise. The Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee upon the execution of any letter of intent or other similar pre-sale documents entered into by the Reorganized Debtor or any affiliate of the Reorganized Debtor and any potential purchaser with respect to any SME and/or SME Vessels within ten (10) Business Days of execution of such document. In the event a sale is ultimately consummated, the Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee within ten (10) Business Days of the consummation of such sale. The Litigation Trust shall have no right to direct, comment or impede any sale of any SME and/or SME Vessel by the Reorganized Debtor. The Litigation Trust and Litigation Trust Trustee, as applicable, are not, and are not intended to be, third party beneficiaries of any contract of sale, and are provided with no additional rights and/or standing to object to the terms of any sale of any SME or SME Vessel pursuant to the terms of this Plan. For the avoidance of doubt the Reorganized Debtor is not required to consummate any sale of the SMEs or SME Vessels during the Excess SME Proceeds Period.

Unless the Reorganized Debtor and the Litigation Trust and Litigation Trust Trustee agree otherwise in writing, the Bankruptcy Court shall retain sole jurisdiction to resolve any dispute regarding the payment of the Excess SME Proceeds, the accounting supporting the Excess SME Proceeds, and/or the refund of any Excess SME Proceeds during the Excess SME Proceeds Period.

Upon the earlier of (i) the expiration of the Excess SME Proceeds Period or (ii) the Litigation Trust having received Excess SME Cash Flow Proceeds of $5 million in the aggregate and Excess SME Sale Proceeds of $5 million in the aggregate, the obligations of the Reorganized Debtor related to the Excess SME Proceeds hereunder, and any reporting obligations to the Litigation Trust related thereto shall cease, and the Reorganized Debtor shall have no further obligations related to the Excess SME Proceeds, and the Litigation Trust shall have no right or claim to any further Excess

SME Proceeds. In the event the Excess SME Proceeds transferred to the Litigation Trust exceed (i) $5 million in the aggregate on account of the Excess SME Cash Flow Proceeds or (ii) $5 million in the aggregate on account of the Excess SME Sale Proceeds, the Litigation Trust shall within ten (10) Business Days of written notice of such over payment by the Reorganized Debtor, refund to the Reorganized Debtor the portion of the actually paid Excess SME Proceeds exceeding the thresholds in clauses (i) and (ii) above in accordance with the instructions provided to the Litigation Trust by the Reorganized Debtor.

4. **Litigation Trust Causes of Action**

On the Effective Date the Debtors shall fully and finally transfer and or assign each of the Litigation Trust Causes of Action and the applicable Litigation Trust Privileges to the Litigation Trust.

Litigation Trust Distributable Proceeds will be obtained from the Distributable Cash and the Litigation Trust Causes of Action, and Plan Consideration, as applicable. Unless otherwise specified herein, Cash payments to be made pursuant to the Plan will be made by the applicable Disbursing Agent.

B. *Substantive Consolidation*

1. **Order Granting Plan Consolidation**

Unless and to the extent previously approved by a prior order of the Bankruptcy Court, at the Confirmation Hearing, the Bankruptcy Court will consider approval under the Plan of the Plan Consolidation.

2. **Plan Consolidation**

The Consolidating Debtors are holding companies that were formed for the express purpose of issuing the Exchange Notes. Pursuant to the Exchange Notes Indenture, the Consolidating Debtors are prohibited from holding or maintaining any assets. As the Exchange Notes and the claims related thereto will be discharged after the confirmation of these Chapter 11 Cases, the Plan Proponents maintain there is no reason for the continued existence of the Consolidating Debtors. As such, the Consolidating Debtors will be consolidated into the Reorganized Debtor for the convenience of all parties, and with no impact to any operations, distributions, assets or rights of any party in interest or the Reorganized Debtor.

Upon the Effective Date, the Consolidating Debtors shall be consolidated for all purposes into the Reorganized Debtor and (i) all assets and liabilities of the Consolidating Debtors shall be consolidated and merged into Eletson Holdings, (ii) all guarantees of any Consolidating Debtors of the obligations of any other Debtor shall be eliminated so that any Claim against any Consolidating Debtor, any guaranty thereof executed by either of the Consolidating Debtors and any joint or several liability of either of the Consolidating Debtors shall be one obligation of Eletson Holdings and (iii) each and every Claim filed or to be filed in the Chapter 11 Cases against any Debtor shall be deemed filed against Eletson Holdings and shall be one Claim against, and if to

the extent allowed, shall become one obligation of Eletson Holdings; *provided*, *further*, the consolidation shall also limit the rights of a creditor to assert that its Claim is secured by a right of setoff under section 553 of the Bankruptcy Code, and the Debtors will be deemed, for purposes of any Claims or determining the availability of the right of set-off under section 553 of the Bankruptcy Code, to be one entity, such that, subject to other provisions of section 553 of the Bankruptcy Code, the debts due to any of the Consolidating Debtors shall be offset against Claims against another Debtor. The substantive consolidation provided for in this section shall not affect the obligations of each and every Debtor to pay fees to the United States Trustee that may have come due prior to the Effective Date.

Pursuant to Bankruptcy Rule 9019 and any applicable state law and as consideration for the distributions and other benefits provided under the Plan, the provisions of this section shall constitute a good faith compromise and settlement of any Causes of Action or disputes that could be brought by a Holder of a Claim or Interest asserting that such Claim or Interest would have received more favorable treatment had substantive consolidation not been effected. This compromise and settlement is in the best interests of Holders of Claims and Interests and is fair, equitable and reasonable. Upon Confirmation of the Plan, the Plan shall be approved as a settlement of all such Causes of Action and disputes. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of this settlement pursuant to Bankruptcy Rule 9019 and its finding that this is a good faith settlement pursuant to any applicable state laws, given and made after due notice and opportunity for hearing, and shall bar any such Cause of Action by any Holder of a Claim or Interest with respect to the matters described in this section.

C. *Corporate Existence*

Except as otherwise provided in the Plan (including with respect to any Restructuring Transaction undertaken pursuant to the Plan), the Reorganized Debtor Organizational Documents, or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement, on and after the Effective Date, each Debtor shall be deemed to merge with and into the Reorganized Debtor, with the Reorganized Debtor being the sole surviving entity and the separate existence of the Consolidating Debtors shall cease and only the Reorganized Debtor shall continue to exist and as a separate corporation, with all the powers of a corporation pursuant to the applicable Liberian law and pursuant to the respective certificate of incorporation and bylaws in effect before the Effective Date, except to the extent such certificate of incorporation and bylaws are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state, provincial, federal, country of incorporation, or applicable foreign law).

D. *Vesting of Assets in the Reorganized Debtor*

Except for the Litigation Trust Causes of Action and Plan Consideration, as applicable, as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement (including the Litigation

Trust Agreement), on the Effective Date, pursuant to the Plan all property in each Estate and any property acquired by any of the Debtors, including Intercompany Interests held by the Debtors in non-Debtor subsidiaries, shall revest in the Reorganized Debtor, free and clear of all Liens, Claims, charges, or other encumbrances unless expressly provided otherwise by the Plan or Confirmation Order. On and after the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtor may operate its business and may use, acquire, or dispose of property, and compromise or settle any claims or Interests without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

E. *Dissolution of the Committee*

Upon the Effective Date, the Committee shall dissolve automatically whereupon its members, Committee Professionals and agents shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code, except with respect to: (i) obligations arising under confidentiality agreements, joint interest agreements and protective orders entered during the Chapter 11 Cases which shall remain in full force and effect according to their terms; (ii) applications filed pursuant to sections 330 and 331 of the Bankruptcy Code for Committee Professional Fee Claims; (iii) any pending motions or proceedings to which the Committee is a party (including any related appeals in connection therewith) and (iv) any pending motions, or any motions or other actions seeking enforcement or implementation of the provisions of this Plan or the Confirmation Order, including related appeals. The Committee members and the Committee Professionals shall not be entitled to compensation and reimbursement of expenses for services rendered after the Effective Date, except for services rendered in connection with the items listed in the preceding sentence after the Effective Date.

F. *Reorganized Debtor Organizational Documents*

To the extent required under the Plan or applicable non-bankruptcy law, on the Effective Date, the Reorganized Debtor will file such Reorganized Debtor Organizational Documents as are required to be filed with the applicable authorities in the state, province, or country of incorporation in accordance with the corporate laws of the respective state, province, or country of incorporation. Pursuant to section 1123(a)(6) of the Bankruptcy Code, the Reorganized Debtor Organizational Documents will prohibit the issuance of non-voting equity securities. After the Effective Date, the Reorganized Debtor may amend and restate the Reorganized Debtor Organizational Documents, and the Reorganized Debtor may file the certificates or articles of incorporation, bylaws, or such other applicable formation documents, and other constituent documents as permitted by the laws of the country of incorporation and the Reorganized Debtor Organizational Documents.

G. *Appointment of Directors and Officers of the Reorganized Debtor*

Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Plan Proponents will disclose, on or prior to the Confirmation Date, in the Plan Supplement the identity and any affiliations of any Person proposed to serve on as a Director or officer of the Reorganized Debtor, which appointments shall be confirmed in the Confirmation

Order. To the extent any such Person is an "insider" under the Bankruptcy Code, the nature of any compensation for such Person will also be disclosed.

H. *Creation of the Litigation Trust*

This Plan contemplates the transfer of the Litigation Trust Assets into the Litigation Trust on the Effective Date for distribution of the Litigation Trust Distributable Proceeds to Holders of Litigation Trust Interests.

On the Effective Date, the Reorganized Debtor and the Litigation Trust Trustee shall execute the Litigation Trust Agreement and shall take all steps necessary to establish the Litigation Trust in accordance with the Plan, which shall be for the benefit of the Litigation Trust Beneficiaries. Additionally, on the Effective Date the Debtors shall transfer and/or assign and shall be deemed to transfer and/or assign to the Litigation Trust all of their rights, title and interest in and to all of the Litigation Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Litigation Trust Assets shall automatically vest in the Litigation Trust free and clear of all Claims and Liens, subject only to (a) Litigation Trust Interests and (b) the Litigation Trust Expenses as provided for in this Plan and the Litigation Trust Agreement. Also on the Effective Date, subject to, in all respects, the terms of the Litigation Trust Agreement, all Litigation Trust Privileges shall transfer to and vest exclusively in the Litigation Trust.

The Litigation Trust shall be governed by the Litigation Trust Agreement and administered by the Litigation Trust Trustee. The powers, rights, and responsibilities of the Litigation Trust Trustee shall be specified in the Litigation Trust Agreement. The Litigation Trust Trustee shall hold and distribute the Litigation Trust Assets in accordance with the Plan and the Litigation Trust Agreement. Other rights and duties of the Litigation Trust Trustee and the Litigation Trust Beneficiaries shall be as set forth in the Litigation Trust Agreement.

After the Effective Date, the Debtors and the Reorganized Debtor shall have no interest in the Litigation Trust Assets except to the extent set forth in this Plan and the Litigation Trust Agreement. To the extent that any Litigation Trust Assets cannot be transferred to the Litigation Trust because of a restriction on transferability under applicable non-bankruptcy law that is not superseded or preempted by section 1123 of the Bankruptcy Code or any other provision of the Bankruptcy Code, such Litigation Trust Assets shall be deemed to have been retained by the Reorganized Debtor and the Litigation Trust Trustee, or Litigation Trust, as applicable, shall be deemed to have been designated as a representative of the Reorganized Debtor pursuant to section 1123(b)(3)(B) of the Bankruptcy Code to enforce and pursue such Litigation Trust Assets on behalf of the Reorganized Debtor for the benefit of the Litigation Trust Beneficiaries. Notwithstanding the foregoing, all net proceeds of such Litigation Trust Assets shall be transferred to the Litigation Trust to be distributed in accordance with this Plan.

The Litigation Trust Agreement shall contain provisions customary to trust agreements utilized in comparable circumstances, including, but not limited to, any and all provisions necessary to govern the rights, powers, obligations and appointment and removal of the Litigation Trust Trustee and to ensure the treatment of the Litigation Trust as a liquidation trust for federal income tax purposes, all consistent with this Plan.

Notwithstanding anything in this Plan to the contrary, the Reorganized Debtor shall have no obligation to provide any funds or financing to the Litigation Trust, other than the obligation to contribute the Litigation Trust Assets, the initial funding of the Administrative Fund, and, if applicable, the CVRs. Under no circumstances will the expenses of the Litigation Trust be paid or reimbursed by the Debtors or the Reorganized Debtor, as applicable.

The Litigation Trust shall terminate no later than the fifth (5th) anniversary of the Effective Date; *provided*, *however*, that within a period of three (3) months prior to such termination date, the Bankruptcy Court, upon motion by a party in interest may extend the term of the Litigation Trust if it is necessary to facilitate or complete the distribution of the Litigation Trust Assets. Notwithstanding the foregoing, multiple extensions can be obtained so long as Bankruptcy Court approval is obtained within three (3) months prior to the expiration of each extended term; *provided*, *however*, that the aggregate of all such extensions shall not exceed three (3) years, unless the Litigation Trust Trustee receives a favorable ruling from the IRS that any further extension would not adversely affect the status of the Litigation Trust as a liquidation trust within the meaning of Treas. Reg. § 301.7701-4(d) for federal income tax purposes.

I. *Transfer of Assets and the Litigation Trust Causes of Action to the Litigation Trust*

Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary, the Litigation Trust is intended to be treated as a "liquidating trust" for U.S. federal income tax purposes pursuant to Treasury Regulation section 301-7701-4(d), and the Litigation Trust Trustee will take this position on the Litigation Trust's tax return accordingly. The Litigation Trust Beneficiaries shall be treated as the grantors of the Litigation Trust and as the deemed owners of the Litigation Trust Assets. For U.S. federal income tax purposes, the transfer of assets to the Litigation Trust will be deemed to occur as (a) a first-step transfer of the Litigation Trust Assets to the Litigation Trust Beneficiaries, and (b) a second-step transfer by Litigation Trust Beneficiaries. As a result, the transfer of the Litigation Trust Assets to the Litigation Trust should be a taxable transaction, and the Debtors or the Reorganized Debtor should recognize gain or loss equal to the difference between the tax basis and fair value of such assets. As soon as possible after the transfer of the Litigation Trust Assets to the Litigation Trust, the Litigation Trust Trustee shall make a good faith valuation of the Litigation Trust Assets. This valuation will be made available from time to time, as relevant for tax reporting purposes. Each of the Debtors or the Reorganized Debtor, Litigation Trust Trustee, and the Holders of Claims receiving Litigation Trust Interests shall take consistent positions with respect to the valuation of the Litigation Trust Assets, and such valuations shall be utilized for all U.S. federal income tax purposes.

J. *Liabilities of the Litigation Trust*

The liabilities transferred to the Litigation Trust shall include all Litigation Trust Interests and the Litigation Trust Expenses.

In accordance with Article IV.I, the Debtors will transfer the Litigation Trust Assets to the Litigation Trust to make the payments required to Litigation Trust Beneficiaries pursuant to the Plan and the Litigation Trust Agreement.

K. *Appointment of the Litigation Trust Trustee and Members of the Litigation Trust Oversight Committee*

The Committee shall appoint the Litigation Trust Trustee who shall have the power to administer the Litigation Trust and will be advised by the Litigation Trust Oversight Committee as specified in this Plan and the Litigation Trust Agreement. For the avoidance of doubt the members of the Litigation Trust Oversight Committee will be appointed by the Committee pursuant to the terms of the Litigation Trust Agreement.

Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Plan Proponents will disclose, on or prior to the Confirmation Date, in the Plan Supplement, and with the consent and approval of the Committee, the identity and any affiliations of the Litigation Trust Trustee and any Person proposed to serve on the Litigation Trust Oversight Committee, which appointments shall be confirmed in the Confirmation Order. To the extent any such Person is an "insider" under the Bankruptcy Code, the nature of any compensation for such Person will also be disclosed.

On the Effective Date, the Reorganized Debtor and the Litigation Trust Trustee shall enter into a Litigation Trust Agreement in substantially the form which shall be filed with the Bankruptcy Court with the Plan Supplement. On the Effective Date, and upon the establishment of the Litigation Trust the Litigation Trust Trustee shall succeed in all respects to all of the rights, privileges and immunities of the Debtors in regard to the Litigation Trust Causes of Action and the Litigation Trust Privileges and shall be appointed as the sole party with standing to pursue Litigation Trust Causes of Action on behalf of the Debtors as of the Effective Date. The Litigation Trust Trustee, and his/her successors, shall serve until the earlier of (i) the later to occur of (a) the entry of the Final Decree, (b) the dissolution of the Litigation Trust, and (c) the payment of the final distributions to Holders of Litigation Trust Interests pursuant to the Plan; or (ii) the expiration of the term of such Litigation Trust Trustee's employment agreement or such Litigation Trust Trustee's resignation, death, incapacity, removal or termination by the Litigation Trust Oversight Committee pursuant to the Litigation Trust Agreement or order of the Bankruptcy Court. Notwithstanding the foregoing, the Debtor Privileges will not transfer to the Litigation Trust and shall remain solely in the possession of the Reorganized Debtor.

As set forth herein, the pursuit and collection of the Litigation Trust Causes of Action and distribution of the proceeds thereof to the Litigation Trust Beneficiaries shall become the responsibility of the Litigation Trust Trustee who shall thereafter have responsibility for the management, control and operation thereof, and who may use, acquire and dispose of property of the Litigation Trust free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, but subject to the terms of the Plan and the Litigation Trust Agreement.

Upon creation of the Litigation Trust, the Litigation Trust Trustee shall be the trustee of the Litigation Trust for all purposes and in all respects, with all necessary and appropriate power to act for, on behalf of and in the name of the Litigation Trust.

L. *Cooperation and Privilege*

To effectively investigate, prosecute, compromise, and/or settle the Litigation Trust Causes of Action on behalf of the Litigation Trust, the Litigation Trust Trustee and its counsel and representatives may require reasonable access to documents and information exclusively relating to the Litigation Trust Causes of Action in the possession of the Debtors, the Reorganized Debtor, and/or the Committee. Accordingly, the Litigation Trust Agreement shall provide for the Litigation Trust Trustee's reasonable access to the Debtors' records and information (which shall be maintained by the Reorganized Debtor) and the Committee's records and information, each of which relating to the Litigation Trust Causes of Action, including electronic records or documents, as further detailed in, and subject in all respects to, the Litigation Trust Agreement. The Litigation Trust Agreement shall also provide that as of the Effective Date, and subject in all respects to the terms of the Litigation Trust Agreement, the Litigation Trust Privileges, and privileges held by the Committee (if any) shall transfer to and vest exclusively in the Litigation Trust, and that the Reorganized Debtor shall preserve all of the Debtors' records and documents (including all electronic records or documents) exclusively related to the Litigation Trust Causes of Action and Litigation Trust Privileges for the later of a period of three (3) years after the Effective Date or until such later time as the Litigation Trust Trustee notifies the Reorganized Debtor in writing that such records are no longer required to be preserved.

On the Effective Date, the Reorganized Debtor and the Litigation Trust shall enter into a common interest agreement whereby the Reorganized Debtor will be able to share documents and information, or communications (whether written or oral) relating to the Litigation Trust Causes of Action.

M. *Duties of the Litigation Trust Trustee*

In addition to the duties set forth elsewhere in this Plan, the Litigation Trust Trustee, at the direction of and in consultation with the Litigation Trust Oversight Committee as set forth more specifically in the Litigation Trust Agreement, and herein, shall have the following duties:

1. to manage, control and operate the Litigation Trust;

2. to investigate and, if necessary and appropriate, to prosecute and enforce (or not prosecute or enforce), or to compromise, release or settle any Litigation Trust Causes of Action on behalf of the Estate and the Litigation Trust without further approval of or application to the Bankruptcy Court;

3. to invest any Cash and Litigation Trust Assets;

4. to file any and all reports, pleadings, tax returns and other documents;

5. to pay any and all distributions required or permitted to be made under this Plan;

6. to pay out of the Litigation Trust any and all Claims, liabilities, losses, damages, costs and expenses incurred in connection therewith or as a result thereof, including all Post-Confirmation Expenses accruing from and after the Effective Date in accordance with the Administrative Budget;

7. to employ, supervise and compensate any employees of the Litigation Trust;

8. to make and file tax returns for the Litigation Trust;

9. act as the Disbursing Agent to Holders of Class 6A Claims in accordance with the terms of this Plan, and in such capacity shall (i) disburse all Cash held by the Litigation Trust to the Holders of Class 6A Claims in any amount in excess of $1 million over the then current budgeted needs of the Litigation Trust pursuant to the Administrative Budget within forty-five (45) days of the Effective Date and at least semi-annually thereafter, (ii) within ten (10) days upon receipt of any Excess SME Proceeds disburse to Holders of Class 6A Claims one hundred percent of such Excess SME Proceeds, and (iii) within ten (10) days upon receipt of any portion of the CVRs disburse to Holders of Class 6A Claims one hundred percent of such CVRs;

10. to commence and pursue dissolution or winding up of proceedings for the Litigation Trust;

11. to file, prosecute, compromise and settle objections to Claims after the Effective Date;

12. to prepare and deliver to the Litigation Trust Oversight Committee for approval the Administrative Budget of the Litigation Trust and any amendments or modifications thereto; and

13. to request the entry of a Final Decree.

In connection with the execution of his or her duties under this Plan, the Litigation Trust Trustee, at the direction of and in consultation with the Litigation Trust Oversight Committee as set forth more specifically in the Litigation Trust Agreement and herein, shall be authorized:

1. to execute such documents and to take such other actions as are necessary to effectuate this Plan and perform his or her duties as a trustee of the Litigation Trust, including to execute such documents and take such other action on behalf of the Litigation Trust;

2. to open, close and manage bank accounts, and to enter into business transactions within or without the ordinary course of business;

3. to retain and pay professionals (including the Professionals or the Committee Professionals) or other Persons to assist the Litigation Trust Trustee in the administration of the Litigation Trust, without prior Bankruptcy Court approval;

4. to incur any reasonable and necessary expenses (up to the amounts set forth in the Administrative Budget) in the performance of his or her duties as Litigation Trust Trustee;

5. to compromise, release or settle any Disputed Claim or Litigation Trust Cause of Action or to sell or dispose of any Litigation Trust Asset; and

6. to employ such other procedures, not inconsistent with this Plan, necessary for the Litigation Trust Trustee to perform his or her duties hereunder (including, without limitation, to borrow funds to pursue the Litigation Trust Causes of Action under terms in its sole discretion).

The Litigation Trust Trustee shall be deemed the Estates' representative in accordance with section 1123 of the Bankruptcy Code and shall have all powers, authority and responsibilities specified in the Litigation Trust Agreement, including, without limitation, the powers of a trustee under sections 704 and 1106 of the Bankruptcy Code (including, without limitation, commencing, prosecuting or settling Litigation Trust Causes of Action and asserting claims, defenses, offsets and privileges arising from the Litigation Trust Privileges), to the extent not inconsistent with this Plan. In discharging the foregoing responsibilities, the Litigation Trust Trustee shall be entitled to exercise and rely upon his or her business judgment in consultation with the Litigation Trust Oversight Committee. The Litigation Trust Trustee shall not be obligated to take any action or to pursue any Litigation Trust Causes of Action unless justified in his or her reasonable determination by fact and law, nor shall the Litigation Trust Trustee be obligated to take any action that could reasonably cause him or her personal liability. Without limiting the generality of the foregoing, the Litigation Trust Trustee may consider the interests of Holders of Allowed Class 6A Claims and Class 6B Claims in receiving prompt distributions and such other factors as may be reasonable in the exercise of his or her business judgment. Such authorization and benefits shall also extend to any, each and every successor Litigation Trust Trustee, without reservation or limitation.

The Litigation Trust Trustee, at the direction of the Litigation Trust Oversight Committee, may expend the Cash of the Litigation Trust (a) as reasonably necessary to meet contingent liabilities and to maintain the value of the Litigation Trust Assets during the administration thereof, (b) to pay the respective reasonable administrative expenses (including, but not limited to, any United States Trustee Quarterly Fees, Litigation Trust Trustee fees, professional fees, and taxes imposed on the Litigation Trust), and (c) to satisfy other respective liabilities incurred by the Litigation Trust in accordance with the Plan or the Litigation Trust Agreement.

N. *Post Confirmation Expenses*

Prior to the Effective Date, the Committee shall provide the Administrative Budget (with the consent of the Plan Proponents, not to be unreasonably withheld) for services to be rendered to the Litigation Trust, which Administrative Budget may be altered from time to time by the Litigation Trust Trustee with the consent of the Litigation Trust Oversight Committee in accordance with the Litigation Trust Agreement. The Litigation Trust Oversight Committee shall approve in advance the

Litigation Trust Trustee's retention of professionals and their compensation arrangements.

On the Effective Date, the Litigation Trust Trustee shall establish the Administrative Fund. The initial amount of the Administrative Fund shall be based on the Litigation Trust Trustee's good faith estimate of the cost necessary to complete the Litigation Trust's obligations under this Plan and the Litigation Trust Agreement and will include the amount budgeted for the Litigation Trust's professionals provided however, the initial Administrative Fund shall not exceed the amount of $200,000 necessary to commence and/or pursue and Litigation Trust Causes of Action as of the Effective Date. The Litigation Trust shall pay all Litigation Trust Expenses related to carrying out its obligations under this Plan and the Litigation Trust Agreement from the Administrative Fund and, in the Litigation Trust Trustee's discretion, and with approval of the Litigation Trust Oversight Committee, may add additional amounts of Cash held by the Litigation Trust to the Administrative Fund to further the prosecution of the Litigation Trust Causes of Action or for administration and other miscellaneous needs of the Litigation Trust without further notice or motion in accordance with the terms of the Litigation Trust Agreement.

The reasonable and necessary fees and actual and necessary expenses of the Litigation Trust Trustee, the Litigation Trust Oversight Committee and the professionals retained by the Litigation Trust Trustee and the Litigation Trust Oversight Committee shall be paid solely by the Litigation Trust Trustee in accordance with the terms of such respective Person's employment with the Litigation Trust.

O. *Liability; Indemnification*

Neither the Litigation Trust Trustee nor any member of the Litigation Trust Oversight Committee shall be liable for any act or omission taken or omitted to be taken in his or her capacity as Litigation Trust Trustee or as a member of the Litigation Trust Oversight Committee, as the case may be, other than acts or omissions resulting from the Litigation Trust Trustee's or Litigation Trust Oversight Committee member's willful misconduct, gross negligence or fraud. The Litigation Trust Trustee and the Litigation Trust Oversight Committee may, in connection with the performance of their functions, and in their sole and absolute discretion, consult with their respective attorneys, accountants, financial advisors and agents, and the Litigation Trust Trustee and the Litigation Trust Oversight Committee shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such Persons other than acts or omissions resulting from the willful misconduct, gross negligence or fraud of the Litigation Trust Trustee or the Litigation Trust Oversight Committee, as the case may be.

Notwithstanding such authority, the Litigation Trust Trustee and the Litigation Trust Oversight Committee shall not be under any obligation to consult with their respective attorneys, accountants, financial advisors or agents, and any determination not to do so shall not result in the imposition of liability on the Litigation Trust Trustee or the Litigation Trust Oversight Committee, as the case may be, and their respective designees, unless such determination is based on willful misconduct, gross negligence or fraud. The Litigation Trust shall indemnify and hold harmless the Litigation Trust

Trustee, the Litigation Trust Oversight Committee and their respective designees and professionals, and all duly designated agents and representatives (in their capacity as such), from and against and in respect of all liabilities, losses, damages, claims, costs and expenses (including, but not limited to, attorneys' fees and costs) arising out of or due to such actions or omissions, or consequences of their actions or omissions with respect or related to the performance of the duties of the Litigation Trust Trustee or the Litigation Trust Oversight Committee, as the case may be, or the implementation or administration of this Plan; *provided*, *however*, that no such indemnification will be available to such Persons for such actions or omissions if a court of competent jurisdiction has determined by Final Order that the challenged conduct occurred as a result of willful misconduct, gross negligence or fraud.

P. *Litigation Trust Oversight Committee*

On the Effective Date, the Litigation Trust Oversight Committee shall have the duties set forth herein to maximize distributions to Litigation Trust Beneficiaries. On the Effective Date, the Litigation Trust Oversight Committee shall be entitled to the rights, powers, immunities and privileges of the Committee.

The Litigation Trust Oversight Committee shall have the duty to take actions in accordance with the provisions of this Plan and in furtherance of the execution of this Plan. Additionally, the Litigation Trust Oversight Committee shall have the following rights and duties:

1. to approve any release or indemnity in favor of any third party granted or agreed to by the Litigation Trust Trustee;

2. to authorize the Litigation Trust Trustee to commence any Litigation Trust Cause of Action;

3. to approve the settlement of any Litigation Trust Cause of Action and to approve any application by the Litigation Trust Trustee for an order in connection with any such settlement;

4. to review all financial information relating to the Litigation Trust (including any quarterly reports required by the Office of the United States Trustee), which shall be promptly provided by the Litigation Trust Trustee upon request by the Litigation Trust Oversight Committee;

5. to monitor distributions to Holders of Litigation Trust Interests;

6. to take such other actions as it deems necessary and appropriate with respect to the implementation of the Plan;

7. to approve the Litigation Trust Trustee's retention of professionals;

8. to remove the Litigation Trust Trustee in accordance with the procedures in the Litigation Trust Agreement; and

9. to approve the Administrative Budget after the Effective Date.

The duties and powers of the Litigation Trust Oversight Committee shall terminate upon the later to occur of (i) the entry of the Final Decree, (ii) the dissolution of the Litigation Trust, and (iii) the payment of the final distributions to Holders of Litigation Trust Interests pursuant to this Plan.

The Litigation Trust Oversight Committee shall have the right, but shall not be required, to retain counsel of its choice, and the reasonable and necessary fees and expenses of such counsel shall be paid by the Litigation Trust from the Administrative Fund. The reasonable and necessary fees and expenses of counsel to the Litigation Trust Oversight Committee shall be paid in accordance with the Litigation Trust Agreement.

Q. *Good Faith*

Each of the Litigation Trust Trustee and Litigation Trust Oversight Committee shall act in good faith in carrying out its duties and responsibilities and use its best efforts to pursue or settle the Litigation Trust Causes of Action and maximize the value of the Litigation Trust Assets and minimize claims against the Litigation Trust.

R. *Saturday, Sunday or Legal Holiday*

If any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day but shall be deemed to have been completed as of the required date.

S. *Exemption from Certain Taxes and Fees*

To the maximum extent permitted pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, sale or use tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents pursuant to such transfers of property without the payment of any such tax, recordation fee, or governmental assessment.

T. *Issuance of Documents Necessary to Consummate the Plan*

On or as soon as practicable after the Effective Date, the Debtors, the Reorganized Debtor, or the Litigation Trust Trustee, as applicable, shall execute and deliver such other agreements, documents and instruments, as necessary to effectuate the Plan.

U. *Final Decree*

Upon the Litigation Trust Trustee's determination that all Litigation Trust Causes of Action held by the Litigation Trust or the Litigation Trust Trustee, as applicable, have been finally resolved, transferred, or abandoned, the Litigation Trust shall move for the entry of a Final Decree pursuant to section 350 of the Bankruptcy Code closing the Chapter 11 Cases. The Litigation Trust may request the entry of the Final Decree notwithstanding the fact that not all Litigation Trust Assets have been monetized and distributed to Litigation Trust Beneficiaries.

V. *Delivery of Equity in the Reorganized Debtor*

On the Effective Date, the Plan Sponsor shall receive all of the equity in the Reorganized Debtor in accordance with the terms of this Plan and the Confirmation Order, without the need for any further corporate, partnership, limited liability company, or shareholder action. Upon the Effective Date, the equity interests of the Reorganized Debtor shall be subject to the terms contained in the Reorganized Debtor Organizational Documents.

ARTICLE V.

RETAINED CAUSES OF ACTION

A. *Maintenance of Causes of Action*

Except as otherwise provided Article V.B of the Plan, the Litigation Trust shall retain all rights on behalf of the Debtors and the Estates to commence and pursue, as appropriate, in any court or other tribunal including, without limitation, in an adversary proceeding filed in one or more of the Chapter 11 Cases, any and all Litigation Trust Causes of Action transferred to the Litigation Trust. The Reorganized Debtor shall retain all rights to commence and pursue, as appropriate, in any court or other tribunal, including, without limitation, in an adversary proceeding filed in one or more of the Chapter 11 Cases, any and all Retained Causes of Action.

Except as otherwise provided in the Plan, upon the Effective Date and subject to the terms of the Litigation Trust Agreement in accordance with section 1123(b)(3) of the Bankruptcy Code, the Litigation Trust Causes of Action shall vest in the Litigation Trust. The Litigation Trust Trustee, on behalf of the Litigation Trust, shall retain and may exclusively enforce any and all Litigation Trust Causes of Action, and commence, pursue and settle the Litigation Trust Causes of Action in accordance with this Plan and the Litigation Trust Agreement, as applicable, subject to the advice of counsel and the consent of the Litigation Trust Oversight Committee. The Litigation Trust shall have the exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise any and all such claims, rights, and Litigation Trust Causes of Action without the consent or approval of any third party and without any further order of court subject to the advice of counsel and the consent of the Litigation Trust Oversight Committee as required by the Litigation Trust Agreement.

B. *Preservation of Causes of Action*

Except as otherwise expressly provided in the Plan, from and after the Effective Date, unless expressly designated as a Litigation Trust Cause of Action, the Reorganized Debtor shall maintain and may litigate or settle any Retained Causes of Action. Pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, no other Person or Entity may pursue any such Litigation Trust Causes of Action or Retained Causes of Action that belong to the Debtors, the Reorganized Debtor, or the Litigation Trust, as applicable, unless otherwise provided by order of the Bankruptcy Court.

It is possible that there may be other Causes of Action which currently exist or may subsequently arise but relate to facts and circumstances arising prior to the Effective Date that are not set forth herein, because the facts upon which such Causes of Action are based are not fully or currently known by the Debtors or the Plan Proponents and, as a result, cannot be specifically referred to herein (referred to in this Plan as the "Unknown Causes of Action"). Within twenty (20) Business Days of the discovery of the facts and circumstances underlying an Unknown Cause of Action, the Reorganized Debtor or the Litigation Trust, as applicable, shall notify the Litigation Trust or Reorganized Debtor, as applicable, and the Reorganized Debtor shall promptly transfer such Unknown Cause of Action to the Litigation Trust as a Litigation Trust Cause of Action.

C. *Preservation of All Causes of Action Not Expressly Settled or Released*

Unless a Claim or Cause of Action against a Creditor or other Person is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order, such Claim or Cause of Action is transferred to the Litigation Trust (including, any Known Causes of Action or Unknown Causes of Action), and, therefore, 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 such Claims or Causes of Action upon or after the Confirmation Date or Effective Date of the Plan based on the Disclosure Statement, the Plan or the Confirmation Order, except where such Claims or Causes of Action have been released in the Plan or other Final Order. In addition, the Litigation Trust and any successor entities under the Plan, as applicable, expressly reserve the right to pursue or adopt any Claim alleged in any lawsuit in which the Debtors are defendants or an interested party, against any Person or Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits.

Any Person to whom the Debtors have incurred an obligation (whether on account of services, purchase or sale of goods or otherwise), or who has received services from Debtors or a transfer of money or property from the Debtors, or who has transacted business with the Debtors, or leased equipment or property from the Debtors should assume that such obligation, transfer, or transaction may be reviewed by the Litigation Trust, as applicable, subsequent to the Effective Date and may, if appropriate, be the subject of an action after the Effective Date, whether or not (i) such Entity has filed a Proof of Claim against the Debtors in these Bankruptcy Cases; (ii) such Creditor's Proof of Claim has been objected to; (iii) such Creditor's Claim was included in the

Debtors' Schedules; or (iv) such Creditor's scheduled Claim has been objected to by the Debtors or has been identified by the Debtors as disputed, contingent, or unliquidated.

D. *Retained Causes of Action and Retained Causes of Action Contribution*

On or before the expiration of any applicable statute of limitation, the Reorganized Debtor may initiate any Retained Causes of Action in any appropriate court of competent jurisdiction. Neither the Litigation Trust nor Litigation Trust Trustee shall have any rights to direct the Reorganized Debtor in the pursuit or settlement of the Retained Causes of Action. Beginning on the six-month anniversary of the Effective Date and every six months thereafter, the Reorganized Debtor shall provide the Litigation Trust and the Litigation Trust Trustee a report on the status of the pursuit of any Retained Causes of Action. The Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee within ten (10) Business Days of any proposed settlement of any Retained Cause of Action. In the event of a successful collection of any Retained Cause of Action the Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee within ten (10) Business Days of the collection made thereon. The Litigation Trust and Litigation Trust Trustee as applicable are not, and are not intended to be, third party beneficiaries of the proceeds of any Retained Causes of Action, and are provided with no additional rights and/or standing to object to the terms of any litigation strategy or proposed settlement of any Retained Causes of Action pursuant to the terms of this Plan. For the avoidance of doubt the Reorganized Debtor is not required to pursue or settle any Retained Causes of Action.

Within ten (10) Business Days of receipt of any Retained Causes of Action Contributions arising from the final, non-appealable prosecution of a Retained Cause of Action or the settlement of a Retained Cause of Action, the Reorganized Debtor shall transfer the applicable Retained Causes of Action Contributions to the Litigation Trust in accordance with the instructions provided by the Litigation Trust Trustee. Each payment of the Retained Causes of Action Contributions paid shall be accompanied with a reasonable accounting supporting the amounts of the Retained Causes of Action Contributions transferred to the Litigation Trust.

Upon the resolution of all Retained Causes of Action any reporting obligations of the Reorganized Debtor to the Litigation Trust regarding the prosecution and/or settlement of any Retained Causes of Action shall cease, and the Reorganized Debtor shall have no further obligations related to the Retained Causes of Action Contributions, and the Litigation Trust shall have no right or claim to any proceeds of any Causes of Action retained by the Debtors.

In the event the any Retained Causes of Action Contribution transferred to the Litigation Trust exceed seventy-five percent (75%) of the net cash recoveries of the applicable Retained Cause of Action, within ten (10) Business Days of written notice of such over payment by the Reorganized Debtor, the Litigation Trust shall refund the Reorganized Debtor the portion of the actually paid Retained Cause of Action Contributions exceeding net cash recovery threshold set forth in this Plan.

Unless the Reorganized Debtor and the Litigation Trust and Litigation Trust Trustee agree otherwise in writing, the Bankruptcy Court shall retain sole jurisdiction to

resolve any dispute regarding the payment of the Retained Causes of Action Contributions, the accounting supporting the Retained Causes of Action Contributions, and the refund of any overpayments of Retained Causes of Action Contributions.

ARTICLE VI.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. *Rejection of Executory Contracts or Unexpired Leases*

On the Effective Date, except for any executory contract that was previously assumed or rejected by an order of the Bankruptcy Court pursuant to section 365 of the Bankruptcy Code, each executory contract that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to Bankruptcy Code §§ 365 and 1123, effective as of the Confirmation Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejection pursuant to Bankruptcy Code §§ 365 and 1123 as of the Confirmation Date.

B. *Rejection Damages Bar Date*

Except to the extent another Claims Bar Date applies pursuant to an order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts under this Plan must be filed with the Bankruptcy Court, and a copy served on counsel for the Debtors, the Reorganized Debtor, and the Litigation Trust Trustee, within fifteen (15) days of the Effective Date, or such Claim shall be forever barred and shall not be entitled to a distribution or be enforceable against the Debtors, their Estates, the Reorganized Debtor, the Litigation Trust, the Litigation Trust Trustee, their successors, their assigns or their Assets. Any timely filed Claim arising from the rejection of an Executory Contract shall be treated as a Claim in Class 4 (Trade Creditor Claims). Nothing in this Plan extends or modifies any previously applicable Claims Bar Date.

ARTICLE VII.

PROVISIONS GOVERNING DISTRIBUTIONS

A. *Disbursing Agent*

1. **Litigation Trust Trustee as Disbursing Agent for Class 6A Claims and Class 6B Claims**

The Reorganized Debtor shall be the Disbursing Agent for any payments made to parties other than creditors that shall receive Litigation Trust Interests and shall make all required distributions to such creditors pursuant to this Plan. The Litigation Trust Trustee shall be the Disbursing Agent for creditors that shall receive Litigation Trust Interests and shall make all required distributions to such creditors pursuant to Article IV.M.9 of this Plan.

2. **Alternative Disbursing Agent Qualification**

Other than as set forth in this Plan, after the Effective Date no Person other than the Litigation Trust Trustee (or the Reorganized Debtor to the extent any applicable disbursement to be made by the Reorganized Debtor as Disbursing Agent could not be effected on the Effective Date) shall be authorized by the Bankruptcy Court to serve as Disbursing Agent unless and until the Litigation Trust Trustee consents in writing to that Person serving as Disbursing Agent, and that Person (i) executes and files a statement with the Bankruptcy Court agreeing to perform all of the duties of the Disbursing Agent under this Plan, and (ii) consents to the jurisdiction of the Bankruptcy Court in respect to all matters relating to the performance of his or her duties as the Disbursing Agent under this Plan or order of the Bankruptcy Court.

B. *Time and Manner of Distributions*

The Disbursing Agent shall make Distributions under the Plan on account of Claims Allowed on the Effective Date or as soon as practicable after the Effective Date, except as otherwise agreed to by the Litigation Trust Oversight Committee or by order of the Bankruptcy Court. The Litigation Trust Trustee as Disbursing Agent shall have the power, subject to Litigation Trust Oversight Committee consent, to make interim distributions to Litigation Trust Beneficiaries in accordance with this Plan if the Litigation Trust Trustee determines that such interim distributions are warranted and economical. If the Litigation Trust Trustee determines to make interim distributions to Litigation Trust Beneficiaries, the Litigation Trust Trustee will determine the amount to be distributed by taking into account such factors as ongoing expenses and costs, taxes and reserves necessary to provide for the resolution of Litigation Trust Causes of Action. Amounts withheld will be placed in an interest-bearing account, which shall fund ongoing expenses and costs relating to such reserves, including, without limitation, taxes in respect of Litigation Trust Causes of Action, if any.

At the option of the Disbursing Agent, except as otherwise provided in this Plan, any distributions under this Plan may be made either in Cash, by check drawn on a domestic bank, by wire transfer or by ACH. Notwithstanding any other provisions of this Plan to the contrary, no payment of fractional cents will be made under this Plan. Cash will be issued to Holders entitled to receive a distribution of Cash in whole cents (rounded to the nearest whole dollar when and as necessary). Any distribution of less than $50.00 will be considered de minimis, and Holders of Allowed Claims that are entitled to any distribution of less than $50.00 will not receive any distribution unless and until the aggregate of such distributions exceed $50.00. Such undistributed funds shall remain with and vest in the Litigation Trust for distribution to other Holders of Allowed Claims.

C. *Interest on Claims*

Except as otherwise specifically provided for herein or in the Confirmation Order, or required by applicable bankruptcy law, post-petition interest shall not accrue or be paid on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim unless all Claims have been paid in full in cash.

D. *Compliance with Tax Requirements/Allocations*

In connection with the Plan, to the extent applicable, the Litigation Trust and Litigation Trust Trustee shall comply with all tax withholding and reporting requirements imposed on it by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. For tax purposes, distributions received in respect of Allowed Claims will be allocated first to the principal amount of Allowed Claims with any excess allocated, if applicable, to unpaid interest that accrued on such Claims.

E. *Delivery of Distributions and Undeliverable or Unclaimed Distributions*

1. **Delivery of Distributions in General**

Except as otherwise provided in this Plan, distributions to Holders of Allowed Claims shall be made by the applicable Disbursing Agent (i) at the addresses set forth on the Proof of Claim or Interest filed by such Holder (or at the last known address of such Holder if no motion requesting payment or Proof of Claim or Interest is filed or the Debtors or the Reorganized Debtor, as applicable, and the Litigation Trust have been notified in writing of a change of address), (ii) at the addresses set forth in any written notices of address changes delivered to the Litigation Trust Trustee or the Debtors or the Reorganized Debtor, as applicable, after the date of any related Proof of Claim or Interest, or (iii) at the addresses reflected in the Schedules if no Proof of Claim or Interest has been filed and the Litigation Trust Trustee or the Debtors or the Reorganized Debtor, as applicable, have not received a written notice of a change of address.

2. **Undeliverable Distributions**

a. Holding of Undeliverable Distributions.

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

b. Failure to Claim Undeliverable Distributions.

Any Holder of an Allowed Claim (irrespective of when a Claim became an Allowed Claim) that does not assert a Claim pursuant hereto for an undeliverable distribution (regardless of when not deliverable) within ninety (90) days after the distribution has been attempted to be made to the Holder of the Allowed Claim shall have its Claim related to such undeliverable distribution satisfied and shall be forever barred from asserting any such Claim against the Litigation Trust or be entitled to a further distribution. In such cases, any Cash held for distribution on account of such Claims shall be the property of the Litigation Trust free of any such Claim. Nothing

contained herein shall require the Litigation Trust Trustee or any interested party to attempt to locate any Holder of an Allowed Claim.

F. *Claims Administration Responsibility*

1. **Reservation of Rights to Object to Claims**

Except as provided in Article II.B hereof, for the avoidance of doubt, nothing in this Section F shall affect the rights, if any, of any interested party to object to any Claim or Interest before the Effective Date. Unless a Claim or Interest is expressly described as an Allowed Claim or Interest pursuant to or under this Plan, or otherwise becomes an Allowed Claim or Interest prior to Effective Date, the Debtors reserve any and all objections to any and all Claims and Interests and motions or requests for the payment of Claims or Interests, whether administrative expense, priority, secured or unsecured, Liens and security interests, whether under the Bankruptcy Code, other applicable law or contract. The Debtors' failure (as applicable) to object to any Claim or Interest in the Chapter 11 Cases shall be without prejudice to the Debtors' rights to contest or otherwise defend against such Claim or Interest in the Bankruptcy Court when and if such Claim or Interest is sought to be enforced by the Holder of such Claim or Interest prior to the Effective Date.

2. **Filing of Objections**

After the Effective Date, the Litigation Trust shall have the sole authority to file objections and otherwise object to all Administrative Claims, and all claims seeking allowance as Administrative Claims, not paid on or prior to the Effective Date.

On the Effective Date, the Litigation Trust and the Litigation Trust Trustee, as applicable, shall assume the right and obligation to prosecute any objections to Claims which have not been previously adjudicated prior to the Effective Date. After the Effective Date, the Litigation Trust and Litigation Trust Trustee, as applicable, shall have the sole authority to file objections and otherwise object to all Claims which are paid on the Effective Date.

An objection to a Claim or Interest shall be deemed properly served on the Holder of such Claim or Interest if service is made by any of the following methods: (i) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Bankruptcy Rule 7004; (ii) to the extent counsel for such Holder is unknown, by first class mail, postage prepaid, on the signatory on the Proof of Claim or Interest or other representative identified on the Proof of Claim or Interest or any attachment thereto; or (iii) by first class mail, postage prepaid, on any counsel that has appeared on the behalf of such Holder in the Chapter 11 Cases. Unless otherwise provided in this Plan or by order of the Bankruptcy Court, any objections to Claims must be filed and served not later than the Objection Deadline.

3. **Determination of Claims**

Any Claim as to which a Proof of Claim or Interests or motion or request for payment was timely filed in the Chapter 11 Case may be determined and liquidated

pursuant to (i) an order of the Bankruptcy Court, (ii) applicable bankruptcy law, (iii) agreement of the parties, (iv) applicable non-bankruptcy law, or (v) the lack of (a) an objection to such Claim or Interest, (b) an application to equitably subordinate such Claim, and (c) an application to otherwise limit recovery with respect to such Claim or Interest filed by the Debtors on or prior to any applicable deadline for filing such objection or application with respect to such Claim or Interest. Any such Claim or Interest determined to be Allowed, shall be deemed to be an Allowed Claim for such liquidated amount (so long as such determination has not been stayed, reversed or amended and as to which determination (or any revision, modification or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, remains pending) and shall be satisfied in accordance with this Plan. Nothing contained in this Plan shall constitute or be deemed a waiver of any Claim, right or Cause of Action that the Debtors may have against any Person in connection with or arising out of any Claim or Claims, including, without limitation, any rights under 28 U.S.C. § 157.

G. *Procedures for Treating and Resolving Disputed and Contingent Claims or Interests*

1. **No Distributions Pending Allowance**

No payments or distributions will be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by a Final Order, and the Disputed Claim has become an Allowed Claim or Interest; *provided*, *however*, that in the event that only a portion of such Claim or Interest is an Allowed Claim or Interest, the Disbursing Agent may make, in his or her discretion, a distribution pursuant to the Plan on account of the portion of such Claim or Interest that becomes an Allowed Claim or Interest.

2. **Claim Estimation**

Prior to the Effective Date the Debtors, and after the Effective Date the Litigation Trust Trustee, as applicable, may request estimation or liquidation of any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code; *provided*, *however*, that the Bankruptcy Court shall determine (i) whether such Disputed Claim is subject to estimation pursuant to section 502(c) of the Bankruptcy Code, and (ii) the timing and procedures for such estimation proceedings, if any.

H. *Setoffs and Recoupment*

Prior to the Effective Date, the Debtors, and after the Effective Date, the Litigation Trust Trustee, as applicable, may, pursuant to Section 558 of the Bankruptcy Code or applicable non-bankruptcy law, but shall not be required to, setoff against or recoup from any Claim on which payments are to be made pursuant to this Plan any claims or Causes of Action of any nature whatsoever the Debtors, the Reorganized Debtor or the Litigation Trust, as applicable, may have against the Holder of such Claim*; provided*, *however*, that neither the failure to effect such setoff or recoupment nor the allowance of any Claim shall constitute a waiver or release by the Debtors or Litigation Trust, as applicable, of any right of setoff or recoupment the Debtors or

Litigation Trust, as applicable, may have against the Holder of such Claim, nor of any other claim or Cause of Action.

I. *Allowance and Disallowance of Claims Subject to Section 502 of the Bankruptcy Code*

Allowance and disallowance of Claims shall be in all respects subject to the provisions of Section 502 of the Bankruptcy Code, including, without limitation, subsections (b), (d), (e), (g), (h) and (i) thereof.

J. *Cancellation of Instruments and Agreements*

Upon the occurrence of the Effective Date, except as otherwise provided herein, all promissory notes, shares, certificates, instruments, indentures, or agreements evidencing, giving rise to or governing any Claim shall be deemed canceled and annulled without further act or action under any applicable agreement, law, regulation, order or rule; the obligations of the Debtors under such promissory notes, share certificates, instruments, indentures or agreements shall be satisfied and the Holders thereof shall have no rights against the Debtors, the Estates, the Committee, the Reorganized Debtor, the Litigation Trust Trustee, the Litigation Trust Oversight Committee, and/or the Litigation Trust; and such promissory notes, share certificates, instruments, indentures or agreements shall evidence no such rights, except the right to receive the distributions provided for in this Plan.

In addition, the obligations of the Exchange Notes Trustee under or in connection with the Exchange Note Indenture and the obligations of the Old Notes Trustee under the Old Notes Indenture shall be discharged and deemed satisfied on the Effective Date except to the extent necessary to comply with the terms of this Plan, including to facilitate the distributions provided for in this Plan to the applicable Holders of Claims and cancelling existing security interests. For the avoidance of doubt, nothing contained in this Plan or the Confirmation Order shall limit or affect the standing of the Exchange Notes Trustee or Old Notes Trustee to appear and be heard in the Chapter 11 Cases or in any proceeding in the Bankruptcy Court or any other court on and after the Effective Date.

Notwithstanding the foregoing, the Exchange Note Indenture and the Old Notes Indenture shall remain in effect solely for the purposes of (a) allowing the applicable Holders of Claims to receive their respective distributions under this Plan as provided herein, (b) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to facilitate the distributions under this Plan to the applicable Holders of Claims as provided herein and otherwise comply with any obligations they may have under this Plan, including the cancellation of existing security interests, (c) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to preserve their respective rights to payment of fees, expenses, and indemnification obligations as against any money or property distributable to the relevant Holder of Exchange Note Claims and Old Notes Claims, as applicable, under this Plan, and to deduct such fees and expenses from such distributions, including in respect of payment and the right to exercise their charging liens, if any, against such distributions, (d) permitting the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to perform any functions that are necessary to effectuate the foregoing, and (e) allowing the Exchange

Notes Trustee and the Old Notes Trustee, as applicable, to assert any other right, privilege, benefit, or protection granted to either of them under the relevant documentation other than against the Reorganized Debtor and the Exculpated Parties; *provided*, *however*, that the foregoing shall not affect the discharge of the Debtors with respect to the Exchange Noteholder Claims and the Old Notes Claims as provided for herein, or result in any expenses or liability to the Reorganized Debtor, except to the extent set forth in or provided for under this Plan. Notwithstanding anything to the contrary herein, the terms and provisions of this Plan shall not alter, modify, or amend any existing contract or agreement between any of the Exchange Notes Trustee, the Old Notes Trustee and any current or former Exchange Noteholder or Old Noteholder, as applicable, and any such contract or agreement shall remain in full force and effect according to its terms following the Effective Date.

K. *Withholding Taxes*

The Disbursing Agent shall be entitled to deduct any federal, state or local withholding taxes from any payments under this Plan. As a condition to making any distribution under this Plan, the Disbursing Agent may require that the Holder of an Allowed Claim provide such Holder's taxpayer identification number and such other information and certification as the Disbursing Agent may deem necessary to comply with applicable tax reporting and withholding laws.

L. *Reports*

From the Effective Date, until a Final Decree is entered, the Litigation Trust Trustee shall submit quarterly reports to the United States Trustee and the Litigation Trust Oversight Committee setting forth all receipts and disbursements of the Litigation Trust as required by the United States Trustee guidelines.

M. *Distribution Record Date*

As of the close of business on the applicable Distribution Record Date, the transfer register for all Claims maintained by the Debtors or their agents, shall be closed, and there shall be no further changes in the Record Holders of any such Claims. Moreover, the Debtors, the Reorganized Debtor, the Litigation Trust, the Litigation Trust Trustee or the Litigation Trust Oversight Committee, as applicable, shall have no obligation to recognize the transfer of any such Claims occurring after the applicable Distribution Record Date and shall be entitled for all purposes herein to recognize and deal only with those Holders of record as of the close of business on the applicable Distribution Record Date.

N. *Timing and Calculation of Amounts to be Distributed*

Except as otherwise provided herein, on the Effective Date or as soon as practicable thereafter, each Holder of an Allowed Claim against the Debtors shall receive the distributions that the Plan provides for Allowed Claims in the applicable Class; *provided however*, the Litigation Trust shall maintain reserve accounts in trust for the payment or distribution on account of Litigation Trust Beneficiaries with respect to Disputed Claims and shall make the appropriate adjustments in distributions to

adequately take into consideration and fund such reserve accounts. The Litigation Trust Trustee, as Disbursing Agent, shall be authorized to make interim distributions and any subsequent distributions necessary to distribute any Cash, or other consideration held in any reserve account to the appropriate Claim Holder as Claims are resolved and Allowed and reserves are reduced in accordance with this Plan.

O. *Settlement of Claims and Controversies*

Pursuant to Fed. R. Bankr. P. 9019 and in consideration for the distributions and other benefits provided under this Plan, the provisions of this Plan shall constitute a good faith compromise and settlement of claims and/or controversies relating to the contractual, legal and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim, or any distribution to be made on account of any such Allowed Claim.

ARTICLE VIII.
CONDITIONS PRECEDENT TO CONFIRMATION AND OCCURRENCE OF THE EFFECTIVE DATE

A. *Conditions Precedent to Confirmation*

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

B. *Conditions Precedent to Occurrence of Effective Date*

It shall be a condition to occurrence of the Effective Date that the following conditions shall have been satisfied or waived pursuant to the provisions herein:

1. Fourteen (14) days have passed since the entry of the Confirmation Order as a Final Order in form and substance satisfactory to the Plan Proponents and the Committee in their absolute discretion. The Confirmation Order shall provide that, among other things:

(i) the Plan Proponents are authorized and directed to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, and other agreements or documents created in connection with the Plan; and

(ii) the provisions of the Confirmation Order are nonseverable and mutually dependent.

2. The appointment of the Litigation Trust Trustee shall have been confirmed by the Confirmation Order or order of the Bankruptcy Court.

3. All actions, documents, consents, and agreements necessary to implement the Plan, including, without limitation, creating the Litigation Trust and entering into the Litigation Trust Agreement, shall have been effected or executed and delivered to

the required parties and, to the extent required, filed with the applicable government units in accordance with applicable law, and all other actions required to be taken in connection with the Effective Date shall have occurred.

4. The Professional Fee Reserve shall have been established and funded.

C. *Waiver of Conditions*

Except as otherwise required by the tenets of the Plan, the Plan Proponents may waive any of the conditions to Confirmation of the Plan and/or to occurrence of the Effective Date of the Plan set forth in this Article VIII, at any time, without notice, without leave or order of the Bankruptcy Court, and without any formal action other than proceeding to confirm and/or consummate the Plan.

D. *Plan Proponents' Right of Revocation or Withdrawal*

The Plan Proponents reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent plans. If the Plan Proponents revoke or withdraw the Plan, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts affected by the Plan, and any document or agreement executed pursuant hereto, shall be deemed null and void, and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claims by or against, or any Interests in, such Debtors or any other Person (ii) prejudice in any manner the rights of such Debtors or any other Person, or (iii) constitute an admission of any sort by the Debtors or any other Person.

ARTICLE IX.
EFFECT OF CONFIRMATION

A. *Injunction*

Except as otherwise specifically provided in this Plan or the Confirmation Order, all Persons or Entities who have held, hold or may hold (a) Claims or Interests that arose prior to the Effective Date, (b) Causes of Action that are subject to exculpation pursuant to Article IX.C of this Plan (but only to the extent of the exculpation provided in Article IX.C of this Plan), or (c) Claims, Interests or Causes of Action that are otherwise discharged, satisfied, stayed or terminated pursuant to the terms of this Plan and all other parties-in-interest seeking to enforce such Claims, Interests or Causes of Action are permanently enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim against or Interest in the Debtors or the Reorganized Debtor, or property of any Debtors or the Reorganized Debtor, other than to enforce any right to a distribution pursuant to this Plan, (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtors or the Reorganized Debtor or property of any Debtors or the Reorganized Debtor with respect to any such Claim or Interest, other than to enforce any right to a distribution pursuant to this Plan, (iii) creating, perfecting or enforcing

any Lien or encumbrance of any kind against the Debtors or the Reorganized Debtor, or against the property or interests in property of the Debtors or the Reorganized Debtor with respect to any such Claim or Interest, other than to enforce any right to a distribution pursuant to this Plan, or (iv) asserting any right of setoff (except for setoffs validly exercised prepetition) or subrogation of any kind against any obligation due from the Debtors or the Reorganized Debtor, or against the property or interests in property of the Debtors or the Reorganized Debtor, with respect to any such Claim or Interest. Such injunction shall extend to any successors or assignees of the Debtors or the Reorganized Debtor and its respective properties and interests in properties.

B. *Term of Injunctions or Stays*

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under Bankruptcy Code §§ 105 or 362, this Plan or otherwise, and extant on the Confirmation Date, shall remain in full force and effect until the later of (i) the closing of the Chapter 11 Cases or (ii) the dissolution of the Litigation Trust.

C. *Exculpation*

Effective as of the Effective Date, to the extent permitted under section 1125(e) of the Bankruptcy Code, and except as otherwise specifically provided in this Plan, no Exculpated Party shall have or incur liability for, and each Exculpated Party is exculpated from any Cause of Action related to any act or omission taking place between the Petition Date and the Effective Date, in connection with, relating to, or arising out of, the Chapter 11 Cases, the Involuntary Proceedings, the filing of the Involuntary Petitions, the formulation, preparation, dissemination, negotiation, or filing of this Plan, the Disclosure Statement, the Plan Supplement, or any transaction under the Plan, contract, instrument, or document or transaction approved by the Bankruptcy Court in these Chapter 11 Cases, except for (a) any Cause of Action related to any act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted fraud, willful misconduct, or gross negligence of such Person, and (b) any Cause of Action related to any liability of professionals to their clients pursuant to N.Y. Comp. Codes R. & Regs. tit. 22 § 1200.8 Rule 1.8(h)(1); *provided*, *however*, *that*, for the avoidance of doubt, any such exculpation shall not act or be construed to exculpate, channel, release, enjoin, or otherwise affect any civil or criminal enforcement action by a Governmental Unit.

D. *Release of Liens*

Except as otherwise provided in the Plan, the Plan Supplement, or any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, compromised, and discharged, and all of the right, title, and interest of any holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert automatically to the Reorganized Debtor and its successors and assigns, in each case, without any further approval or order of the Bankruptcy Court and without any action of filing being

required to be made by the Debtors, the Reorganized Debtor, the Plan Proponents, or any Holder of a Secured Claim.

Any holder of such security interest (and the applicable agents for such holder) shall be authorized and directed, at the sole cost and expense of the Reorganized Debtor, to release any collateral or other property of any Debtor (including any cash collateral and possessory collateral) held by such holder (and the applicable agents for such holder), and to take such actions as may be reasonably requested by the Reorganized Debtor to evidence the release of such Lien, including the execution, delivery, and filing or recording of such releases. The presentation or filing of the Confirmation Order to or with any federal, state, provincial, or local agency or department shall constitute good and sufficient evidence of, but shall not be required to effect, the termination of such Liens.

ARTICLE X.

RETENTION OF JURISDICTION

This Plan shall not in any way limit the Bankruptcy Court's post-confirmation jurisdiction as provided under the Bankruptcy Code. Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, the Bankruptcy Court shall retain and have exclusive jurisdiction (to the extent granted by applicable law, including any provisions permitting mandatory or discretionary withdrawal of such jurisdiction) over any matter arising out of or related to the Chapter 11 Cases and this Plan, including, without limitation, the following:

1. All matters relating to the assumption or rejection or the assumption and assignment of Executory Contracts, or Claims or disputes relating thereto;

2. All matters relating to the ownership of a Claim or Interest;

3. All matters relating to the distribution to Holders of Allowed Claims and Interests and to the determination of Claims and Interests;

4. Any and all matters involving the Litigation Trust Trustee and/or the Litigation Trust and/or the Litigation Trust Oversight Committee;

5. All matters relating to or arising in connection with the disallowance, Allowance or estimation of Claims or Interests filed, both before and after the Confirmation Date, including any objections to the classification of any Claim or Interest;

6. To enter and implement such orders as may be appropriate if the Confirmation Order is for any reason stayed, revoked, modified and/or vacated;

7. All matters relating to the construction and implementation of the Plan and the provisions thereof, and to hear and determine all requests for orders in aid of execution, implementation or consummation of this Plan;

8. All matters relating to disputes arising in connection with the interpretation, implementation or enforcement of this Plan or the Confirmation Order, including disputes involving the injunction and exculpation provisions of this Plan, and disputes arising under agreements, documents or instruments executed in connection with this Plan;

9. To consider any modifications of this Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code or modifications to the Confirmation Order, to cure any defect or omission or to reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

10. All applications for allowance of compensation and reimbursement of Professional Fee Claims and Committee Professional Fee Claims under this Plan or under §§ 328, 330, 331, 503(b), 1103 and 1129(a)(4) of the Bankruptcy Code;

11. To hear and determine all motions requesting allowance of an Administrative Claim;

12. To determine requests for the payment of Claims entitled to priority under § 507(a)(2) of the Bankruptcy Code, including compensation and reimbursement of expenses of parties entitled thereto;

13. All Causes of Action, Avoidance Actions and other suits and adversary proceedings, including proceedings to recover assets of the Litigation Trust, as successor-in-interest to the Debtors and property of the Estates, wherever located, and to adjudicate any and all other Causes of Action, Avoidance Actions, suits, adversary proceedings, motions, applications and contested matters that may be commenced or maintained pursuant to the Chapter 11 Cases or this Plan, proceedings to adjudicate the allowance of Disputed Claims and Interests, and all controversies and issues arising from or relating to any of the foregoing, including, without limitations, Known Cases of Action and Unknown Causes of Action;

14. All disputes regarding the payment of the Excess SME Proceeds, the accounting supporting the Excess SME Proceeds, the refund of any Excess SME Proceeds during the Excess SME Proceeds Period;

15. All matters concerning state, local and federal taxes in accordance with §§ 346, 505 and 1146 of the Bankruptcy Code;

16. Any other matter to the extent such jurisdiction is consistent with the Bankruptcy Code;

17. To enter the Final Decree closing the Chapter 11 Case; and

18. To enforce all orders previously entered by the Bankruptcy Court, including the Confirmation Order.

ARTICLE XI.

MISCELLANEOUS PROVISIONS

A. *Effectuating Documents, Further Transactions and Corporation Action*

The Plan Proponents are authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements of documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions hereof.

Prior to, on or after the Effective Date (as appropriate), all matters provided for hereunder that would otherwise require approval of the shareholders or directors of the Debtors shall be deemed to have occurred and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to the applicable general corporation law of the states where each of the Debtors are organized without any requirement of further action by the shareholders or directors of any Debtor.

B. *Payment of Statutory Fees*

All fees payable pursuant to section 1930(a) of Title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid, prior to the Effective Date, out of the Assets of the Estate for each quarter (including any fraction thereof) and after the Effective Date by the Litigation Trust until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first.

C. *Headings*

The headings of the articles, paragraphs and sections of this Plan are inserted for convenience only and shall not affect the interpretation hereof.

D. *Binding Effect of Plan*

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Effective Date, the provisions of this Plan shall bind any Holder of a Claim against, or Interest in, the Debtors, the Estates, the Litigation Trust and their respective successors or assigns, whether or not the Claim or Interest of such Holders is Impaired under this Plan and whether or not such Holder has accepted this Plan. The rights, benefits and obligations of any entity named or referred to in this Plan, whose actions may be required to effectuate the terms of this Plan, shall be binding on and shall inure to the benefit of any heir, executor, administrator, successor or assign of such entity (including, without limitation, the Litigation Trust Trustee and any trustee appointed for the Debtors under chapters 7 or 11 of the Bankruptcy Code).

E. *Final Order*

Except as otherwise expressly provided in this Plan, any requirement in this Plan for a Final Order may be waived by the Plan Proponents in consultation with the

Committee upon written notice to the Bankruptcy Court. No such waiver shall prejudice the right of any party in interest to seek a stay pending appeal of any order that is not a Final Order.

F. *Withholding and Reporting Requirements*

In connection with this Plan and all instruments issued in connection herewith and distributions hereunder, the Debtors, the Reorganized Debtor, the Litigation Trust and the Litigation Trust Trustee shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements.

G. *Tax Exemption*

Pursuant to section 1146 of the Bankruptcy Code, any transfers from the Debtors, the Litigation Trust or the Litigation Trust Trustee to any other Person or entity pursuant to this Plan, or any agreement regarding the transfer of title to or ownership of the Debtors' or the Litigation Trust's personal property, or the issuance, transfer or exchange of any security under this Plan, or the execution, delivery or recording of an instrument of transfer pursuant to, in implementation of or as contemplated by this Plan, including, without limitation, any transfers to or by the Litigation Trust Trustee of the Debtors' or the Litigation Trust's property in implementation of or as contemplated by this Plan shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city or governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument, without requiring the payment of any documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax or similar tax.

H. *Governing Law*

Except to the extent a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless specifically stated, the rights, duties and obligations arising under this Plan, any agreements, documents and instruments executed in connection with this Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreements shall control), and, with respect to the Debtors and the Litigation Trust, corporate governance matters shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to conflicts of law principles.

I. *Severability*

After the Effective Date, should the Bankruptcy Court or any other court of competent jurisdiction determine that any provision in this Plan is either illegal on its face or illegal as applied to any Claim, such provisions shall be unenforceable either as to all Holders of Claims or as to the Holder of such Claim as to which the provision is

illegal, respectively. Such a determination of unenforceability shall in no way limit or affect the enforceability and operative effect of any other provision of this Plan.

J. *Plan Controls*

In the event and to the extent any provision of this Plan is inconsistent with any provision of the Disclosure Statement or the Plan Supplement, the provisions of this Plan shall control and take precedence.

K. *Amendments and Modifications*

The Plan Proponents may alter, amend or modify this Plan under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Hearing. After the Confirmation Date and prior to "substantial consummation" (as such term is defined in section 1101(2) of the Bankruptcy Code) of this Plan, the Plan Proponents in consultation with the Committee may institute proceedings in the Bankruptcy Court pursuant to section 1127(b) of the Bankruptcy Code to remedy any defect or omission or reconcile any inconsistencies in this Plan, the Disclosure Statement or the Confirmation Order, and pursue such matters as may be necessary to carry out the purposes and effects of this Plan, by the filing of a motion on notice to the Bankruptcy Rule 2002 service list only, and the solicitation of all Creditors and other parties-in-interest shall not be required.

L. *Notices*

Any notices required under this Plan or any notices or requests of the Debtors, the Plan Proponents, the Reorganized Debtor, or the Litigation Trust Trustee by parties in interest under or in connection with this Plan shall be in writing and served either by (i) certified mail, return receipt requested, postage prepaid, (ii) hand delivery, or (iii) reputable overnight delivery service, all charges prepaid, and shall be deemed to have been given when received by the following parties:

To the Debtors:

Reed Smith LLP
Attn: Derek J. Baker, Esq. and Derek M. Osei-Bonsu, Esq.
Three Logan Square
1717 Arch Street Suite 3100
Philadelphia, PA 19146

-and-

Reed Smith LLP
Attn: Ann E. Pille, Esq.
10 S. Wacker Drive, Suite 4000
Chicago, IL 60606

To the Committee:

Dechert LLP
Attn: Stephen Zide, Esq. and David Herman, Esq.

Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036

To the Reorganized Debtor and the Plan Proponents:

Togut, Segal & Segal LLP
Attn: Kyle J. Ortiz, Esq. and Bryan M. Kotliar, Esq.
One Penn Plaza, Suite 3335
New York, NY 10119

To the Litigation Trust and the Litigation Trust Trustee:

_____

M. *Filing of Additional Documents*

On or before substantial consummation of this Plan, the Plan Proponents may file with the Bankruptcy Court such agreements or other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan.

N. *Direction to a Party*

From and after the Effective Date, the Plan Proponents, the Litigation Trust or the Litigation Trust Trustee may apply to the Bankruptcy Court for the entry of an order directing any Person to execute or deliver or to join in the execution or delivery of any instrument or document reasonably necessary or reasonably appropriate to effect a transfer of properties dealt with by this Plan, and to perform any other act (including the satisfaction of any lien or security interest) that is reasonably necessary or reasonably appropriate for the consummation of this Plan.

O. *Successors and Assigns*

The rights, benefits and obligations of any Person or Entity named or referred to herein shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign of such Person or Entity.

P. *Reservation of Rights*

Except as expressly set forth herein, this Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of this Plan, any statement or provision contained herein, or the taking of any action by the Plan Proponents with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of the Plan Proponents with respect to the Holders of Claims or Interests prior to the Effective Date.

Q. *Further Assurances*

The Debtors, the Reorganized Debtor, the Litigation Trust Trustee, and all Holders of Claims receiving distributions hereunder and all other parties in interest shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan.

R. *Entire Agreement*

The Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations on such subjects, all of which have become merged and integrated into the Plan.

S. *Filing of Additional Documents*

On or before the Effective Date, the Plan Proponents may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

[*Signature Page Follows*]

Dated: June 17, 2024
New York, New York

Respectfully submitted,

TOGUT, SEGAL & SEGAL LLP

/s/ Kyle J. Ortiz
Kyle J. Ortiz
Bryan M. Kotliar
Martha E. Martir
Amanda C. Glaubach
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aglaubach@teamtogut.com

Counsel for the Petitioning Creditors

APPENDIX B

Petitioning Creditors' Alternative Chapter 11 Plan for
Eletson Holdings Inc. and its Debtor Affiliates
(Redline)

~~IN THE UNITED STATES BANKRUPTCY COURT~~
~~FOR THE SOUTHERN DISTRICT OF NEW YORK~~

THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN. ACCEPTANCES OR REJECTIONS WILL NOT BE SOLICITED UNTIL THE BANKRUPTCY COURT HAS APPROVED A DISCLOSURE STATEMENT.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Eletson Holdings Inc., *et al.*,[1]	Case No. 23-10322 (JPM)
Debtors.	(Jointly Administered)

PETITIONING CREDITORS' ALTERNATIVE CHAPTER 11 PLAN FOR ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS

~~SECOND AMENDED JOINT PLAN OF REORGANIZATION OF DEBTORS UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE~~

TOGUT, SEGAL & SEGAL LLP
One Penn Plaza
New York, New York 10119
(212) 594-5000
Kyle J. Ortiz
Bryan M. Kotliar
Martha E. Martir

[1] The Debtors in these chapter 11 cases are: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. The address of the Debtors' corporate headquarters is 118 Kolokotroni Street, GR 185 35 Piraeus, Greece. The Debtors' mailing address is c/o Eletson Maritime, Inc., 1 Landmark Square, Suite 424, Stamford, Connecticut 06901.

Amanda C. Glaubach

Counsel for the Petitioning Creditors[2]

Dated: June 17, 2024
New York, New York

[2] The "Petitioning Creditors" consist of Pach Shemen LLC, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein ("Goldstein"), Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust ("Goldstein Trust", and together with Goldstein, "Mr. Goldstein"), Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike. While Togut, Segal & Segal LLP represents Mr. Goldstein as a "Petitioning Creditor," Mr. Goldstein is not a "Plan Proponent" for purposes of this Plan.

REED SMITH LLP

Derek J. Baker
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~~SECOND AMENDED JOINT PLAN OF REORGANIZATION OF DEBTORS UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE~~

PETITIONING CREDITORS' ALTERNATIVE CHAPTER 11 PLAN FOR ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS

Pursuant to Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, certain of the Petitioning Creditors,[3] as Plan Proponents, hereby propose the following plan of reorganization for the resolution of the outstanding Claims against and Interests in Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC, debtors and debtors-in-possession (collectively and as defined below the "Debtors"), in the above-captioned and numbered case~~, hereby respectfully propose this Joint Plan of Reorganization of Debtors Under Chapter 11 of the United States Bankruptcy Code.~~.

The Plan effects a restructuring of the Debtors' outstanding obligations owed to its creditor constituencies and is created for the purposes, among others, of making distributions to the Holders of Allowed Claims and Interests, and otherwise restructuring the outstanding obligations of the Estates, all as more fully set forth in this Plan.

ARTICLE I.

RULES OF INTERPRETATION, COMPUTATION OF TIME, GOVERNING LAW, RESERVATION OF RIGHTS AND DEFINED TERMS

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

1. For purposes herein: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) any reference herein to an existing document or exhibit Filed, or to be Filed, shall mean such document or exhibit, as it may have been or may be amended, modified or supplemented; (d) unless otherwise specified, all references herein to Sections, Articles and Exhibits are references to Sections, Articles and Exhibits hereof or hereto; (e) the words "herein," "hereof" and "hereto" refer to the Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that

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[3] While Gene B. Goldstein and Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust are Petitioning Creditors and represented by Togut, Segal & Segal LLP, neither is a "Plan Proponent" for purposes of the Plan because of Mr. Goldstein's role as a member of the Committee.

is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

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

3. Except to the extent that the Bankruptcy Code or Bankruptcy Rules are applicable, and subject to the provisions of any contract, instrument, release, indenture or other agreement or document entered into in connection herewith, the rights and obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof.

B. *Defined Terms*

Unless the context requires otherwise, the following terms shall have the following meanings when used in capitalized form herein:

1. "Administrative Bar Date" means the date which is the 30th day after the Effective Date.

2. "Administrative Budget" means (i) the initial budget for the period following the Effective Date, setting forth in reasonable detail the anticipated Post-Confirmation Expenses of the Litigation Trust, together with any amendments or modifications thereto, as prepared by the ~~Debtors~~Plan Proponents pursuant to Article IV.N of this Plan which shall be determined by the ~~Debtors~~Plan Proponents with the consent of the Committee, which consent shall not be unreasonably withheld, in an amount no less than $200,000 which shall be drawn from the Distributable Cash; and (ii) any modified budget, setting forth in reasonable detail the anticipated Post-Confirmation Expenses of the Litigation Trust, together with any amendments or modifications thereto, as prepared by the Litigation Trust Trustee and approved by the Litigation Trust Oversight Committee pursuant to Article IV.N of this Plan.

3. "Administrative Claim" means a Claim for costs and expenses of administration under ~~section~~sections 503(b), 507(a)(2), 507(b) or 1114(e)(2) of the Bankruptcy Code, including, but not limited to: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the businesses of the Debtors (including wages, salaries or commissions for services and payments for goods and other services and leased premises); (b) compensation for legal, financial advisory, accounting and other services and reimbursement of expenses awarded or allowed under sections 328, 330(a) or 331 of the Bankruptcy Code or otherwise; ~~and~~ (c) all fees and charges assessed against the Estates under chapter 123 of Title 28 United States Code, 28 U.S.C. §§ 1911-1930; and (d) all requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3)(D) and 503(b)(4) of the Bankruptcy Code, including, but not limited to, the Plan Proponents Fees and Expenses.

4. "Administrative Fund" means the reserve established for the Post-Confirmation Expenses in accordance with Article IV.N herein, which reserve may be augmented with Litigation Trust Assets by the Litigation Trust Trustee in consultation with and at the direction of the Litigation Trust Oversight Committee; *prov*ided, *however*, on the Effective Date, the initial Administrative Fund shall not exceed the amount of $200,000 necessary to monetize the Litigation Trust Causes of Action as of the Effective Date.

5. "Allowed Claim" or "Allowed Interest" means, respectively, a Claim or Interest: (i) that has been Scheduled and (a) is not Scheduled as disputed, contingent or unliquidated and (b) as to which no Proof of Claim has been filed; (ii) as to which a timely Proof of Claim has been filed as of the relevant Claims Bar Date to which (x) no objection thereto, or motion to subordinate, disallow or otherwise limit recovery, has been made, and (y) the Litigation Trust Trustee has determined that no objection, or motion to subordinate, disallow or otherwise limit recovery, will be made to such Claim or Interest; (iii) as to which a timely Administrative Claim Request has been filed to which (x) no objection thereto, or application to equitably subordinate or otherwise limit recovery has been made, and (y) the Litigation Trust Trustee has determined that no objection, or application to equitably subordinate or otherwise limit recovery, will be made to such Administrative Claim Request; or (iv) that has been allowed by a Final Order or pursuant to the terms of this Plan. An Allowed Claim shall not include interest on the amount of any Claim except with respect to an Allowed Secured Claim as permitted by section 506(b) of the Bankruptcy Code or as specifically provided in this Plan, or by Final Order of the Bankruptcy Court. If the Litigation Trust Trustee shall object to any Claim in accordance with section 502(d) of the Bankruptcy Code, such Claim shall not be an Allowed Claim until the avoidable transfer is returned, a Final Order has been entered that no avoidable transfer exists, or an agreement or settlement is reached that is approved by the Bankruptcy Court or pursuant to provisions in the Plan.

6. "Allowed _____ Claim" or "Allowed _____ Interest" means an Allowed Claim or Allowed Interest, as the case may be, of a specified Class or an Allowed Claim that is an Administrative Claim, Priority Claim, Secured Claim, General Unsecured Claim or Interest, as the case may be.

7. "Arbitration" means the arbitration proceeding titled *Eletson Holdings, Inc., et al. v. Levona Holdings Ltd.* before Justice Belen at JAMS Arbitration Ref. No. 5425000511, initiated by Eletson Holdings and Eletson Corp. against Levona Holdings Ltd.

~~8. "Arbitration Award" means the award entered in favor of the Petitioners against Levona in the Arbitration.~~

~~9.~~8. "Assets" means all assets of the Debtors, of any nature whatsoever, including, without limitation, all property of the Estates under and pursuant to Section 541 of the Bankruptcy Code; Cash; Causes of Action including Avoidance Actions; rights; interests; and property, real and personal, tangible and intangible.

~~10.~~9. "Avoidance Actions" means those avoidance actions available in these Chapter 11 Cases pursuant to Chapter 5 of the Bankruptcy Code.

~~11.~~10. "Azure" means collectively Azure Nova Spring Company, Ltd., Azure Nova Summer Company, Ltd., Azure Nova Autumn Company, Ltd. and Azure Nova Winter Company, Ltd.

~~12.~~11. "Azure Guarantees" means those certain guarantees dated as of August 24, 2017, executed by Eletson Holdings in favor of the obligations of certain Eletson affiliates to Azure.

~~13.~~12. "Azure Guaranty Claims" means any and all guaranty related Claims arising from the Azure Guarantees.

~~14.~~13. "Azure Guaranty Recovery" means the lesser of (i) $200,000 and (ii) such other amount as determined by the ~~Debtors~~Plan Proponents or the Reorganized Debtor, as applicable, and Azure in full and complete settlement, release and satisfaction of the Azure Guaranty Claims.

~~15.~~14. "Ballots" means the ballots accompanying the Disclosure Statement upon which Holders of Impaired Claims and Interests in the Debtors entitled to vote shall indicate their acceptance or rejection of the Plan in accordance with the Plan and the Voting Instructions.

~~16.~~15. "Bankruptcy Code" means Title 11 of the United States Code, and the applicable portions of Title 28 of the United States Code.

~~17.~~16. "Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of New York.

~~18.~~17. "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure, as amended from time to time, as applicable to the Chapter 11 Cases, promulgated under 28 U.S.C. § 2075 and the General, Local and Chambers Rules of the Bankruptcy Court.

~~19.~~18. "Bar Date Order" means the *Order Establishing Deadlines for Filing Proofs of Claim and Claims Related to Gap Period and Approving Form and Manner of Notice Thereof* [D.I. 264].

~~20.~~19. "Beneficial Holder" means the Person or Entity holding the beneficial interest in a Claim or Interest.

~~21.~~20. "Business Day" means any day, other than a Saturday, Sunday or "legal holiday" (as defined in Bankruptcy Rule 9006(a)) in New York, York.

~~22.~~21. "Cash" means cash and cash equivalents in certified or immediately available funds, including, but not limited to, bank deposits, checks and similar items.

~~23.~~22. "Cause of Action" means, but is not limited to the following: all claims as defined in section 101(5) of the Bankruptcy Code, actions, choses in action, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties,

covenants, controversies, agreements, promises, variances, trespasses, damages, judgments, third-party claims, counterclaims and cross claims (including, but not limited to, all claims in any avoidance, recovery, inequitable conduct, subordination or other actions against Insiders and/or any other Persons under the Bankruptcy Code, including sections 510, 542, 543, 544, 545, 547, 548, 549, 550, 551 and 553) of the Debtors, the Debtors in Possession and/or the Estates against any Person based on law or equity, including, but not limited to, under the Bankruptcy Code, whether direct, indirect, derivative, or otherwise and whether asserted or unasserted, known or unknown.

~~24.~~23. "Chapter 11 Cases" means the chapter 11 bankruptcy cases of the Debtors initiated pursuant to that *Order Converting These Cases to Cases Under Chapter 11* [D.I. 215], jointly administered under the name Eletson Holdings Inc. Case No. 23-10322.

~~25.~~24. "Claim" means any claim(s) against the Debtors as such term is defined in Bankruptcy Code § 101(5).

~~26.~~25. "Claim Holder" means the Holder of a Claim.

~~27.~~26. "Claims Bar Date" means (i) December 18, 2023, and (ii) such other date(s) fixed by order(s) of the Bankruptcy Court, by which all Persons, including governmental units, asserting a Claim against the Debtors, must have filed a Proof of Claim or Administrative Claim Request or be forever barred from asserting such Claim.

~~28.~~27. "Class" means a category of Claims or Interests as set forth in Article II herein.

~~29.~~28. "Class 6 Claims" means the aggregate Claims of Class 6A and Class 6B.

~~30.~~29. "Collections Contribution" means ~~the Gas Ownership Defendants' agreement to contribute and deliver to the Litigation Trust Trustee~~ a one time-cash payment equal to (i) 90% of the first $21 million of ~~net~~ cash recoveries under the Final Award ~~(with the remaining 10% of net cash recoveries being collected by Eletson Corporation on account of amounts awarded to Eletson Corporation under the Final Award);~~; *plus* (ii) 50% of the next $20 million of ~~net~~ cash recoveries under the Final Award ~~(with the remaining 50% of such of cash recoveries of amounts awarded to Eletson Corporation under the Final Award);~~; *plus* (iii) 75% of ~~the net~~ cash recoveries in excess of $41 million under the Final Award; *provided*, *however*, for purposes of the foregoing, "~~net~~ cash recoveries" shall mean cash actually collected under the Final Award ~~net of costs of collection incurred~~ following the date of the Final Award (*i.e.*, September 29, 2023) by Eletson Corporation and/or the Gas Ownership Defendants ~~and net of any amounts setoff by any Gas Ownership Defendants for amounts owed to Levona~~.

~~31.~~30. "Committee" means the Official Committee of Unsecured Creditors as constituted by the Office of United States Trustee in the Chapter 11 Cases. [D.I. 233.]

~~32.~~31. "Committee Professionals" means (a) Dechert LLP, (b) FTI Consulting, Inc., and (c) any other Person or Entity employed by the Committee pursuant to a Final Order in accordance with sections 327 and 1103 or 363 of the Bankruptcy Code and to be

compensated for services rendered or incurred through the Effective Date pursuant to sections 327, 328, 329, 330 and 331 or 363 of the Bankruptcy Code.

~~33.~~32. "Committee Professional Fees" means all fees and expenses (including, but not limited to, success fees, if any) for services rendered by all Committee Professionals in the Chapter 11 Cases through the Effective Date that the Bankruptcy Court has not denied by Final Order, regardless of whether a fee application has been filed for such fees.

~~34.~~33. "Committee Professional Fee Claims" means all Committee Professional Fees which remain unpaid as of the Effective Date.

~~35.~~34. "Confirmation" means the entry of the Confirmation Order.

~~36.~~35. "Confirmation Date" means the date upon which the Confirmation Order is entered by the Bankruptcy Court on its docket, within the meaning of Bankruptcy Rule 5003.

~~37.~~36. "Confirmation Hearing" means that hearing before the Bankruptcy Court wherein the ~~Debtors~~Plan Proponents seek confirmation of the Plan as provided for in section 1128 of the Bankruptcy Code.

~~38.~~37. "Confirmation Order" means the order of the Bankruptcy Court, in form and substance satisfactory to the ~~Debtors~~Plan Proponents, confirming this Plan pursuant to section 1129 of the Bankruptcy Code, and approving the transactions contemplated herein.

~~39.~~38. "Consolidating Debtors" means collectively Eletson Finance (US) LLC and Agathonissos Finance LLC.

~~40.~~39. "Conversion Date" means September 25, 2023.

~~41.~~40. "Corp Guarantees" means an executed guaranty or similar security agreement other than the Azure Guarantees and the OCM Guarantees executed by Eletson Holdings guaranteeing the obligations of Eletson Corporation.

~~42.~~41. "Corp Guaranty Claims" means any guaranty related Claims arising from the Corp Guarantees.

~~43.~~42. "Creditor" shall have the meaning in section 101(10) of the Bankruptcy Code.

~~44.~~43. "CVRs" means the Plan Sponsor's agreement to contribute and deliver to the Litigation Trust Trustee a one time-cash payment equal to the amount of the Collections Contribution; *provided, however, that*, to the extent the Final Award is transferred from Eletson Gas and/or the Preferred Owners to Eletson Holdings or the Reorganized Debtor, as applicable, and/or otherwise paid to Eletson Holdings, then the Plan Sponsor shall not have an obligation to contribute and deliver the CVRs, in which case the proceeds of the foregoing shall be transferred to the Litigation Trust as

Litigation Trust Distributable Proceeds.~~"Debtors" means collectively Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC.~~

~~45.~~44. "Debtor Privilege" means any attorney-client privilege, work product protection, joint interest privilege or other privilege or immunity attaching to any documents or communications (in any form, including, without limitation, written, electronic or oral) held by the Debtors.

~~46.~~45. "Debtors" means collectively Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC.

~~47.~~46. "DIP Agent" means the administrative agent set forth in the DIP Documents.

~~48.~~47. "DIP Claim" means any Claim in respect of the Debtors' obligations under the DIP Documents, including principal, interests and other fees and expenses owing pursuant to the DIP Documents and in accordance therewith held by or otherwise owed to the DIP Agent and/or DIP Lenders.

~~49.~~48. "DIP Credit Agreement" means the credit agreement governing the terms and conditions of the postpetition financing facility entered into by the Debtors, DIP Agent and DIP Lenders and approved pursuant to order of the Bankruptcy Court.

~~50.~~49. "DIP Documents" means the DIP Credit Agreement and related documents.

~~51.~~50. "DIP Facility" means the postpetition financing facility approved by the Bankruptcy Court pursuant to the DIP Order.

~~52.~~51. "DIP Lenders" means the lenders under the DIP Credit Agreement and any successors and permitted assigns.

~~53.~~52. "DIP Order" means the interim or final order, as applicable, entered by the Bankruptcy Court approving the DIP Facility and authorizing the DIP Documents.

~~54.~~53. "Disallowed Claim" means a Claim or any portion thereof that (i) has been disallowed by a Final Order, (ii) is Scheduled as zero or as contingent, disputed or unliquidated and as to which no Proof of Claim or Administrative Claim Request has been timely filed or deemed timely filed with the Bankruptcy Court, (iii) is not Scheduled and as to which no Proof of Claim or Administrative Claim Request has been timely filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any order of the Bankruptcy Court or otherwise deemed timely filed under applicable law or this Plan, (iv) has been withdrawn by agreement of the Debtors, the Plan Proponent, or the Litigation Trust Trustee and the Holder thereof, or (v) has been withdrawn by the Holder thereof.

~~55.~~54. "Disbursing Agent" means the Litigation Trust Trustee, the Reorganized Debtor, or third party, as applicable, in accordance with Article VII.A.

~~56.~~55. "Disclosure Statement" means the ~~First Amended Disclosure Statement in Support of the Second Amended Joint~~disclosure statement relating to this Plan ~~of Reorganization of Debtors under Chapter 11 of the Bankruptcy Code, dated as of [_], and~~(including all exhibits thereto, as amended, supplemented, or modified from time to time~~, describing the Plan,~~) that is prepared and distributed in accordance with the Bankruptcy Code and approved by the Bankruptcy Court.

~~57.~~56. "Disclosure Statement Order" means the order approving the Disclosure Statement, which was entered by the Bankruptcy Court on [_], 2024 [D.I._].

~~58.~~57. "Disputed" means, for purposes of this Plan, any Claim or Interest: (a) listed on the Schedules as unliquidated, disputed or contingent and for which a timely objection has been filed; or (b) as to which any Debtor or any other party in interest has interposed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules which has not been withdrawn or determined by a Final Order; *provided*, *however*, that a Claim shall not be a Disputed Claim to the extent it becomes an Allowed Claim or a Disallowed Claim.

~~59.~~58. "Distributable Cash" means all remaining Cash or cash equivalents comprising of the ~~Shareholder New Value Contribution~~Equity Investment after (i) payment of the Allowed Administrative Claims, including, among others, Professional Fee Claims and Committee Fee Claims, (ii) funding of the Administrative Fund, (iii) funding of the Azure Guaranty Recovery, (iv) funding the Eletson Corporation Guaranty Recovery, (v) funding the Trade Creditor Claim Reserve, and (vi) ~~and~~ funding the Noteholder Recovery Election Reserve. Notwithstanding the foregoing, (~~i~~a) any excess amounts, if any, remaining in the Trade Creditor Claim Reserve ~~and~~, the Noteholder Election Recovery Reserve, ~~if any,~~ and the Professional Fee Reserve, after final distributions on account of Allowed Trade Creditor Claims ~~and~~, Noteholder Election Recovery Claims, ~~(ii~~Professional Fee Claims, or Committee Professional Fee Claims, as applicable, (b) any excess amounts remaining in the Administrative Fund, and ~~(iii)~~ c) the SME Revenue, shall, in each case, ~~shall~~also be deemed Distributable Cash.

~~60.~~59. "Distribution Record Date" means the Effective Date unless a different date is ordered by the Bankruptcy Court.

~~61.~~60. ~~"~~"District Court Confirmation Proceedings" means those proceedings before the United States District Court for the Southern District of New York regarding the confirmation of the ~~Arbitration~~Final Award issued in the Arbitration.

~~62.~~61. "Effective Date" means the date selected by the ~~Debtors~~Plan Proponents on which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions specified in Article VIII herein have been (i) satisfied or (ii) waived pursuant to the applicable provisions of this Plan.

~~63.~~62. "Eletson Corporation" means non-Debtor Eletson Corporation.

~~64.~~63. "Eletson Corporation Guaranty Recovery" means ~~$1,000,000.00 to be paid Pro Rata~~Cash in the aggregate amount of distributions to Holders of Corp Guaranty Claims~~.~~ pursuant to the elections described in Article II.C.2(b).

~~65.~~64. "Eletson Gas" means non-Debtor Eletson Gas LLC.

~~66.~~65. "Eletson Holdings" means Eletson Holdings, Inc.

~~67. "Eletson Holdings Members" means the holders of the common shares in Eletson Holdings.~~

~~68.~~66. "Entity" means an entity as defined in section 101(15) of the Bankruptcy Code.

67. "Equity Investment" means, collectively, a contribution provided by or caused to be provided by the Plan Sponsor, consisting of (a) Cash in an aggregate amount of $41 million and (b) the CVRs.

~~69.~~68. "Estate" means the estate of each Debtor created by section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

~~70.~~69. "Excess SME Cash Flow Proceeds" means the future cash contributions of the Reorganized Debtor to the Litigation Trust during the Excess SME Proceeds Period of 20% of the consolidated excess cash flow (calculated on a semi-annual basis) of the consolidated operating revenues of the SMEs less the consolidated operating expenses for the previous six-month period, up to a maximum of $5 million in the aggregate.

~~71.~~70. "Excess SME Proceeds" means the Excess SME Cash Flow Proceeds and the Excess SME Sale Proceeds.

~~72.~~71. "Excess SME Proceeds Period" means the earlier of the four-year anniversary of the Effective Date or the date on which the sale of all of the SMEs and/or the SME Vessels has been consummated.

~~73.~~72. "Excess SME Sale Proceeds" means 20% of the gross proceeds from the sale of any SME and/or SME Vessel less said SME's existing debt (including any unpaid obligations under the terms of the applicable bareboat charter and any trade obligations applicable to the operation of such SME Vessel which were incurred but not paid prior to the sale closing date) up to a maximum of $5 million in the aggregate.

~~74.~~73. "Exchange Notes" means those certain 9.625% First Preferred Ship Mortgage Notes due 2022 in an original Face Amount of $300 million issued by the Debtors that were exchanged by noteholders pursuant to the that May 25, 2018 exchange offer.

~~75.~~74. "Exchange Noteholder" means a Holder of the Exchange Notes.

~~76.~~75. "Exchange Note Indenture" means that certain Indenture, dated as of July~~,~~ 2, 2018, by and among the Debtors, as co-issuers, the guarantors party thereto, and the

Exchange Notes Trustee, as trustee and collateral agent (as amended, amended and restated, modified, or supplemented from time to time).

~~77.~~76. "Exchange Notes Trustee" means Wilmington Savings Fund Society, FSB, in its capacity as trustee and collateral trustee under the Exchange Notes Indenture, including any successor and permitted assigns thereto.

~~78.~~77. "Exculpated Parties" means, collectively, and in each case solely in its capacity as such ~~and only to the extent they served in a fiduciary capacity during the Chapter 11 Cases: the Debtors and the Debtors' officers and directors and the Debtors' professionals retained under the Bankruptcy Code (each in their capacities as such) that served in such capacities at any time between the Petition Date and the Effective Date.~~, (a) the Plan Proponents, (b) the Committee and all members thereto, and (c) with respect to each of the foregoing Entities and Persons in the foregoing clauses (a) through (b), each of their Related Parties, solely to the extent such Related Parties are fiduciaries of the Estates or otherwise to the fullest extent provided for pursuant to section 1125(e) of the Bankruptcy Code.

~~79.~~78. "Face Amount" means (i) when used in reference to a Disputed or Disallowed Claim, the full stated liquidated amount claimed by the Holder of such Claim in any Proof of Claim timely filed with the Bankruptcy Court or otherwise deemed timely filed by any Final Order of the Bankruptcy Court or other applicable bankruptcy law, and (ii) when used in reference to an Allowed Claim, the allowed amount of such Claim.

~~80.~~79. "File" or "Filed" means file or filed with the Bankruptcy Court in the Chapter 11 Cases.

~~81.~~80. "Final Award" means ~~[~~the final arbitral award issued ~~in the~~ against~~arbitration proceeding titled *Eletson Holdings, Inc., et al. v.*~~ Levona Holdings Ltd. ~~before Justice Belen at JAMS Ref.~~ in the Arbitration.~~No. 5425000511.]~~

~~82.~~81. "Final Decree" means the decree contemplated under Bankruptcy Rule 3022.

~~83.~~82. "Final Order" means an order or judgment of the Bankruptcy Court as entered on the docket of the Chapter 11 Case that has not been reversed, stayed, modified or amended and as to which the time to appeal, petition for certiorari, or seek reargument or rehearing has run or as to which any right to appeal, reargue, petition for certiorari or seek rehearing has been waived in writing or, if an appeal, reargument, petition for certiorari or rehearing thereof has been pursued or granted then such an appeal, reargument, petition for certiorari or rehearing has been denied, and the time to take any further appeal or to seek certiorari or further reargument or rehearing has expired. Notwithstanding, and in lieu of the foregoing, insofar as the Confirmation Order confirming this Plan is concerned, Final Order means such order or judgment with respect to which no stay is in effect.

~~84.~~83. "Gas Ownership Defendants" means Eletson Gas, the Preferred Owners and/or any officers or directors of the same.

~~85.~~84. "General Unsecured Claim" means any Claim against any Debtor that is not an Administrative Claim, Priority Claim, a Secured Claim or an Interest, as of the Petition Date that is neither secured by collateral nor entitled to priority under the Bankruptcy Code or any Final Order of the Bankruptcy Court.

~~86.~~85. "Governmental Unit" has the meaning set forth in Section 101(27) of the Bankruptcy Code.

~~87.~~86. "Holder" and collectively, "Holders" means a Person or Entity holding an Interest or Claim, and with respect to a vote on the Plan, means the Beneficial Holder as of the Distribution Record Date or any authorized signatory who has completed and executed a Ballot in accordance with the Voting Instructions.

~~88.~~87. "Impaired" means with respect to any Class of Claims or Interests, any Claims or Interests that are impaired within the meaning of § 1124 of the Bankruptcy Code.

~~89.~~88. "Impaired Claim" means a Claim classified in an Impaired Class of Claims.

~~90.~~89. "Impaired Class" means each of the Classes that is not an Unimpaired Class.

90. "Initial Petitioning Creditors" means Pach Shemen, VR Global Partners, L.P., and Alpine Partners (BVI) L.P. and (ii) Levona to the extent Levona is deemed to be a creditor of the Debtors by order of the Bankruptcy Court.

91. "Intercompany Interest" means any Interest of a Debtor or a Non-Debtor Affiliate that is held by another Debtors, including (a) all issued, unissued, authorized or outstanding shares or stock and (b) any interest, including but not limited to, any warrant, options, conversion privileges or contract rights to purchase or acquire any equity security or membership interest of any of the Debtors at any time.

92. "Interest" means any common equity interest in Eletson Holdings, including, but not limited to, all issued, unissued, authorized or outstanding shares or stock.

93. "Involuntary Petitions" means the chapter 7 petitions filed by certain of the Petitioning Creditors against each Debtor.

94. "Involuntary Proceedings" means (a) when used with reference to a particular Debtor, the case under chapter 7 of the Bankruptcy Code commenced by such Debtor in the Bankruptcy Court from the Petition Date through the Conversion Date and (b) when used with reference to all of the Debtors, the procedurally consolidated and jointly administered cases under chapter 7 of the Bankruptcy Code commenced by the Debtors in the Bankruptcy Court from the Petition Date through the Conversion Date.

~~93.~~95. "IRS" means the Internal Revenue Service.

96. ~~"Levona" means~~"Known Causes of Action" means, collectively, except for the Retained Causes of Action, any and all Causes of Action known as of the Effective Date, including, but not limited to, Causes of Action related to or arising under: (i) the purported transfer of the Preferred Shares of Eletson Gas; (ii) the transfer of the Final Award from Eletson Holdings to Eletson Gas and the Preferred Owners; (iii) Levona Holdings, Ltd.; (iv) any Avoidance Actions; (v) any Debtor or its Related Parties; (vi) any Non-Debtor Affiliate or its Related Parties; (vii) any non-Debtor direct or indirect subsidiary or its Related Parties; and (viii) any Eletson Insider and its Related Parties.

97. "Levona" means Levona Holdings Ltd. and/or its alter egos.

~~94. *Levona Holdings Ltd.* and/or its alter egos as determined in the Arbitration or necessary or appropriate to collect the Final Award.~~

~~95.~~98. "Liberian Law" means the governing laws of the Republic of Liberia.

~~96.~~99. "Liens" means any mortgage, pledge, deed of trust, assessment, security interest, lease, lien, adverse claim, levy, charge or other encumbrance of any kind, including any "lien" as defined in section 101(37) of the Bankruptcy Code, or a conditional sale contract, title retention contract or other contract to give any of the foregoing.

~~97.~~100. "Litigation Trust" means the trust that will be created to pursue the Litigation Trust Causes of Action and effect distributions to applicable holders of Litigation Trust Interests following the Effective Date in accordance with the terms of this Plan and the Litigation Trust Agreement.

~~98.~~101. "Litigation Trust Agreement" means the trust agreement described in Article IV of this Plan and substantially in the form to be filed with the Plan Supplement that, among other things, shall be drafted and filed by the Committee (~~subject~~in form and substance satisfactory to ~~review by~~ the ~~Debtors~~Plan Proponents), and establishes the Litigation Trust, and describes the powers, duties and responsibilities of the agreement respecting the transfer of documents, information, and Litigation Trust Privileges and privileges of the Reorganized Debtor (solely in its capacity as successor to the Debtors) and solely related to the Litigation Trust Causes of Action to be entered into with the Litigation Trust Trustee; *provided*, *however*, that to the extent the terms of Article IV of this Plan conflict with the Litigation Trust Agreement, the terms of the Litigation Trust Agreement shall control.

~~99.~~102. "Litigation Trust Assets" means the Litigation Trust Causes of Actions, the Excess SME Proceeds, ~~Collections Contribution,~~the CVRs, the Retained Causes of Action Contribution, and the Distributable Cash; *provided*, that neither the Debtors nor the Reorganized Debtor shall have any obligations to provide any funding to the Litigation Trust.

~~100.~~103. "Litigation Trust Beneficiaries" means holders of the Litigation Trust Interests.

~~101.~~104. "Litigation Trust Causes of Action" means any and all claims and Causes of Action of the Debtors occurring prior to the Effective Date (other than the Retained Causes of Action), whether a Known Cause of Action or Unknown Cause of Action, arising under state or federal law, Liberian Law or Marshall Islands Law, including, but not limited to, all Pending Adversary Proceedings, ~~Claim Objections~~objections to Claims, and Avoidance Actions owned by, or asserted on behalf of, or that may be asserted by or on behalf of, the Debtors or their Estates listed on the Litigation Trust Causes of Action Schedule.

~~102.~~105. "Litigation Trust Causes of Action Schedule" means the schedule ~~attached~~, to be included in the Plan ~~as Appendix A setting forth~~Supplement, providing additional details on the Known Causes of Action that will be transferred to the Litigation Trust and constitute the Litigation Trust Causes of Action.

~~103.~~106. "Litigation Trust Distributable Proceeds" means all actual proceeds of (i) the Litigation Trust Causes of Action, net of any amounts (a) used to repay any funding for the Litigation Trust in accordance with the terms of such funding, (b) used to pay the Litigation Trust Expenses, and (c) as otherwise provided in accordance with the Litigation Trust Agreement, (ii) the remaining Distributable Cash after satisfaction of the Litigation Trust Expenses, (iii) the ~~Collections Contribution (v~~CVRs, (iv) the Retained Causes of Action ~~Contributions~~Contribution, and (~~vi~~v) the cash provided by the Excess SME Proceeds.

~~104.~~107. "Litigation Trust Expenses" means all reasonable fees, costs and expenses of and incurred by the Litigation Trust, including legal and other professional fees, costs and expenses, administrative fees and expenses, insurance fees, taxes and escrow expenses, which shall be paid in accordance with the Litigation Trust Agreement and the terms of this Plan; *provided*, *however*, that neither the Debtors nor the Reorganized Debtor shall be required in any event to pay the Litigation Trust Expenses.

~~105.~~108. "Litigation Trust Interests" means the interests in the Litigation Trust to be distributed on a Pro Rata basis to holders of Claims in Class 6 as set forth herein, which shall entitle such Holder to its Pro Rata portion (based on the percentage of Litigation Trust Interests held by such Holder) of Litigation Trust Distributable Proceeds.

~~106.~~109. "Litigation Trust Oversight Committee" means the committee of up to five (5) members formed on the Effective Date and composed of members selected by the Committee. The initial members of the Litigation Trust Oversight Committee shall be identified in the Plan Supplement to be filed prior to the Confirmation Hearing or identified by the Litigation Trust Trustee pursuant to the terms of the Litigation Trust Agreement, as applicable.

~~107.~~110. "Litigation Trust Privileges" means any attorney-client privilege, work product protection, joint interest privilege or other privilege or immunity attaching to any documents or communications (in any form, including, without limitation, written, electronic or oral) held by the Debtors related exclusively to Litigation Trust Causes of Action which shall be transferred to the Litigation Trust along with the Litigation Trust Causes of Action.

~~108.~~111. "Litigation Trust Trustee" means the individual selected by the Committee pursuant to Article IV of this Plan to act as trustee of the Litigation Trust in accordance with the provisions of this Plan and the Litigation Trust Agreement.

~~109.~~112. "Marshall Islands Law" means the governing law of the Republic of the Marshall Islands.

~~110.~~113. "NAF Claim" means the Claim asserted by New Agathonissos Finance LLC to the extent any portion of said Claim is deemed an Allowed Claim.

~~111.~~114. "Non-Debtor Affiliate" means any person that is an affiliate of the Debtor within the meaning of section 101(2) of the Bankruptcy Code.

~~112.~~115. "Non-Petitioning Creditors Exchange Note Claims" means claims asserted by Exchange Noteholders other than the Initial Petitioning Creditors on account of the Exchange Notes.

~~113.~~116. "Noteholder Election Recovery" means the recovery provided to Holders of Noteholder Election Recovery Claims paid from the Noteholder Election Recovery Reserve which for each individual Holder of a Noteholder Election Recovery Claim shall be the lesser of (i) the Face Amount of such Holder's Noteholder Election Recovery Claim, (ii) such Holder's Pro Rata portion of the Noteholder Election Recovery Cap, or (iii) $~~70,000.~~100,000; *provided*, *that*, to the extent the Bankruptcy Court does not approve the Noteholder Election Recovery, Holders' of Noteholder Election Recovery Claims shall receive such Holder's Pro Rata portion of the Noteholder Election Recovery Cap.

~~114.~~117. "Noteholder Election Recovery Cap" means $~~7~~8,000,000.

~~115.~~118. "Noteholder Election Recovery Claims" means the Claims of any Holder of a Claim in Class 6A or 6B that affirmatively and irrevocably elects to have their Non-Petitioning Creditor Exchange Note Claim, Petitioning Creditor Exchange Note Claim or Old Note Claim, as applicable, treated as a Claim under Class 5 with recovery drawn from the Noteholder Election Recovery Reserve.

~~116.~~119. "Noteholder Election Recovery Reserve" means a reserve created in the amount ~~up to~~of the Noteholder Election Recovery Claim Cap to fund recoveries for Noteholder Election Recovery Claims.

~~117.~~120. "Objection Deadline" means that date which is one year after the Effective Date or such later date as the Court may allow upon request by the Litigation Trust Trustee, by which the Litigation Trust Trustee or any party in interest has to file an objection to any Claim not previously allowed.

~~118.~~121. "OCM Entities" means collectively OCM Maritime Rhine LLC, OCM Maritime Yukon LLC, OCM Maritime Autumn LLC and OCM Maritime Thames LLC.

~~119.~~122. "OCM Guarantees" means the guarantees executed by Eletson Holdings in favor of the obligations of the SMEs to the OCM Entities.

~~120.~~123. "OCM Guaranty Claims" means Claims arising from the OCM Guarantees.

~~121.~~124. "Old Noteholders" means the Holders of the Old Notes.

~~122.~~125. "Old Notes" means those certain 9.625% First Preferred Ship Mortgage Notes due 2022 in an original Face Amount of $300 million issued by the Debtors that were not converted by holders of Old Notes pursuant to that May 25, 2018 exchange offer.

~~123.~~126. "Old Notes Claim" means Claims arising from the Old Notes and the NAF Claim.

~~124.~~127. "Old Notes Indenture" means that certain indenture, dated as of December 19, 2013, among Eletson Holdings and Eletson Finance, as co-issuers, the guarantor parties thereto, and the Old Notes Trustee, as trustee and collateral trustee (as amended, amended and restated, modified, or supplemented from time to time).

~~125.~~128. "Old Notes Trustee" means Deutsche Bank Trust Company Americas, in its capacity as trustee and collateral trustee under the Old Notes Indenture, including any successor and permitted assigns thereto.

~~126.~~129. "Pach Shemen" means Pach Shemen LLC.

~~127.~~130. "Pending Adversary Proceedings" means all adversary proceedings commenced by the Debtors which are currently pending in the Bankruptcy Court.

~~128.~~131. "Person" means any individual, corporation, limited liability company, general partnership, limited partnership, limited liability partnership, association, joint stock company, joint venture, estate, trust, unincorporated organization, government or any political subdivision thereof or other entity.

~~129.~~132. "Petition Date" means March 7, 2023, the date on which certain of the Petitioning Creditors filed ~~involuntary petitions~~Involuntary Petitions for relief commencing the Bankruptcy Cases.

~~130. "Petitioners" means the Debtors, Eletson Corporation and any other party benefiting from the Arbitration Award.~~

~~131.~~133. "Petitioning Creditors" means, collectively, Pach Shemen, VR Global Partners, L.P., ~~and~~ Alpine Partners (BVI~~)~~), L.P. ~~and (ii) Levona to the extent Levona is deemed to be a creditor~~., Gene B. Goldstein, Gene B. Goldstein, In His Capacity as Trustee of the ~~Debtors by order~~Gene B. Goldstein and Francine T. Goldstein Family Trust, Mark Millet, In His Capacity as Trustee of the ~~Bankruptcy Court.~~ Mark E. Millet Living Trust,

Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike.

~~132.~~134. "Petitioning Creditors Exchange Note Claims" means any and all claims asserted by any Initial Petitioning Creditor arising from said Initial Petitioning Creditor's purporting to be the Beneficial Holder of any Exchange Notes.

~~133.~~135. "Plan" means this ~~Second Amended Joint Plan of Reorganization of Debtors under Chapter~~chapter 11 ~~of the United States Bankruptcy Code~~plan, either in its present form or as it may be altered, amended, modified or supplemented from time to time in accordance with the Plan, the Bankruptcy Code and the Bankruptcy Rules.

~~134.~~136. "Plan Consideration" means the ~~Shareholder New Value Contribution~~Equity Investment, the SME Revenue, the Retained Causes of Action Contribution, and the Excess SME Proceeds.

~~135.~~137. "Plan Consolidation" means the consolidation of the Consolidating Debtors into Eletson Holdings as set forth in Article IV.B of this Plan.

138. "Plan Proponents" means the Petitioning Creditors other than Gene B. Goldstein and Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust.

139. "Plan Proponents Fees and Expenses" means any and all of the Plan Proponents' reasonable and documented professional fees and out-of-pocket expenses incurred in connection with the Chapter 11 Cases as may be approved by the Bankruptcy Court as a substantial contribution to the Chapter 11 Cases pursuant to sections 503(b)(3)(D) and 503(b)(4) of the Bankruptcy Code.

140. "Plan Sponsor" means Pach Shemen or one or more of its affiliate(s) or designee(s).

~~136.~~141. "Plan Supplement" means a document supplementing the Plan to be submitted with the Court no later than ten (10) days prior to the objection deadline for the Confirmation Hearing.

~~137.~~142. "Preferred Owners" means collectively Desimuso Trading Company, Apargo Limited, and Fentalon Limited.

~~138.~~143. "Preferred Shares" means the Preferred Shares of non-Debtor Eletson Gas LLC.

~~139.~~144. "Post-Confirmation Expense" means any fees, costs and expenses (including, without limitation, United States Trustee Quarterly Fees, Litigation Trust Expenses, attorneys' fees, the fees of other professionals, and any taxes imposed on the Litigation Trust or in respect of its Assets) necessary to complete the reorganization contemplated herein and the Litigation Trust after the Effective Date.

~~140.~~145. "Priority Claim" means a Claim entitled to priority pursuant to Bankruptcy Code § 507 that is not an Administrative Claim

~~141.~~146. "Professional" or, collectively, "Professionals" means a Person or Entity (a) employed by the Debtors pursuant to a Final Order in accordance with sections 327 or 363 of the Bankruptcy Code and to be compensated for services rendered or incurred through the Effective Date pursuant to sections 327, 328, 329, 330 and 331 or 363 of the Bankruptcy Code, or (b) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code by a Final Order.

~~142.~~147. "Professional Fees" means all fees and expenses (including, but not limited to, success fees, if any) for services rendered by all Professionals in the Chapter 11 Cases through the Effective Date that the Bankruptcy Court has not denied by Final Order, regardless of whether a fee application has been filed for such fees.

~~143.~~148. "Professional Fee Claims" means all Professionals Fees which remain unpaid as of the Effective Date.

149. "Professional Fee Reserve" means a reserve in the amount of Professional Fee Claims and Committee Professional Fee Claims pending allowance by the Bankruptcy Court as of the Effective Date.

~~144.~~150. "Professional Claims Bar Date" means 5:00 p.m. (prevailing Eastern Time) on the date that is the first Business Day that is forty-five (45) days after the Effective Date.

~~145.~~151. "Proof of Claim" means a Claim for which a proof of claim on Official Form 410 has been filed on or before the Claims Bar Date.

~~146.~~152. "Pro Rata" means the proportion that the Face Amount of a Claim in a particular Class or Classes bears to the aggregate Face Amount of all Claims (including Disputed Claims but excluding Disallowed Claims) in such Class or Classes, unless this Plan provides otherwise.

~~147.~~153. "Record Holder" means the Holder of a Claim or Interest on the Distribution Record Date.

154. "Related Parties" means, subject to any exclusions expressly set forth in the Plan, (a) any Entity or Person; (b) such Entity's or Person's predecessors, predecessors in interest, successors and assigns, parents, owners, subsidiaries, affiliates, affiliated investment funds or investment vehicles, managed or advised accounts, funds, or other entities, and investment advisors, sub-advisors, or managers; (c) with respect to each of the foregoing in clauses (a) and (b), such Entity's or Person's respective current and former officers, directors, principals, equity holders (regardless of whether such interests are held directly or indirectly, and any fund managers, fiduciaries, or other agents with any involvement related to the Debtors), members, partners, employees, agents, sub-agents, trustees, advisory board members, financial advisors, attorneys, accountants, actuaries, managers, investment managers, investment bankers,

consultants, representatives, management companies, fund advisors and other professionals; and (d) with respect to each of the foregoing in clauses (a)–(c), such Entity's or Person's respective heirs, executors, estates, servants, and nominees.

~~148.~~155. "Reorganized Debtor" means Eletson Holdings on and after the Effective Date.

~~149.~~156. "Reorganized Debtor Organizational Documents" means the applicable bylaws, charter documents, articles of incorporation, certificates of incorporation, certificates of formation, limited liability company operating agreements, and related documents regarding the corporate existence and governance of the Reorganized Debtor.

157. "Restructuring Transactions" means the transactions described in Article IV of this Plan.

~~150.~~158. "Retained Causes of Action" means any and all claims and Causes of Action existing as of the Effective Date ~~not transferred~~that are necessary, warranted, and/or appropriate to ~~the Litigation Trust (including Unknown Causes of Action as applicable) and~~collect the entirety of the monetary value of the Final Award issued in the Arbitration retained by the Reorganized Debtor which may be pursued by the Reorganized Debtor for the benefit of the Reorganized Debtor and Litigation Trust through the Retained Causes of Action Contribution.

~~151.~~159. "Retained Causes of Action Contribution" means 75% of the net cash recoveries on account of Retained Causes of Action; *provided*, *however*, for purposes of the foregoing, "net cash recoveries" shall mean cash actually collected under any Retained Causes of Action net of costs of collection incurred by the Reorganized Debtor and/or its affiliates and subsidiaries and net of any amounts setoff by the Reorganized Debtor ~~for~~and/or its affiliates and subsidiaries for any amounts owed to any defendant under a Retained Cause of Action.

~~152.1.~~ ~~"Restructuring Transactions" means the transactions described in Article IV of this Plan.~~

~~153.~~160. "Scheduled" with respect to any Claim, means listed on the Schedules.

~~154.~~161. "Schedules" mean the schedules of assets and liabilities, schedules of executory contracts, and the statements of financial affairs filed by the Debtors pursuant to section 521 of the Bankruptcy Code, the Official Bankruptcy Forms and the Bankruptcy Rules, as they have been and may be amended and supplemented from time to time.

~~155.~~ "Secured Claim" means a Claim that is secured by a Lien on property in which an Estate has an interest or that is subject to setoff under section 553 of the Bankruptcy Code in each case as of the Petition Date, to the extent that the value of the Claim Holder's interest in such Estate's interest in such property or to the extent of the

amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code.

~~156.~~162. ~~"Shareholder New Value Contribution" means contribution provided by or caused to be provided by the Eletson Holdings Members (or affiliates thereof), consisting of (a) Cash and cash equivalents in an aggregate amount of $30 million and (b) the Collections Contribution.~~

~~157.~~163. "SMEs" means each of Fourni Special Maritime Enterprises, Kastos Special Maritime Enterprises, Kimolos II Special Maritime Enterprise, and Kinaros Special Maritime Enterprise.

~~158.~~164. "SME Revenue" means any excess cash on hand of each of the SMEs existing as of the Effective Date after subtracting therefrom (i) any amounts, as necessary to satisfy the projected operating expenses of the SMEs not otherwise reasonably expected to be satisfied by anticipated revenues of the SMEs (on a consolidated basis) through the SME Revenue Period; and (ii) $250,000 (on a consolidated basis).

~~159.~~165. "SME Vessels" means each of and collectively, the vessels known as the Fourni, Kastos, Kimolos, and Kinaros as operated by the SMEs.

~~160.~~166. "SME Revenue Period" means the period beginning on the first Business Day after the Effective Date and ending one hundred and eighty (180) days later.

167. "Stay Relief Order" means the *Stipulation and Order Granting Alleged Debtor's Motion for Relief from Stay to Proceed with, or to Confirm the Inapplicability of, the Automatic Stay to Prepetition Arbitration Proceedings* [D.I. 48].

~~161.~~168. "Trade Creditor" means any creditor whose Claim has been Allowed and is not a creditor classified in Class 1, Class 2, Class 3, Class 5, Class 6A or Class 6B.

~~162.~~169. "Trade Creditor Claim" means any Allowed General Unsecured Claim against the Debtors held by a Trade Creditor.

~~163.~~170. "Trade Creditor Claim Cap" means $1,000,000.00.

~~164.~~171. "Trade Creditor Claim Reserve" means a reserve created in the amount of the Trade Creditor Claim Cap to fund recoveries for Trade Creditor Claims.

~~165.~~172. "Unclassified Claims" means those Administrative and Priority Claims described in Article II herein.

~~166.~~173. "Unimpaired Claims" means Claims in an Unimpaired Class.

~~167.~~174. "Unimpaired Class" means an unimpaired Class within the meaning of section 1124 of the Bankruptcy Code.

~~168.~~175. "United States Trustee" means the Office of the United States Trustee for Region 2.

~~169.~~176. "United States Trustee Quarterly Fee" means the quarterly fees payable to the United States Trustee accrued over the course of these Chapter 11 Cases pursuant to 28 U.S.C. § 1930(a)(6).

177. "Unknown Causes of Action" means, collectively, any and all Causes of Action which currently exist or may subsequently arise but relate to facts and circumstances arising prior to the Effective Date that are not fully or currently known by the Plan Proponents on the Effective Date.

~~170.~~178. "Voting Class" means any class of Claims and Interests entitled to vote on the Plan.

~~171.~~179. "Voting Deadline" means the date, as stated in the Voting Instructions, of [_], 2024, at 5:00 p.m. prevailing Eastern Time for all Holders of Claims, which is the date and time by which all votes must be received in accordance with the procedures set forth in the Disclosure Statement Order, or such other date and time as may be established by the Bankruptcy Court by which all Ballots must be received.

~~172.~~180. "Voting Instructions" mean the instructions for voting on the Plan contained in Article II of the Disclosure Statement entitled "Voting On and Confirmation of the Plan" and in the Ballots.

C. *Exhibits*

All Exhibits to this Plan, if any, are incorporated by reference into and are made a part of this Plan as if set forth in full herein.

ARTICLE II.

CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS

A. *Classification*

The classification of Claims (except for Administrative Claims) and Interests listed below is for all purposes, including, without limitation, voting, confirmation and distributions under this Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. Consistent with section 1122 of the Bankruptcy Code, a Claim or Interest shall be deemed classified by the Plan in a particular Class only to the extent such Claim or Interest satisfies the definition of such Class and shall be deemed classified in a different Class to the extent any remainder or other portion of such Claim or Interest satisfies the definition of such different Class. NO RELIANCE SHOULD BE PLACED ON THE FACT THAT A PARTICULAR CLAIM OR INTEREST IS CLASSIFIED IN A CERTAIN CLASS FOR VOTING PURPOSES. A Claim is in a particular Class only to the extent such Claim is an Allowed Claim in such Class and has not been paid or otherwise

settled before the Effective Date. The classification of Claims and Interests pursuant to this Plan is as follows:

		Class	*Status*		*Voting Rights*
Class 1	—	OCM Guaranty Claims	~~Impaired~~Unimpaired	—	Not Entitled to vote (Deemed to Accept)
Class 2	—	Corp Guaranty Claims	Impaired	—	Entitled to vote
Class 3	—	Azure Guaranty Claims	Impaired	—	Entitled to vote
Class 4	—	Trade Creditor Claims	Impaired	—	Entitled to vote
Class 5		Noteholder Election Recovery Claims	Impaired	—	Entitled to vote
Class 6A	—	Non-Petitioning Creditor Exchange Note Claims	Impaired	—	Entitled to vote
Class 6B	—	Petitioning Creditor Exchange Note Claims	Impaired	—	Entitled to vote
Class 7	—	Interests	Impaired	—	Not Entitled to vote (Deemed to Reject)

B. *Unclassified Claims: Administrative Claims*

As provided in section 1123(a)(1) of the Bankruptcy Code, Administrative Claims shall not be classified for the purposes of voting or receiving distributions under this Plan. Rather, all such Claims shall be treated separately as unclassified Claims on the terms set forth in this Article II.B.

a. Administrative Claims (other than Professional Fee Claims, DIP Claims or Committee Professional Fee Claims)

The Disbursing Agent shall pay each Holder of an Allowed Administrative Claim (excluding Professional Fee Claims, DIP Claims and Committee Professional Fee Claims) the full amount of such Allowed Administrative Claim, without interest, in Cash, as soon as practicable after the later of: (i) the occurrence of the Effective Date, or (ii) the date such Administrative Claim becomes an Allowed Claim. Notwithstanding anything herein to the contrary, a Holder of an Allowed Administrative Claim may be paid on such other date or dates and upon such other less favorable terms as may be agreed upon by such Holder and the Disbursing Agent. Notwithstanding anything else herein, all United States Trustee Quarterly Fees payable to the United States Trustee

under 28 U.S.C. § 1930 and any interest that accrues thereon under 31 U.S.C. § 3717 shall be paid in full on the Effective Date. All fees that arise under 28 U.S.C. § 1930 and any interest that accrues thereon under 31 U.S.C. § 3717 after the Effective Date shall be paid in full when due until the Chapter 11 Cases are closed, dismissed, or converted, whichever occurs first. Notwithstanding any other provision herein, the United States Trustee shall not be required to file a proof of claim or a request for payment of United States Trustee Quarterly Fees.

b. Professional Fee Claims and Committee Professional Fee Claims

Prior to the Effective Date, the Debtors may pay any Professional Fees (other than Committee Professional Fees) which the Bankruptcy Court has allowed pursuant to sections 503(b)(2) - (b)(6) of the Bankruptcy Code from the Petition Date through the Effective Date. Prior to the Effective Date the Debtors may pay any Committee Professional Fees for all Committee Professional Fee Claims which are allowable or allowed pursuant to sections 503(b)(2) - (b)(6) of the Bankruptcy Code from the Conversion Date through the Effective Date. From and after the Effective Date, the Disbursing Agent shall pay Professionals and the Committee Professionals the respective Professional Fees and the Committee Professional Fees awarded by Final Order of the Bankruptcy Court, as soon as practicable after the later of (i) the Effective Date, and (ii) within three (3) Business Days of entry of such Final Order, in accordance with the terms of any order entered by the Bankruptcy Court governing the payment of fees and expenses during the course of the Chapter 11 Cases.

On the Effective Date, any objections previously filed to any applications for payment of the Committee Professional Fees shall be deemed withdrawn (with prejudice) on the Effective Date. Further, after the occurrence of the Effective Date, neither the Disbursing Agent, the Reorganized Debtor, the Litigation Trust, Litigation Trust Trustee, nor the Litigation Trust Oversight Committee shall assert any objection to any Committee Professional Fee Claims.

Any final application for allowance of Professional Fee Claims and Committee Professional Fee Claims for services rendered and costs incurred through the Effective Date must be filed with the Bankruptcy Court and served on counsel for the Debtors, counsel for the Litigation Trust, the Litigation Trust Trustee and on the United States Trustee at the addresses listed in Article XI.L of this Plan so that it is received no later than forty-five (45) days after the Effective Date. In the event an application for allowance of Professional Fee Claims and Committee Professional Fee Claims is not filed by the appropriate date, such Professional Fee Claims and Committee Professional Fee Claims shall be forever barred and shall not be enforceable against the Debtors, their Estates, the Litigation Trust, the Litigation Trust Trustee and their successors, their assigns or their Assets. Allowed Professional Fee Claims and Committee Professional Fee Claims must be paid in full and Professional Fee Claims and Committee Professional Fee Claims pending allowance by the Bankruptcy Court must be reserved for in full in the Professional Fee Reserve prior to any payment to Holders of Allowed Claims in (a) Class 3 (Azure Guaranty Claims~~),~~); (b) Class 4 (Trade Creditor Claims); (c) Class 5 (Noteholder Election Recovery Claims); (d) Class 6A (Non-Petitioning Creditor Exchange Note Claims); (e) Class 6B (Petitioning Creditor Exchange Note Claims); and (f) Administrative Claims; *provided*, excess amounts remaining in the Professional Fee

Reserve after the Bankruptcy Court enters Final Orders with respect to the Professional Fee Claims and the Committee Professional Fee Claims, shall be Distributable Cash.

c. DIP Claims

As of the Effective Date, the DIP Claims, if any, shall be Allowed and deemed to be Allowed Claims in the full amount outstanding under the DIP Documents, including principal, interest, fees and expenses.

Except to the extent that the Holder of an Allowed DIP Claim agrees to less favorable treatment, in full and final satisfaction, compromise, settlement, release and discharge of, and in exchange for, each Allowed DIP Claim, each such Holder of an Allowed DIP Claim shall receive payment in full in Cash of such holders Allowed DIP Claim on the Effective Date.

Immediately upon receipt of the payments set forth in this section, the DIP Documents shall be deemed cancelled. The DIP Agent and DIP Lenders shall take all actions to effectuate and confirm such termination and discharge as reasonably requested by the Debtors or the Reorganized Debtor, as applicable.

d. Administrative Claims and Substantial Contribution Claim Filing Deadline

Each Holder of an Administrative Claim (excluding Professional Fee Claims and Committee Professional Fee Claims that are not a substantial contribution claim) must file an Administrative Claim Request with the Bankruptcy Court prior to the Administrative Bar Date.

e. Plan Proponents Fees and Expenses

To the extent allowed by the Bankruptcy Court and not previously paid, the Plan Proponents Fees and Expenses shall be paid in full, in Cash, from Distributable Cash by the Litigation Trust.

C. *Treatment of Classified Claims*

1. **Class 1 — OCM Guaranty Claims**

(a) *Classification:* Class 1 consists of all OCM Guaranty Claims.

(b) *Treatment*: The OCM Guaranty Claims are Allowed Claims. Except to the extent that a Holder of an Allowed OCM Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each OCM Guaranty Claim, each of the OCM Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, ~~Reorganized Debtor or OCM Entities, provided, however, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the~~

~~obligations of the SMEs subject to the OCM Guarantees~~the Reorganized Debtor or the OCM Entities.

(c) *Voting*: Class 1 is ~~Impaired~~Unimpaired and the Holders of Class 1 Claims are not entitled to vote to accept or reject the Plan.

2. **Class 2 — Corp Guaranty Claims**

(a) *Classification*: Class 2 consists of all Corp Guaranty Claims.

(b) *Treatment*: The Corp Guaranty Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Corp Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each Corp Guaranty Claim, ~~(i)~~ each holder of an Allowed Corp Guaranty Claim shall receive, at its ~~pro rata distribution of the Eletson Corporation~~election:

(i) (A) its Pro Rata share, among Corp Guaranty ~~Recovery~~Claims, of $1,250,000; *provided*, for the avoidance of doubt, the Pro Rata share calculation in this subclause (A) shall be calculated based on the aggregate amount of all Allowed Corp Guaranty Claims whether or not Holders of such Claims receive the treatment in this subclause (A); and ~~(ii~~

(B) each of the Corp Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, the Reorganized Debtor or Corp Guaranty counterparties~~.~~; *provided*, *however*, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the obligations of Eletson Corporation subject to the Corp Guarantees~~.~~; or

(ii) its Pro Rata share, among Corp Guaranty Claims, of $3,000,000; *provided*, for the avoidance of doubt, the Pro Rata share calculation in this subclause (ii) shall be calculated based on the aggregate amount of all Allowed Corp Guaranty Claims whether or not Holders of such Claims receive the treatment in this subclause (ii);

provided, if a Holder of a Corp Guaranty Claim does not submit a Ballot or submits a Ballot but fails to affirmatively elect the treatment set forth in Article II.C.2(b)(i) of the Plan, such Holder shall be deemed to have elected the treatment specified in Article II.C.2(b)(ii) of the Plan with respect to its Allowed Corp Guaranty Claim.

~~(b)~~(c) *Voting*: Class 2 is Impaired and the Holders of Class 2 Claims are entitled to vote to accept or reject the Plan.

3. **Class 3 — Azure Guaranty Claims**

(a) *Classification*: Class 3 consists of the Azure Guaranty Claims.

(b) *Treatment*: The Azure Guaranty Claims are Allowed Claims. Except to the extent that a holder of an Allowed Azure Guaranty Claim agrees to less favorable treatment, If not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Azure Guaranty Claims, the Disbursing Agent shall pay to the Holders of Azure Guaranty Claims, by wire transfer of immediately available funds, their Pro Rata portion of the Azure Guaranty Recovery.

(c) *Voting*: Class 3 is Impaired and Holders of Class 3 Claims are entitled to vote to accept or reject the Plan.

4. **Class 4 — Trade Creditor Claims**

(a) *Classification*: Class 4 consists of the Trade Creditor Claims.

(b) *Treatment*: The Trade Creditor Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Trade Creditor Claim agrees to less favorable treatment, if not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Trade Creditor Claims, each Holder of an Allowed Trade Creditor Claim shall receive, in exchange for such Allowed Trade Creditor Claim, Cash in an amount equal to 15% of the Face Amount of such Holder's Trade Creditor Claim from the Trade Creditor Claim Reserve; *provided*, that in the event the aggregate distributions to Holders of Trade Creditor Claims exceeds the Trade Creditor Claim Cap, Holders of Trade Creditor Claims shall receive their Pro Rata Share of the Trade Creditor Claim Cap.

(c) *Voting*: Class 4 is Impaired and Holders of Class 4 Claims are entitled to vote to accept or reject the Plan.

5. **Class 5 — Noteholder Election Recovery Claims**

(a) *Classification*: Class 5 consists of all Allowed Noteholder Election Recovery Claims.

(b) *Treatment*: The Noteholder Election Recovery Claims are Allowed Claims. Claims may only be treated as Noteholder Election Recovery Claims upon the affirmative and irrevocable election of a Holder of a Claim classified in Class 6A or 6B to have their Claim treated in Class 5. Except to the extent that a Holder of an Allowed Noteholder Election Recovery Claim agrees to less favorable treatment, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or

otherwise, in full and complete settlement, release and satisfaction of the Noteholder Election Recovery Claims or as soon as practicable thereafter, each Holder of an Allowed Noteholder Election Recovery Claim shall receive in full settlement, release, and satisfaction of such Noteholder Election Recovery Claim that is due and payable from the Noteholder Election Recovery Reserve, the lesser of (i) the Face Amount of such Holder's Noteholder Election Recovery Claim, (ii) such Holder's Noteholder Election Recovery Claim's Pro Rata portion of the Noteholder Election Recovery Cap, or (iii) ~~$70~~100,000.

Notwithstanding the foregoing, if the Bankruptcy Court determines that the ~~existence of Class 5 and/or the~~ Noteholder Election Recovery ~~Claims~~ violates any provisions of the Bankruptcy Code, Holders of Class 5 Noteholder Election Recovery Claims ~~will be deemed to hold Claims under Class 6A or Class 6B in accordance with said Holder's original Claim classification.~~shall receive such Holder's Pro Rata portion of the Noteholder Election Recovery Cap.

(c) *Voting:* Class 5 is Impaired and Holders of Class 5 Claims are entitled to vote to accept or reject the Plan.

6. **Class 6A — Non-Petitioning Creditor Note Claims**

(a) *Classification*: Class 6A consists of all Allowed Non-Petitioning Creditor Exchange Note Claims and Old Note Claims.

(b) *Treatment*: The Non-Petitioning Creditor Note Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Non-Petitioning Creditor Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6A Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6A Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan.

(c) *Voting*: Class 6A is Impaired and Holders of Class 6A Claims are entitled to vote to accept or reject the Plan.

7. **Class 6B — Petitioning Creditor Exchange Note Claims**

(a) *Classification*: Class 6B consists of all Allowed Petitioning Creditor Exchange Note Claims.

(b) *Treatment*: ~~The Petitioning Creditor Exchange Note Claims are Disputed Claims and may only become Allowed by Final Order of the~~ Only to the extent the Bankruptcy Court~~. To the extent the~~ enters a Final Order equitably subordinating the Petitioning Creditor Exchange Note Claims ~~are deemed Allowed Claims the Petitioning Creditor Exchange Note Claims are equitably subordinated~~ pursuant to section 510(c) of the Bankruptcy Code ~~and~~, then such Holders are only entitled to a recovery upon the satisfaction of all Claims in Class 6A. In the event

Petitioning Creditor Exchange Note Claims are found to be Allowed Claims (not equitably subordinated) and all Class 6A Non-Petitioning Creditor Exchange Note Claims are paid in full, and except to the extent that a Holder of an Allowed Petitioning Creditor Exchange Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6B Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6B Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of the Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan.

Notwithstanding the foregoing, if the Bankruptcy Court determines it is unable to equitably subordinate the claims of Holders of Class 6B Claims through the Confirmation Order, Holders of Class 6B Claims will be deemed to hold claims under Class 6A and will be entitled to their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan.

(c) *Voting*: Class 6B is Impaired and Holders of Class 6B Claims are entitled to vote to accept or reject the Plan.

8. **Class 7 — Interests**

(a) *Classification*: Class 7 consists of all Interests.

(b) *Treatment*: On the Effective Date, all Interests shall be discharged, cancelled, released, and extinguished~~. In exchange for~~, without any distributions to Holders. For the ~~Shareholder New Value Contribution,~~avoidance of doubt, on the ~~Holders making such Shareholder New Value Contribution~~Effective Date, the Plan Sponsor shall receive ~~their pro rata share~~all of the equity ~~of~~in the Reorganized Debtor~~ in a pro rata amount equal to their portion of the Shareholder New Value Contribution made.~~.

(c) *Voting*: Class 7 is Impaired, and Holders of Interests ~~are~~is conclusively deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

ARTICLE III.

ACCEPTANCE OR REJECTION OF THE PLAN

A. *Voting Classes*

Except as otherwise provided in order(s) of the Bankruptcy Court pertaining to solicitation of votes on this Plan, Holders of Claims in Class ~~1 (OCM Guaranty Claims), Class~~ 2 (Corp Guaranty Claims~~)~~), Class 3 (Azure Guaranty Claims), Class 4 (Trade Creditor Claims), Class 5 (Noteholder Election Recovery Claims~~)~~), Class 6A (Non-Petitioning Creditor Exchange Note Claims), and Class 6B (Petitioning Creditor Exchange Note Claims) ~~and Class 7 (Interests)~~ shall be entitled to vote to accept or reject

this Plan. Holders of Claims in Class 1 (OCM Guaranty Claims) and Holders of Interests in Class 7 (Interests) shall not be entitled to vote to accept or reject the Plan.

~~B.~~ *Classes Presumed to Accept this Plan*

B. ~~*There are no Unimpaired Classes*~~ *and* ~~*no class*~~*Reject this Plan*

Class 1 (OCM Guaranty Claims) is presumed to accept the Plan pursuant to section 1126(f) of the Bankruptcy Code. Class 7 (Interests) is presumed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code.

C. *Acceptance by Impaired Classes*

An Impaired Class of Claims shall have accepted the Plan if (a) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims and Interests actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims and Interests actually voting in such Class have voted to accept the Plan.

D. *Elimination of Vacant Classes; Presumed Acceptance by Non-Voting Classes*

Any Class of Claims or Interests that does not have a holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court in an amount greater than zero as of the date of the Confirmation Hearing shall be considered vacant and deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

If a Class contains Claims or Interests eligible to vote and no holders of Claims or Interests eligible to vote in such Class vote to accept or reject the Plan, the holders of such Claims or Interests in such Class shall be deemed to have accepted the Plan.

E. *Non-Consensual Confirmation*

The ~~Debtors~~Plan Proponents will seek Confirmation of the Plan under section 1129(b) of the Bankruptcy Code if any Voting Class fails to accept the Plan in accordance with section 1129(a)(8) of the Bankruptcy Code. The ~~Debtors~~Plan Proponents reserve the right (a) to request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code and/or (b) to modify the Plan in accordance with Article XI.K hereof.

F. *Controversy Concerning Impairment*

If a controversy arises as to whether any Claims or Interests, or any Class of Claims or Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

ARTICLE IV.

MEANS FOR IMPLEMENTATION OF THE PLAN

A. *Implementation of the Plan and Sources of Consideration for Plan Distributions*

The ~~Debtors~~Plan Sponsor and the Reorganized Debtor, as applicable, will fund distributions and other sources and uses contemplated by the Plan with the Plan Consideration and the transfer and assignment of the Litigation Trust Assets to the Litigation Trust.

~~1. **The Shareholder New Value Contribution**~~

1. **The Equity Investment**

The ~~Debtors~~Plan Proponents propose to implement and consummate this Plan on and after the Effective Date. Within ten (10) Business Days of entry of the Confirmation Order, the ~~Eletson Members~~Plan Sponsor shall contribute, or cause to be contributed, to ~~Eletson Holdings~~the Reorganized Debtor the full amount of the cash portion of the ~~Shareholder New Value Contribution~~Equity Investment which shall be a contribution of Cash ~~and cash equivalents~~ in a total aggregate value of $~~30~~41 million dollars.

The cash portion of the ~~Shareholder New Value Contribution~~Equity Investment will be utilized as follows: *first*, for the payment of Administrative Claims, including, among others, the Professional Fee Claims, DIP Claims (if any~~)~~), and the Committee Professional Fee Claims (including the funding ~~any reserves on account~~ of the Professional Fee ~~Claims and Committee Professional Fee Claims required by the terms of this Plan;~~Reserve); *second*, to fund the Administrative Fund as set forth in Article IV.N; *third*, to fund the Azure Guaranty Recovery; *fourth*, to fund the Eletson Corporation Guaranty Recovery~~,~~; *fifth*, to fund the Trade Creditor Claim Reserve; *sixth*, to fund the Noteholder Election Recovery Reserve; and *seventh*, to fund the Litigation Trust.

The ~~Collections Contribution~~CVRs constitutes an additional portion of ~~the Shareholder New Value Contribution~~Equity Investment, and the ~~Eletson Members~~Plan Sponsor shall ~~cause~~contribute the applicable ~~Gas Ownership Defendant to direct the applicable portion~~amount of the ~~Collections Contribution~~CVRs to the Litigation Trust within thirty (30) Business Days of the receipt of a final, non-appealable, determination payment in satisfaction of the ~~Arbitration Award.~~ Final Award consistent with the terms of the Stay Relief Order and the Plan. The CVRs shall be secured by the Plan Sponsor's equity in the Reorganized Debtor.

2. **Distributable Cash**

Immediately upon the satisfaction of the payments provided for in Article IV A.1, the remaining cash portion of the ~~Shareholder New Value Contribution~~Equity Investment shall become Distributable Cash which shall be transferred to the Litigation Trust in accordance with the terms of this Plan and the Litigation Trust Agreement.

Distributable Cash shall also include the SME Revenue transferred to the Litigation Trust as set out in the Litigation Trust Agreement.

3. **Excess SME Proceeds**

Beginning on January 31, 2025, and on July 31 and January 31 of each subsequent calendar year during the SME Excess Proceeds Period, the Reorganized Debtor shall transfer any SME Excess Proceeds for the immediately preceding six-month period to the Litigation Trust in accordance with the instructions provided to the Reorganized Debtor by the Litigation Trust Trustee. On each payment date the SME Excess Proceeds paid shall be accompanied with a reasonable accounting supporting the amounts of the Excess SME Proceeds transferred to the Litigation Trust. The Reorganized ~~Debtors~~Debtor shall confer with the Litigation Trust Trustee with respect to any questions on the accounting and provide such information as the Litigation Trust Trustee shall reasonably request in connection therewith.

Neither the Litigation Trust nor Litigation Trust Trustee shall have any rights to direct the Reorganized Debtor in the operation and/or management of the SMEs after the Effective Date, during the Excess SME Revenue Period or otherwise. The Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee upon the execution of any letter of intent or other similar pre-sale documents entered into by the Reorganized Debtor or any affiliate of the Reorganized Debtor and any potential purchaser with respect to any SME and/or SME Vessels within ten (10) Business Days of execution of such document. In the event a sale is ultimately consummated, the Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee within ten (10) Business Days of the consummation of such sale. The Litigation Trust shall have no right to direct, comment or impede any sale of any SME and/or SME Vessel by the Reorganized Debtor. The Litigation Trust and Litigation Trust Trustee, as applicable, are not, and are not intended to be, third party beneficiaries of any contract of sale, and are provided with no additional rights and/or standing to object to the terms of any sale of any SME or SME Vessel pursuant to the terms of this Plan. For the avoidance of doubt the Reorganized Debtor is not required to consummate any sale of the SMEs or SME Vessels during the Excess SME Proceeds Period.

Unless the Reorganized Debtor and the Litigation Trust and Litigation Trust Trustee agree otherwise in writing, the Bankruptcy Court shall retain sole jurisdiction to resolve any dispute regarding the payment of the Excess SME Proceeds, the accounting supporting the Excess SME Proceeds, and/or the refund of any Excess SME Proceeds during the Excess SME Proceeds Period.

Upon the earlier of (i) the expiration of the Excess SME Proceeds Period or (ii) the Litigation Trust having received Excess SME Cash Flow Proceeds of $5 million in the aggregate and Excess SME Sale Proceeds of $5 million in the aggregate, the obligations of the Reorganized Debtor related to the Excess SME Proceeds hereunder, and any reporting obligations to the Litigation Trust related thereto shall cease, and the Reorganized Debtor shall have no further obligations related to the Excess SME Proceeds, and the Litigation Trust shall have no right or claim to any further Excess SME Proceeds. In the event the Excess SME Proceeds transferred to the Litigation Trust exceed (i) $5 million in the aggregate on account of the Excess SME Cash Flow Proceeds

or (ii) $5 million in the aggregate on account of the Excess SME Sale Proceeds, the Litigation Trust shall within ten (10) Business Days of written notice of such over payment by the Reorganized Debtor, refund to the Reorganized Debtor the portion of the actually paid Excess SME Proceeds exceeding the thresholds in clauses (i) and (ii) above in accordance with the instructions provided to the Litigation Trust by the Reorganized Debtor.

4. **Litigation Trust Causes of Action**

On the Effective Date the Debtors shall fully and finally transfer and or assign each of the Litigation Trust Causes of Action and the applicable Litigation Trust Privileges to the Litigation Trust.

Litigation Trust Distributable Proceeds will be obtained from the Distributable Cash and the Litigation Trust Causes of Action, and Plan Consideration, as applicable. Unless otherwise specified herein, Cash payments to be made pursuant to the Plan will be made by the applicable Disbursing Agent.

B. *Substantive Consolidation*

1. **Order Granting Plan Consolidation**

Unless and to the extent previously approved by a prior order of the Bankruptcy Court, at the Confirmation Hearing, the Bankruptcy Court will consider approval under the Plan of the Plan Consolidation.

2. **Plan Consolidation**

The Consolidating Debtors are holding companies that were formed for the express purpose of issuing the Exchange Notes. Pursuant to the Exchange Notes Indenture, the Consolidating Debtors are prohibited from holding or maintaining any assets. As the Exchange Notes and the claims related thereto will be discharged after the confirmation of these Chapter 11 Cases, the ~~Debtors~~Plan Proponents maintain there is no reason for the continued existence of the Consolidating Debtors. As such, the Consolidating Debtors will be consolidated into the Reorganized Debtor for the convenience of all parties, and with no impact to any operations, distributions, assets or rights of any party in interest or the Reorganized Debtor.

Upon the Effective Date, the Consolidating Debtors shall be consolidated for all purposes into the Reorganized Debtor and (i) all assets and liabilities of the Consolidating Debtors shall be consolidated and merged into Eletson Holdings, (ii) all guarantees of any Consolidating Debtors of the obligations of any other Debtor shall be eliminated so that any Claim against any Consolidating Debtor, any guaranty thereof executed by either of the Consolidating Debtors and any joint or several liability of either of the Consolidating Debtors shall be one obligation of Eletson Holdings and (iii) each and every Claim filed or to be filed in the Chapter 11 Cases against any Debtor shall be deemed filed against Eletson Holdings and shall be one Claim against, and if to the extent allowed, shall become one obligation of Eletson Holdings; *provided, further*, the consolidation shall also limit the rights of a creditor to assert that its Claim is

secured by a right of setoff under section 553 of the Bankruptcy Code, and the Debtors will be deemed, for purposes of any Claims or determining the availability of the right of set-off under section 553 of the Bankruptcy Code, to be one entity, such that, subject to other provisions of section 553 of the Bankruptcy Code, the debts due to any of the Consolidating Debtors shall be offset against Claims against another Debtor. The substantive consolidation provided for in this section shall not affect the obligations of each and every Debtor to pay fees to the United States Trustee that may have come due prior to the Effective Date.

Pursuant to Bankruptcy Rule 9019 and any applicable state law and as consideration for the distributions and other benefits provided under the Plan, the provisions of this section shall constitute a good faith compromise and settlement of any Causes of Action or disputes that could be brought by a Holder of a Claim or Interest asserting that such Claim or Interest would have received more favorable treatment had substantive consolidation not been effected. This compromise and settlement is in the best interests of Holders of Claims and Interests and is fair, equitable and reasonable. Upon Confirmation of the Plan, the Plan shall be approved as a settlement of all such Causes of Action and disputes. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of this settlement pursuant to Bankruptcy Rule 9019 and its finding that this is a good faith settlement pursuant to any applicable state laws, given and made after due notice and opportunity for hearing, and shall bar any such Cause of Action by any Holder of a Claim or Interest with respect to the matters described in this section.

C. *Corporate Existence*

Except as otherwise provided in the Plan (including with respect to any Restructuring Transaction undertaken pursuant to the Plan), the Reorganized Debtor Organizational Documents, or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement, on and after the Effective Date, each Debtor shall be deemed to merge with and into the Reorganized Debtor, with the Reorganized Debtor being the sole surviving entity and the separate existence of the Consolidating Debtors shall cease and only the Reorganized Debtor shall continue to exist and as a separate corporation, with all the powers of a corporation pursuant to the applicable Liberian law and pursuant to the respective certificate of incorporation and bylaws in effect before the Effective Date, except to the extent such certificate of incorporation and bylaws are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state, provincial, federal, country of incorporation, or applicable foreign law).

D. *Vesting of Assets in the Reorganized Debtor*

Except for the Litigation Trust Causes of Action and Plan Consideration, as applicable, as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement (including the Litigation Trust Agreement), on the Effective Date, pursuant to the Plan all property in each Estate and any property acquired by any of the Debtors, including Intercompany Interests

held by the Debtors in non-Debtor subsidiaries, shall revest in the Reorganized Debtor, free and clear of all Liens, Claims, charges, or other encumbrances unless expressly provided otherwise by the Plan or Confirmation Order. On and after the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtor may operate its business and may use, acquire, or dispose of property, and compromise or settle any claims or Interests without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

E. *Dissolution of the Committee*

Upon the Effective Date, the Committee shall dissolve automatically whereupon its members, Committee Professionals and agents shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code, except with respect to: (i) obligations arising under confidentiality agreements, joint interest agreements and protective orders entered during the Chapter 11 Cases which shall remain in full force and effect according to their terms; (ii) applications filed pursuant to sections 330 and 331 of the Bankruptcy Code for Committee Professional Fee Claims; (iii) any pending motions or proceedings to which the Committee is a party (including any related appeals in connection therewith) and (iv) any pending motions, or any motions or other actions seeking enforcement or implementation of the provisions of this Plan or the Confirmation Order, including related appeals. The Committee members and the Committee Professionals shall not be entitled to compensation and reimbursement of expenses for services rendered after the Effective Date, except for services rendered in connection with the items listed in the preceding sentence after the Effective Date.

F. *Reorganized Debtor Organizational Documents*

To the extent required under the Plan or applicable non-bankruptcy law, on the Effective Date, the Reorganized Debtor will file such Reorganized Debtor Organizational Documents as are required to be filed with the applicable authorities in the state, province, or country of incorporation in accordance with the corporate laws of the respective state, province, or country of incorporation. Pursuant to section 1123(a)(6) of the Bankruptcy Code, the Reorganized Debtor Organizational Documents will prohibit the issuance of non-voting equity securities. After the Effective Date, the Reorganized Debtor may amend and restate the Reorganized Debtor Organizational Documents, and the Reorganized Debtor may file the certificates or articles of incorporation, bylaws, or such other applicable formation documents, and other constituent documents as permitted by the laws of the country of incorporation and the Reorganized Debtor Organizational Documents.

G. *Appointment of Directors and Officers of ~~The~~the Reorganized Debtor*

Pursuant to section 1129(a)(5) of the Bankruptcy Code, the ~~Debtors~~Plan Proponents will disclose, on or prior to the Confirmation Date, in the Plan Supplement the identity and any affiliations of any Person proposed to serve on as a Director or officer of the Reorganized Debtor, which appointments shall be confirmed in the Confirmation Order. To the extent any such Person is an "insider" under the

Bankruptcy Code, the nature of any compensation for such Person will also be disclosed.

H. *Creation of the Litigation Trust*

This Plan contemplates the transfer of the Litigation Trust Assets into the Litigation Trust on the Effective Date for distribution of the Litigation Trust Distributable Proceeds to Holders of Litigation Trust Interests.

~~Prior to~~On the Effective Date, the ~~Debtors~~Reorganized Debtor and the Litigation Trust Trustee shall execute the Litigation Trust Agreement and shall take all steps necessary to establish the Litigation Trust in accordance with the Plan, which shall be for the benefit of the Litigation Trust Beneficiaries. Additionally, on the Effective Date the Debtors shall transfer and/or assign and shall be deemed to transfer and/or assign to the Litigation Trust all of their rights, title and interest in and to all of the Litigation Trust Assets, and in accordance with section 1141 of the Bankruptcy Code, the Litigation Trust Assets shall automatically vest in the Litigation Trust free and clear of all Claims and Liens, subject only to (a) Litigation Trust Interests and (b) the Litigation Trust Expenses as provided for in this Plan and the Litigation Trust Agreement. Also on the Effective Date, subject to, in all respects, the terms of the Litigation Trust Agreement, all Litigation Trust Privileges shall transfer to and vest exclusively in the Litigation Trust.

The Litigation Trust shall be governed by the Litigation Trust Agreement and administered by the Litigation Trust Trustee. The powers, rights, and responsibilities of the Litigation Trust Trustee shall be specified in the Litigation Trust Agreement. The Litigation Trust Trustee shall hold and distribute the Litigation Trust Assets in accordance with the Plan and the Litigation Trust Agreement. Other rights and duties of the Litigation Trust Trustee and the Litigation Trust Beneficiaries shall be as set forth in the Litigation Trust Agreement.

After the Effective Date, the Debtors and the Reorganized Debtor shall have no interest in the Litigation Trust Assets except to the extent set forth in this Plan and the Litigation Trust Agreement. To the extent that any Litigation Trust Assets cannot be transferred to the Litigation Trust because of a restriction on transferability under applicable non-bankruptcy law that is not superseded or preempted by section 1123 of the Bankruptcy Code or any other provision of the Bankruptcy Code, such Litigation Trust Assets shall be deemed to have been retained by the Reorganized Debtor and the Litigation Trust Trustee, or Litigation Trust, as applicable, shall be deemed to have been designated as a representative of the Reorganized Debtor pursuant to section 1123(b)(3)(B) of the Bankruptcy Code to enforce and pursue such Litigation Trust Assets on behalf of the Reorganized Debtor for the benefit of the Litigation Trust Beneficiaries. Notwithstanding the foregoing, all net proceeds of such Litigation Trust Assets shall be transferred to the Litigation Trust to be distributed in accordance with this Plan.

The Litigation Trust Agreement shall contain provisions customary to trust agreements utilized in comparable circumstances, including, but not limited to, any and all provisions necessary to govern the rights, powers, obligations and appointment and

removal of the Litigation Trust Trustee and to ensure the treatment of the Litigation Trust as a liquidation trust for federal income tax purposes, all consistent with this Plan.

Notwithstanding anything in this Plan to the contrary, the Reorganized Debtor shall have no obligation to provide any funds or financing to the Litigation Trust, other than the obligation to contribute the Litigation Trust Assets ~~and~~, the initial funding of the Administrative Fund, and ~~under~~, if applicable, the CVRs. Under no circumstances will the expenses of the Litigation Trust be paid or reimbursed by the Debtors or the Reorganized Debtor, as applicable.

The Litigation Trust shall terminate no later than the fifth (5th) anniversary of the Effective Date; *provided*, *however*, that within a period of three (3) months prior to such termination date, the Bankruptcy Court, upon motion by a party in interest may extend the term of the Litigation Trust if it is necessary to facilitate or complete the distribution of the Litigation Trust Assets. Notwithstanding the foregoing, multiple extensions can be obtained so long as Bankruptcy Court approval is obtained within three (3) months prior to the expiration of each extended term; *provided*, *however*, that the aggregate of all such extensions shall not exceed three (3) years, unless the Litigation Trust Trustee receives a favorable ruling from the IRS that any further extension would not adversely affect the status of the Litigation Trust as a liquidation trust within the meaning of Treas. Reg. § 301.7701-4(d) for federal income tax purposes.

I. *Transfer of Assets and the Litigation Trust Causes of Action to the Litigation Trust*

Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary, the Litigation Trust is intended to be treated as a "liquidating trust" for U.S. federal income tax purposes pursuant to Treasury Regulation section 301-7701-4(d), and the Litigation Trust Trustee will take this position on the Litigation Trust's tax return accordingly. The Litigation Trust Beneficiaries shall be treated as the grantors of the Litigation Trust and as the deemed owners of the Litigation Trust Assets. For U.S. federal income tax purposes, the transfer of assets to the Litigation Trust will be deemed to occur as (a) a first-step transfer of the Litigation Trust Assets to the Litigation Trust Beneficiaries, and (b) a second-step transfer by Litigation Trust Beneficiaries. As a result, the transfer of the Litigation Trust Assets to the Litigation Trust should be a taxable transaction, and the Debtors or the Reorganized Debtor should recognize gain or loss equal to the difference between the tax basis and fair value of such assets. As soon as possible after the transfer of the Litigation Trust Assets to the Litigation Trust, the Litigation Trust Trustee shall make a good faith valuation of the Litigation Trust Assets. This valuation will be made available from time to time, as relevant for tax reporting purposes. Each of the Debtors or the Reorganized Debtor, Litigation Trust Trustee, and the Holders of Claims receiving Litigation Trust Interests shall take consistent positions with respect to the valuation of the Litigation Trust Assets, and such valuations shall be utilized for all U.S. federal income tax purposes.

J. *Liabilities of the Litigation Trust*

The liabilities transferred to the Litigation Trust shall include all Litigation Trust Interests and the Litigation Trust Expenses.

In accordance with Article IV.I, the Debtors will transfer the Litigation Trust Assets to the Litigation Trust to make the payments required to Litigation Trust Beneficiaries pursuant to the Plan and the Litigation Trust Agreement.

K. *Appointment of the Litigation Trust Trustee and Members of the Litigation Trust Oversight Committee*

The Committee shall appoint the Litigation Trust Trustee who shall have the power to administer the Litigation Trust and will be advised by the Litigation Trust Oversight Committee as specified in this Plan and the Litigation Trust Agreement. For the avoidance of doubt the members of the Litigation Trust Oversight Committee will be appointed by the Committee pursuant to the terms of the Litigation Trust Agreement.

Pursuant to section 1129(a)(5) of the Bankruptcy Code, the ~~Debtors~~Plan Proponents will disclose, on or prior to the Confirmation Date, in the Plan Supplement, and with the consent and approval of the Committee, the identity and any affiliations of the Litigation Trust Trustee and any Person proposed to serve on the Litigation Trust Oversight Committee, which appointments shall be confirmed in the Confirmation Order. To the extent any such Person is an "insider" under the Bankruptcy Code, the nature of any compensation for such Person will also be disclosed.

~~The Debtors~~On the Effective Date, the Reorganized Debtor and the Litigation Trust Trustee shall enter into a Litigation Trust Agreement in substantially the form which shall be filed with the Bankruptcy Court with the Plan Supplement. On the Effective Date, and upon the establishment of the Litigation Trust the Litigation Trust Trustee shall succeed in all respects to all of the rights, privileges and immunities of the Debtors in regard to the Litigation Trust Causes of Action and the Litigation Trust Privileges and shall be appointed as the sole party with standing to pursue Litigation Trust Causes of Action on behalf of the Debtors as of the Effective Date. The Litigation Trust Trustee, and his/her successors, shall serve until the earlier of (i) the later to occur of (a) the entry of the Final Decree, (b) the dissolution of the Litigation Trust, and (c) the payment of the final distributions to Holders of Litigation Trust Interests pursuant to the Plan; or (ii) the expiration of the term of such Litigation Trust Trustee's employment agreement or such Litigation Trust Trustee's resignation, death, incapacity, removal or termination by the Litigation Trust Oversight Committee pursuant to the Litigation Trust Agreement or order of the Bankruptcy Court. Notwithstanding the foregoing, the Debtor Privileges will not transfer to the Litigation Trust and shall remain solely in the possession of the ~~Debtors or~~ Reorganized Debtor ~~as applicable.~~ .

As set forth herein, the pursuit and collection of the Litigation Trust Causes of Action and distribution of the proceeds thereof to the Litigation Trust Beneficiaries shall become the responsibility of the Litigation Trust Trustee who shall thereafter have responsibility for the management, control and operation thereof, and who may use, acquire and dispose of property of the Litigation Trust free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, but subject to the terms of the Plan and the Litigation Trust Agreement.

Upon creation of the Litigation Trust, the Litigation Trust Trustee shall be the trustee of the Litigation Trust for all purposes and in all respects, with all necessary and appropriate power to act for, on behalf of and in the name of the Litigation Trust.

L. *Cooperation and Privilege*

To effectively investigate, prosecute, compromise, and/or settle the Litigation Trust Causes of Action on behalf of the Litigation Trust, the Litigation Trust Trustee and its counsel and representatives may require reasonable access to documents and information exclusively relating to the Litigation Trust Causes of Action in the possession of the Debtors, the Reorganized Debtor, and/or the Committee. Accordingly, the Litigation Trust Agreement shall provide for the Litigation Trust Trustee's reasonable access to the Debtors' records and information (which shall be maintained by the Reorganized Debtor) and the Committee's records and information, each of which relating to the Litigation Trust Causes of Action, including electronic records or documents, as further detailed in, and subject in all respects to, the Litigation Trust Agreement. The Litigation Trust Agreement shall also provide that as of the Effective Date, and subject in all respects to the terms of the Litigation Trust Agreement, the Litigation Trust Privileges, and privileges held by the Committee (if any) shall transfer to and vest exclusively in the Litigation Trust, and that the Reorganized Debtor shall preserve all of the Debtors' records and documents (including all electronic records or documents) exclusively related to the Litigation Trust Causes of Action and Litigation Trust Privileges for the later of a period of three (3) years after the Effective Date or until such later time as the Litigation Trust Trustee notifies the Reorganized Debtor in writing that such records are no longer required to be preserved.

On the Effective Date, the Reorganized Debtor and the Litigation Trust shall enter into a common interest agreement whereby the Reorganized Debtor will be able to share documents and information, or communications (whether written or oral) relating to the Litigation Trust Causes of Action.

M. *Duties of the Litigation Trust Trustee*

In addition to the duties set forth elsewhere in this Plan, the Litigation Trust Trustee, at the direction of and in consultation with the Litigation Trust Oversight Committee as set forth more specifically in the Litigation Trust Agreement, and herein, shall have the following duties:

1. to manage, control and operate the Litigation Trust;

2. to investigate and, if necessary and appropriate, to prosecute and enforce (or not prosecute or enforce), or to compromise, release or settle any Litigation Trust Causes of Action on behalf of the Estate and the Litigation Trust without further approval of or application to the Bankruptcy Court;

3. to invest any Cash and Litigation Trust Assets;

4. to file any and all reports, pleadings, tax returns and other documents;

5. to pay any and all distributions required or permitted to be made under this Plan;

6. to pay out of the Litigation Trust any and all Claims, liabilities, losses, damages, costs and expenses incurred in connection therewith or as a result thereof, including all Post-Confirmation Expenses accruing from and after the Effective Date in accordance with the Administrative Budget;

7. to employ, supervise and compensate any employees of the Litigation Trust;

8. to make and file tax returns for the Litigation Trust;

9. act as the Disbursing Agent to Holders of Class 6A Claims in accordance with the terms of this Plan, and in such capacity shall (i) disburse all Cash held by the Litigation Trust to the Holders of Class 6A Claims in any amount in excess of $1 million over the then current budgeted needs of the Litigation Trust pursuant to the Administrative Budget within forty-five (45) days of the Effective Date and at least semi-annually thereafter, (ii) within ten (10) days upon receipt of any Excess SME Proceeds disburse to Holders of Class 6A Claims one hundred percent of such Excess SME Proceeds, and (iii) within ten (10) days upon receipt of any portion of the ~~Collections Contribution~~CVRs disburse to Holders of Class 6A Claims one hundred percent of such ~~Collections Contribution~~CVRs;

10. to commence and pursue dissolution or winding up of proceedings for the Litigation Trust;

11. to file, prosecute, compromise and settle objections to Claims after the Effective Date~~ other than Administrative Claims or Claims seeking administrative allowance;~~;

12. to prepare and deliver to the Litigation Trust Oversight Committee for approval the Administrative Budget of the Litigation Trust and any amendments or modifications thereto; and

13. to request the entry of a Final Decree.

In connection with the execution of his or her duties under this Plan, the Litigation Trust Trustee, at the direction of and in consultation with the Litigation Trust Oversight Committee as set forth more specifically in the Litigation Trust Agreement and herein, shall be authorized:

1. to execute such documents and to take such other actions as are necessary to effectuate this Plan and perform his or her duties as a trustee of the Litigation Trust, including to execute such documents and take such other action on behalf of the Litigation Trust;

2. to open, close and manage bank accounts, and to enter into business transactions within or without the ordinary course of business;

3. to retain and pay professionals (including the Professionals or the Committee Professionals) or other Persons to assist the Litigation Trust Trustee in the administration of the Litigation Trust, without prior Bankruptcy Court approval;

4. to incur any reasonable and necessary expenses (up to the amounts set forth in the Administrative Budget) in the performance of his or her duties as Litigation Trust Trustee;

5. to compromise, release or settle any Disputed Claim or Litigation Trust Cause of Action or to sell or dispose of any Litigation Trust Asset; and

6. to employ such other procedures, not inconsistent with this Plan, necessary for the Litigation Trust Trustee to perform his or her duties hereunder (including, without limitation, to borrow funds to pursue the Litigation Trust Causes of Action under terms in its sole discretion).

The Litigation Trust Trustee shall be deemed the Estates' representative in accordance with section 1123 of the Bankruptcy Code and shall have all powers, authority and responsibilities specified in the Litigation Trust Agreement, including, without limitation, the powers of a trustee under sections 704 and 1106 of the Bankruptcy Code (including, without limitation, commencing, prosecuting or settling Litigation Trust Causes of Action and asserting claims, defenses, offsets and privileges arising from the Litigation Trust Privileges), to the extent not inconsistent with this Plan. In discharging the foregoing responsibilities, the Litigation Trust Trustee shall be entitled to exercise and rely upon his or her business judgment in consultation with the Litigation Trust Oversight Committee. The Litigation Trust Trustee shall not be obligated to take any action or to pursue any Litigation Trust Causes of Action unless justified in his or her reasonable determination by fact and law, nor shall the Litigation Trust Trustee be obligated to take any action that could reasonably cause him or her personal liability. Without limiting the generality of the foregoing, the Litigation Trust Trustee may consider the interests of Holders of Allowed Class 6A Claims and Class 6B Claims in receiving prompt distributions and such other factors as may be reasonable in the exercise of his or her business judgment. Such authorization and benefits shall also extend to any, each and every successor Litigation Trust Trustee, without reservation or limitation.

The Litigation Trust Trustee, at the direction of the Litigation Trust Oversight Committee, may expend the Cash of the Litigation Trust (a) as reasonably necessary to meet contingent liabilities and to maintain the value of the Litigation Trust Assets during the administration thereof, (b) to pay the respective reasonable administrative expenses (including, but not limited to, any United States Trustee Quarterly Fees, Litigation Trust Trustee fees, professional fees, and taxes imposed on the Litigation Trust), and (c) to satisfy other respective liabilities incurred by the Litigation Trust in accordance with the Plan or the Litigation Trust Agreement.

N. *Post Confirmation Expenses*

Prior to the Effective Date, the Committee shall provide the Administrative Budget (with the consent of the ~~Debtors~~Plan Proponents, not to be unreasonably

withheld) for services to be rendered to the Litigation Trust, which Administrative Budget may be altered from time to time by the Litigation Trust Trustee with the consent of the Litigation Trust Oversight Committee in accordance with the Litigation Trust Agreement. The Litigation Trust Oversight Committee shall approve in advance the Litigation Trust Trustee's retention of professionals and their compensation arrangements.

On the Effective Date, the Litigation Trust Trustee shall establish the Administrative Fund. The initial amount of the Administrative Fund shall be based on the Litigation Trust Trustee's good faith estimate of the cost necessary to complete the Litigation Trust's obligations under this Plan and the Litigation Trust Agreement and will include the amount budgeted for the Litigation Trust's professionals provided, however, the initial Administrative Fund shall not exceed the amount of $200,000 necessary to commence and/or pursue and Litigation Trust Causes of Action as of the Effective Date. The Litigation Trust shall pay all Litigation Trust Expenses related to carrying out its obligations under this Plan and the Litigation Trust Agreement from the Administrative Fund and, in the Litigation Trust Trustee's discretion, and with approval of the Litigation Trust Oversight Committee, may add additional amounts of Cash held by the Litigation Trust to the Administrative Fund to further the prosecution of the Litigation Trust Causes of Action or for administration and other miscellaneous needs of the Litigation Trust without further notice or motion in accordance with the terms of the Litigation Trust Agreement.

The reasonable and necessary fees and actual and necessary expenses of the Litigation Trust Trustee, the Litigation Trust Oversight Committee and the professionals retained by the Litigation Trust Trustee and the Litigation Trust Oversight Committee shall be paid solely by the Litigation Trust Trustee in accordance with the terms of such respective Person's employment with the Litigation Trust.

O. *Liability; Indemnification*

Neither the Litigation Trust Trustee nor any member of the Litigation Trust Oversight Committee shall be liable for any act or omission taken or omitted to be taken in his or her capacity as Litigation Trust Trustee or as a member of the Litigation Trust Oversight Committee, as the case may be, other than acts or omissions resulting from the Litigation Trust Trustee's or Litigation Trust Oversight Committee member's willful misconduct, gross negligence or fraud. The Litigation Trust Trustee and the Litigation Trust Oversight Committee may, in connection with the performance of their functions, and in their sole and absolute discretion, consult with their respective attorneys, accountants, financial advisors and agents, and the Litigation Trust Trustee and the Litigation Trust Oversight Committee shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such Persons other than acts or omissions resulting from the willful misconduct, gross negligence or fraud of the Litigation Trust Trustee or the Litigation Trust Oversight Committee, as the case may be.

Notwithstanding such authority, the Litigation Trust Trustee and the Litigation Trust Oversight Committee shall not be under any obligation to consult with their respective attorneys, accountants, financial advisors or agents, and any determination

not to do so shall not result in the imposition of liability on the Litigation Trust Trustee or the Litigation Trust Oversight Committee, as the case may be, and their respective designees, unless such determination is based on willful misconduct, gross negligence or fraud. The Litigation Trust shall indemnify and hold harmless the Litigation Trust Trustee, the Litigation Trust Oversight Committee and their respective designees and professionals, and all duly designated agents and representatives (in their capacity as such), from and against and in respect of all liabilities, losses, damages, claims, costs and expenses (including, but not limited to, attorneys' fees and costs) arising out of or due to such actions or omissions, or consequences of their actions or omissions with respect or related to the performance of the duties of the Litigation Trust Trustee or the Litigation Trust Oversight Committee, as the case may be, or the implementation or administration of this Plan; *provided*, *however*, that no such indemnification will be available to such Persons for such actions or omissions if a court of competent jurisdiction has determined by Final Order that the challenged conduct occurred as a result of willful misconduct, gross negligence or fraud.

P. *Litigation Trust Oversight Committee*

On the Effective Date, the Litigation Trust Oversight Committee shall have the duties set forth herein to maximize distributions to Litigation Trust Beneficiaries. On the Effective Date, the Litigation Trust Oversight Committee shall be entitled to the rights, powers, immunities and privileges of the Committee.

The Litigation Trust Oversight Committee shall have the duty to take actions in accordance with the provisions of this Plan and in furtherance of the execution of this Plan. Additionally, the Litigation Trust Oversight Committee shall have the following rights and duties:

1. to approve any release or indemnity in favor of any third party granted or agreed to by the Litigation Trust Trustee;

2. to authorize the Litigation Trust Trustee to commence any Litigation Trust Cause of Action;

3. to approve the settlement of any Litigation Trust Cause of Action and to approve any application by the Litigation Trust Trustee for an order in connection with any such settlement;

4. to review all financial information relating to the Litigation Trust (including any quarterly reports required by the Office of the United States Trustee), which shall be promptly provided by the Litigation Trust Trustee upon request by the Litigation Trust Oversight Committee;

5. to monitor distributions to Holders of Litigation Trust Interests;

6. to take such other actions as it deems necessary and appropriate with respect to the implementation of the Plan;

7. to approve the Litigation Trust Trustee's retention of professionals;

8. to remove the Litigation Trust Trustee in accordance with the procedures in the Litigation Trust Agreement; and

9. to approve the Administrative Budget after the Effective Date.

The duties and powers of the Litigation Trust Oversight Committee shall terminate upon the later to occur of (i) the entry of the Final Decree, (ii) the dissolution of the Litigation Trust, and (iii) the payment of the final distributions to Holders of Litigation Trust Interests pursuant to this Plan.

The Litigation Trust Oversight Committee shall have the right, but shall not be required, to retain counsel of its choice, and the reasonable and necessary fees and expenses of such counsel shall be paid by the Litigation Trust from the Administrative Fund. The reasonable and necessary fees and expenses of counsel to the Litigation Trust Oversight Committee shall be paid in accordance with the Litigation Trust Agreement.

Q. *Good Faith*

Each of the Litigation Trust Trustee and Litigation Trust Oversight Committee shall act in good faith in carrying out its duties and responsibilities and use its best efforts to pursue or settle the Litigation Trust Causes of Action and maximize the value of the Litigation Trust Assets and minimize claims against the Litigation Trust.

R. *Saturday, Sunday or Legal Holiday*

If any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day but shall be deemed to have been completed as of the required date.

S. *Exemption from Certain Taxes and Fees*

To the maximum extent permitted pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, sale or use tax, mortgage recording tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forgo the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents pursuant to such transfers of property without the payment of any such tax, recordation fee, or governmental assessment.

T. *Issuance of Documents Necessary to Consummate the Plan*

On or as soon as practicable after the Effective Date, the Debtors, the Reorganized Debtor, or the Litigation Trust Trustee, as applicable, shall execute and deliver such other agreements, documents and instruments, as necessary to effectuate the Plan.

U. *Final Decree*

Upon the Litigation Trust Trustee's determination that all Litigation Trust Causes of Action held by the Litigation Trust or the Litigation Trust Trustee, as applicable, have been finally resolved, transferred, or abandoned, the Litigation Trust shall move for the entry of a Final Decree pursuant to section 350 of the Bankruptcy Code closing the Chapter 11 Cases. The Litigation Trust may request the entry of the Final Decree notwithstanding the fact that not all Litigation Trust Assets have been monetized and distributed to Litigation Trust Beneficiaries.

V. *Delivery of Equity in the Reorganized Debtor*

On the Effective Date, the Plan Sponsor shall receive all of the equity in the Reorganized Debtor in accordance with the terms of this Plan and the Confirmation Order, without the need for any further corporate, partnership, limited liability company, or shareholder action. Upon the Effective Date, the equity interests of the Reorganized Debtor shall be subject to the terms contained in the Reorganized Debtor Organizational Documents.

ARTICLE V.

RETAINED CAUSES OF ACTION

A. *Maintenance of Causes of Action*

Except as otherwise provided ~~in~~Article V.B of the Plan, the Litigation Trust shall retain all rights on behalf of the Debtors and the Estates to commence and pursue, as appropriate, in any court or other tribunal including, without limitation, in an adversary proceeding filed in one or more of the Chapter 11 Cases, any and all Litigation Trust Causes of Action transferred to the Litigation Trust. The Reorganized Debtor shall retain all rights to commence and pursue, as appropriate, in any court or other tribunal, including, without limitation, in an adversary proceeding filed in one or more of the Chapter 11 Cases, any and all Retained Causes of Action.

Except as otherwise provided in the Plan, upon the Effective Date and subject to the terms of the Litigation Trust Agreement in accordance with section 1123(b)(3) of the Bankruptcy Code, the Litigation Trust Causes of Action shall vest in the Litigation Trust. The Litigation Trust Trustee, on behalf of the Litigation Trust, shall retain and may exclusively enforce any and all Litigation Trust Causes of Action, and commence, pursue and settle the Litigation Trust Causes of Action in accordance with this Plan and the Litigation Trust Agreement, as applicable, subject to the advice of counsel and the consent of the Litigation Trust Oversight Committee. The Litigation Trust shall have the exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise any and all such claims, rights, and Litigation Trust Causes of Action without the consent or approval of any third party and without any further order of court subject to the advice of counsel and the consent of the Litigation Trust Oversight Committee as required by the Litigation Trust Agreement.

B. *Preservation of Causes of Action*

Except as otherwise expressly provided in ~~this~~the Plan, from and after the Effective Date, unless expressly designated as a Litigation Trust Cause of Action, the Reorganized Debtor shall maintain and may litigate or settle any Retained Causes of Action~~, including the recovery or subordination actions under sections 502, 510, 522(f), 522(h), 542, 543, 544, 545, 547, 548, 549, 550, 551, 553 or 724 of the Bankruptcy Code or any other Causes of Action or rights to payments or claims that belong to the Debtors.~~. Pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, no other Person or Entity may pursue any such ~~Avoidance Actions, recovery or subordination actions or other~~Litigation Trust Causes of Action or Retained Causes of Action that belong to the Debtors, the Reorganized Debtor, or the Litigation Trust, as applicable, unless otherwise provided by order of the Bankruptcy Court.

~~To the extent any Claim or Cause of Action has not independently been reviewed by the Independent Committee and/or otherwise settled prior to the Effective Date, and such Claim or Cause of Action is designated a Litigation Trust Cause of Action, the Litigation Trust Trustee shall perform an independent investigation regarding whether such Litigation Trust Cause of Action, shall be investigated or pursued.~~ It is possible that there may be other Causes of Action which currently exist or may subsequently arise but relate to facts and circumstances arising prior to the Effective Date that are not set forth herein, because the facts upon which such Causes of Action are based are not fully or currently known by the Debtors or the Plan Proponents and, as a result, cannot be specifically referred to herein (~~collectively,~~referred to in this Plan as the "Unknown Causes of Action"). Within twenty (20) Business Days of the discovery of the facts and circumstances underlying an Unknown Cause of Action, the ~~Independent Committee shall notify the Committee~~Reorganized Debtor or the Litigation Trust~~ Trustee~~, as applicable~~ of the existence of said Unknown Cause of Action, and the Independent Committee and Committee or~~, shall notify the Litigation Trust ~~Trustee~~or Reorganized Debtor, as applicable, and the Reorganized Debtor shall ~~confer and make a determination of whether~~promptly transfer such Unknown Cause of Action ~~will be transferred~~ to the Litigation Trust as a Litigation Trust Cause of Action.~~ For the avoidance of doubt, the Bankruptcy Court shall retain jurisdiction over any dispute between the Independent Committee and the Committee or Litigation Trust Trustee as applicable regarding the ownership of a discovered Unknown Cause of Action such that ownership of said discovered Unknown Cause of Action complies with the terms of this Plan.~~

C. *Preservation of All Causes of Action Not Expressly Settled or Released*

Unless a Claim or Cause of Action against a Creditor or other Person is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order, ~~the Debtors expressly reserve~~ such Claim or Cause of Action ~~for later adjudication unless~~is transferred to the Litigation Trust~~,~~ (including, ~~without limitation,~~any Known Causes of Action or Unknown Causes of Action), and, therefore, 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 such Claims or Causes of Action upon or after the Confirmation

Date or Effective Date of the Plan based on the Disclosure Statement, the Plan or the Confirmation Order, except where such Claims or Causes of Action have been released in the Plan or other Final Order. In addition, the ~~Debtors, the~~ Litigation Trust and any successor entities under the Plan, as applicable, expressly reserve the right to pursue or adopt any Claim alleged in any lawsuit in which the Debtors are defendants or an interested party, against any Person or Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits.

Any Person to whom the Debtors have incurred an obligation (whether on account of services, purchase or sale of goods or otherwise), or who has received services from Debtors or a transfer of money or property from the Debtors, or who has transacted business with the Debtors, or leased equipment or property from the Debtors should assume that such obligation, transfer, or transaction may be reviewed by the Litigation Trust, as applicable, subsequent to the Effective Date and may, if appropriate, be the subject of an action after the Effective Date, whether or not (i) such Entity has filed a Proof of Claim against the Debtors in these Bankruptcy Cases; (ii) such Creditor's Proof of Claim has been objected to; (iii) such Creditor's Claim was included in the Debtors' Schedules; or (iv) such Creditor's scheduled Claim has been objected to by the Debtors or has been identified by the Debtors as disputed, contingent, or unliquidated.

D. *Retained Causes of Action and Retained Causes of Action Contribution*

On or before the expiration of any applicable statute of limitation, the Reorganized Debtor may initiate any Retained Causes of Action in any appropriate court of competent jurisdiction. Neither the Litigation Trust nor Litigation Trust Trustee shall have any rights to direct the Reorganized Debtor in the pursuit or settlement of the Retained Causes of Action. Beginning on the six-month anniversary of the Effective Date and every six months thereafter, the Reorganized Debtor shall provide the Litigation Trust and the Litigation Trust Trustee a report on the status of the pursuit of any Retained Causes of Action. The Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee within ten (10) Business Days of any proposed settlement of any Retained Cause of Action. In the event of a successful collection of any Retained ~~Causes~~Cause of Action the Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee within ten (10) Business Days of the collection made thereon. The Litigation Trust and Litigation Trust Trustee as applicable are not, and are not intended to be, third party beneficiaries of the proceeds of any Retained Causes of Action, and are provided with no additional rights and/or standing to object to the terms of any litigation strategy or proposed settlement of any Retained Causes of Action pursuant to the terms of this Plan. For the avoidance of doubt the Reorganized Debtor is not required to pursue or settle any Retained Causes of Action.

Within ten (10) Business Days of receipt of any Retained Causes of Action Contributions arising from the final, non-appealable prosecution of a Retained Cause of Action or the settlement of a Retained Cause of Action, the Reorganized Debtor shall transfer the applicable Retained Causes of Action Contributions to the Litigation Trust in accordance with the instructions provided by the Litigation Trust Trustee. Each payment of the Retained Causes of Action Contributions paid shall be accompanied with a reasonable accounting supporting the amounts of the Retained Causes of Action Contributions transferred to the Litigation Trust.

Upon the resolution of all Retained Causes of Action any reporting obligations of the Reorganized Debtor to the Litigation Trust regarding the prosecution and/or settlement of any Retained Causes of Action shall cease, and the Reorganized Debtor shall have no further obligations related to the Retained Causes of Action Contributions, and the Litigation Trust shall have no right or claim to any proceeds of any Causes of Action retained by the Debtors.

In the event the any Retained Causes of Action Contribution transferred to the Litigation Trust exceed seventy-five percent (75%) of the net cash recoveries of the applicable Retained Cause of Action, within ten (10) Business Days of written notice of such over payment by the Reorganized Debtor, the Litigation Trust shall refund the Reorganized Debtor the portion of the actually paid Retained Cause of Action Contributions exceeding net cash recovery threshold set forth in this Plan.

Unless the Reorganized Debtor and the Litigation Trust and Litigation Trust Trustee agree otherwise in writing, the Bankruptcy Court shall retain sole jurisdiction to resolve any dispute regarding the payment of the Retained Causes of ~~Actions~~Action Contributions, the accounting supporting the Retained Causes of Action Contributions, and the refund of any overpayments of Retained Causes of Action Contributions.

ARTICLE VI.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. *Rejection of Executory Contracts or Unexpired Leases*

On the Effective Date, except for any executory contract that was previously assumed or rejected by an order of the Bankruptcy Court pursuant to section 365 of the Bankruptcy Code, each executory contract that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to Bankruptcy Code §§ 365 and 1123, effective as of the Confirmation Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejection pursuant to Bankruptcy Code §§ 365 and 1123 as of the Confirmation Date.

B. *Rejection Damages Bar Date*

Except to the extent another Claims Bar Date applies pursuant to an order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts under this Plan must be filed with the Bankruptcy Court, and a copy served on counsel for the Debtors, the Reorganized Debtor, and the Litigation Trust Trustee, within fifteen (15) days of the Effective Date, or such Claim shall be forever barred and shall not be entitled to a distribution or be enforceable against the Debtors, their Estates, the Reorganized Debtor, the Litigation Trust, the Litigation Trust Trustee, their successors, their assigns or their Assets. Any timely filed Claim arising from the rejection of an Executory Contract shall be treated as a Claim in Class 4 (Trade Creditor Claims). Nothing in this Plan extends or modifies any previously applicable Claims Bar Date.

ARTICLE VII.

PROVISIONS GOVERNING DISTRIBUTIONS

A. *Disbursing Agent*

1. **Litigation Trust Trustee as Disbursing Agent for Class 6A Claims and Class 6B Claims**

The Reorganized Debtor shall be the Disbursing Agent for any payments made to parties other than creditors that shall receive Litigation Trust Interests and shall make all required distributions to such creditors pursuant to this Plan. The Litigation Trust Trustee shall be the Disbursing Agent for creditors that shall receive Litigation Trust Interests and shall make all required distributions to such creditors pursuant to Article IV.M.9 of this Plan.

2. **Alternative Disbursing Agent Qualification**

Other than as set forth in this Plan, after the Effective Date no Person other than the Litigation Trust Trustee (or the Reorganized Debtor to the extent any applicable disbursement to be made by the Reorganized Debtor as Disbursing Agent could not be effected on the Effective Date) shall be authorized by the Bankruptcy Court to serve as Disbursing Agent unless and until the Litigation Trust Trustee consents in writing to that Person serving as Disbursing Agent, and that Person (i) executes and files a statement with the Bankruptcy Court agreeing to perform all of the duties of the Disbursing Agent under this Plan, and (ii) consents to the jurisdiction of the Bankruptcy Court in respect to all matters relating to the performance of his or her duties as the Disbursing Agent under this Plan or order of the Bankruptcy Court.

B. *Time and Manner of Distributions*

The Disbursing Agent shall make Distributions under the Plan on account of Claims Allowed on the Effective Date or as soon as practicable after the Effective Date, except as otherwise agreed to by the Litigation Trust Oversight Committee or by order of the Bankruptcy Court. The Litigation Trust Trustee as Disbursing Agent shall have the power, subject to Litigation Trust Oversight Committee consent, to make interim distributions to Litigation Trust Beneficiaries in accordance with this Plan if the Litigation Trust Trustee determines that such interim distributions are warranted and economical. If the Litigation Trust Trustee determines to make interim distributions to Litigation Trust Beneficiaries, the Litigation Trust Trustee will determine the amount to be distributed by taking into account such factors as ongoing expenses and costs, taxes and reserves necessary to provide for the resolution of Litigation Trust Causes of Action. Amounts withheld will be placed in an interest-bearing account, which shall fund ongoing expenses and costs relating to such reserves, including, without limitation, taxes in respect of Litigation Trust Causes of Action, if any.

At the option of the Disbursing Agent, except as otherwise provided in this Plan, any distributions under this Plan may be made either in Cash, by check drawn on a domestic bank, by wire transfer or by ACH. Notwithstanding any other provisions of

this Plan to the contrary, no payment of fractional cents will be made under this Plan. Cash will be issued to Holders entitled to receive a distribution of Cash in whole cents (rounded to the nearest whole dollar when and as necessary). Any distribution of less than $50.00 will be considered de minimis, and Holders of Allowed Claims that are entitled to any distribution of less than $50.00 will not receive any distribution unless and until the aggregate of such distributions exceed $50.00. Such undistributed funds shall remain with and vest in the Litigation Trust for distribution to other Holders of Allowed Claims.

C. *Interest on Claims*

Except as otherwise specifically provided for herein or in the Confirmation Order, or required by applicable bankruptcy law, post-petition interest shall not accrue or be paid on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim unless all Claims have been paid in full in cash.

D. *Compliance with Tax Requirements/Allocations*

In connection with the Plan, to the extent applicable, the Litigation Trust and Litigation Trust Trustee shall comply with all tax withholding and reporting requirements imposed on it by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. For tax purposes, distributions received in respect of Allowed Claims will be allocated first to the principal amount of Allowed Claims with any excess allocated, if applicable, to unpaid interest that accrued on such Claims.

E. *Delivery of Distributions and Undeliverable or Unclaimed Distributions*

1. **Delivery of Distributions in General**

Except as otherwise provided in this Plan, distributions to Holders of Allowed Claims shall be made by the applicable Disbursing Agent (i) at the addresses set forth on the Proof of Claim or Interest filed by such Holder (or at the last known address of such Holder if no motion requesting payment or Proof of Claim or Interest is filed or the Debtors or the Reorganized Debtor, as applicable, and the Litigation Trust have been notified in writing of a change of address), (ii) at the addresses set forth in any written notices of address changes delivered to the Litigation Trust Trustee or the Debtors or the Reorganized Debtor, as applicable, after the date of any related Proof of Claim or Interest, or (iii) at the addresses reflected in the Schedules if no Proof of Claim or Interest has been filed and the Litigation Trust Trustee or the Debtors or the Reorganized Debtor, as applicable, have not received a written notice of a change of address.

2. **Undeliverable Distributions**

a. Holding of Undeliverable Distributions.

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

b. Failure to Claim Undeliverable Distributions.

Any Holder of an Allowed Claim (irrespective of when a Claim became an Allowed Claim) that does not assert a Claim pursuant hereto for an undeliverable distribution (regardless of when not deliverable) within ninety (90) days after the distribution has been attempted to be made to the Holder of the Allowed Claim shall have its Claim related to such undeliverable distribution satisfied and shall be forever barred from asserting any such Claim against the Litigation Trust or be entitled to a further distribution. In such cases, any Cash held for distribution on account of such Claims shall be the property of the Litigation Trust free of any such Claim. Nothing contained herein shall require the Litigation Trust Trustee or any interested party to attempt to locate any Holder of an Allowed Claim.

F. *Claims Administration Responsibility*

1. **Reservation of Rights to Object to Claims**

Except as provided in Article II.B hereof, for the avoidance of doubt, nothing in this Section F shall affect the rights, if any, of any interested party to object to any Claim or Interest before the Effective Date. Unless a Claim or Interest is expressly described as an Allowed Claim or Interest pursuant to or under this Plan, or otherwise becomes an Allowed Claim or Interest prior to Effective Date, the Debtors reserve any and all objections to any and all Claims and Interests and motions or requests for the payment of Claims or Interests, whether administrative expense, priority, secured or unsecured, Liens and security interests, whether under the Bankruptcy Code, other applicable law or contract. The Debtors' failure (as applicable) to object to any Claim or Interest in the Chapter 11 Cases shall be without prejudice to the Debtors' rights to contest or otherwise defend against such Claim or Interest in the Bankruptcy Court when and if such Claim or Interest is sought to be enforced by the Holder of such Claim or Interest prior to the Effective Date.

2. **Filing of Objections**

After the Effective Date, the ~~Reorganized Debtor~~Litigation Trust shall have the sole authority to file objections and otherwise object to all Administrative Claims, and all claims seeking allowance as Administrative Claims, not paid on or prior to the Effective Date.

On the Effective Date, the Litigation Trust and the Litigation Trust Trustee, as applicable, shall assume the right and obligation to prosecute any ~~Claim Objections (other than Administrative~~objections to Claims~~ or claims seeking allowance as Administrative~~

~~Claims)~~ which have not been previously adjudicated prior to the Effective Date. After the Effective Date, the Litigation Trust and Litigation Trust Trustee, as applicable, shall have the sole authority to file objections and otherwise object to all Claims ~~(other than Administrative Claims or claims seeking allowance as Administrative Claims)~~ which are paid on the Effective Date.

An objection to a Claim or Interest shall be deemed properly served on the Holder of such Claim or Interest if service is made by any of the following methods: (i) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Bankruptcy Rule 7004; (ii) to the extent counsel for such Holder is unknown, by first class mail, postage prepaid, on the signatory on the Proof of Claim or Interest or other representative identified on the Proof of Claim or Interest or any attachment thereto; or (iii) by first class mail, postage prepaid, on any counsel that has appeared on the behalf of such Holder in the Chapter 11 Cases. Unless otherwise provided in this Plan or by order of the Bankruptcy Court, any objections to Claims must be filed and served not later than the Objection Deadline.

3. **Determination of Claims**

Any Claim as to which a Proof of Claim or Interests or motion or request for payment was timely filed in the Chapter 11 Case may be determined and liquidated pursuant to (i) an order of the Bankruptcy Court, (ii) applicable bankruptcy law, (iii) agreement of the parties, (iv) applicable non-bankruptcy law, or (v) the lack of (a) an objection to such Claim or Interest, (b) an application to equitably subordinate such Claim, and (c) an application to otherwise limit recovery with respect to such Claim or Interest filed by the Debtors on or prior to any applicable deadline for filing such objection or application with respect to such Claim or Interest. Any such Claim or Interest determined to be Allowed, shall be deemed to be an Allowed Claim for such liquidated amount (so long as such determination has not been stayed, reversed or amended and as to which determination (or any revision, modification or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, remains pending) and shall be satisfied in accordance with this Plan. Nothing contained in this Plan shall constitute or be deemed a waiver of any Claim, right or Cause of Action that the Debtors may have against any Person in connection with or arising out of any Claim or Claims, including, without limitation, any rights under 28 U.S.C. § 157.

G. *Procedures for Treating and Resolving Disputed and Contingent Claims or Interests*

1. **No Distributions Pending Allowance**

No payments or distributions will be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by a Final Order, and the Disputed Claim has become an Allowed Claim or Interest; *provided*, *however*, that in the event that only a portion of such Claim or Interest is an Allowed Claim or Interest, the Disbursing Agent may make, in his or her discretion, a distribution pursuant to the Plan on account of the portion of such Claim or Interest that becomes an Allowed Claim or Interest.

2. **Claim Estimation**

Prior to the Effective Date the Debtors, and after the Effective Date the Litigation Trust Trustee, as applicable, may request estimation or liquidation of any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code; *provided*, *however*, that the Bankruptcy Court shall determine (i) whether such Disputed Claim is subject to estimation pursuant to section 502(c) of the Bankruptcy Code, and (ii) the timing and procedures for such estimation proceedings, if any.

H. *Setoffs and Recoupment*

Prior to the Effective Date, the Debtors, and after the Effective Date, the Litigation Trust Trustee, as applicable, may, pursuant to Section 558 of the Bankruptcy Code or applicable non-bankruptcy law, but shall not be required to, setoff against or recoup from any Claim on which payments are to be made pursuant to this Plan any claims or Causes of Action of any nature whatsoever the Debtors, the Reorganized Debtor or the Litigation Trust, as applicable, may have against the Holder of such Claim; *provided*, *however*, that neither the failure to effect such setoff or recoupment nor the allowance of any Claim shall constitute a waiver or release by the Debtors, or Litigation Trust, as applicable, of any right of setoff or recoupment the Debtors or Litigation Trust, as applicable, may have against the Holder of such Claim, nor of any other claim or Cause of Action.

I. *Allowance and Disallowance of Claims Subject to Section 502 of the Bankruptcy Code*

Allowance and disallowance of Claims shall be in all respects subject to the provisions of Section 502 of the Bankruptcy Code, including, without limitation, subsections (b), (d), (e), (g), (h) and (i) thereof.

J. *Cancellation of Instruments and Agreements*

Upon the occurrence of the Effective Date, except as otherwise provided herein, all promissory notes, shares, certificates, instruments, indentures, or agreements evidencing, giving rise to or governing any Claim shall be deemed canceled and annulled without further act or action under any applicable agreement, law, regulation, order or rule; the obligations of the Debtors under such promissory notes, share certificates, instruments, indentures or agreements shall be satisfied and the Holders thereof shall have no rights against the Debtors, the Estates, the Committee, the Reorganized Debtor, the Litigation Trust Trustee, the Litigation Trust Oversight Committee, and/or the Litigation Trust; and such promissory notes, share certificates, instruments, indentures or agreements shall evidence no such rights, except the right to receive the distributions provided for in this Plan.

In addition, the obligations of the Exchange Notes Trustee under or in connection with the Exchange Note Indenture and the obligations of the Old Notes Trustee under the Old Notes Indenture shall be discharged and deemed satisfied on the Effective Date except to the extent necessary to comply with the terms of this Plan, including to facilitate the distributions provided for in this Plan to the applicable Holders of Claims and cancelling existing security interests. For the avoidance of doubt, nothing contained

in this Plan or the Confirmation Order shall limit or affect the standing of the Exchange Notes Trustee or Old Notes Trustee to appear and be heard in the Chapter 11 Cases or in any proceeding in the Bankruptcy Court or any other court on and after the Effective Date.

Notwithstanding the foregoing, the Exchange Note Indenture and the Old Notes Indenture shall remain in effect solely for the purposes of (a) allowing the applicable Holders of Claims to receive their respective distributions under this Plan as provided herein, (b) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to facilitate the distributions under this Plan to the applicable Holders of Claims as provided herein and otherwise comply with any obligations they may have under this Plan, including the cancellation of existing security interests, (c) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to preserve their respective rights to payment of fees, expenses, and indemnification obligations as against any money or property distributable to the relevant Holder of Exchange Note Claims and Old Notes Claims, as applicable, under this Plan, and to deduct such fees and expenses from such distributions, including in respect of payment and the right to exercise their charging liens, if any, against such distributions, (d) permitting the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to perform any functions that are necessary to effectuate the foregoing, and (e) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to assert any other right, privilege, benefit, or protection granted to either of them under the relevant documentation other than against the Reorganized Debtor and the Exculpated Parties; *provided*, *however*, that the foregoing shall not affect the discharge of the Debtors with respect to the Exchange Noteholder Claims and the Old Notes Claims as provided for herein, or result in any expenses or liability to the Reorganized ~~Holdings~~Debtor, except to the extent set forth in or provided for under this Plan. Notwithstanding anything to the contrary herein, the terms and provisions of this Plan shall not alter, modify, or amend any existing contract or agreement between any of the Exchange Notes Trustee, the Old Notes Trustee and any current or former Exchange Noteholder or Old Noteholder, as applicable, and any such contract or agreement shall remain in full force and effect according to its terms following the Effective Date.

K. *Withholding Taxes*

The Disbursing Agent shall be entitled to deduct any federal, state or local withholding taxes from any payments under this Plan. As a condition to making any distribution under this Plan, the Disbursing Agent may require that the Holder of an Allowed Claim provide such Holder's taxpayer identification number and such other information and certification as the Disbursing Agent may deem necessary to comply with applicable tax reporting and withholding laws.

L. *Reports*

From the Effective Date, until a Final Decree is entered, the Litigation Trust Trustee shall submit quarterly reports to the United States Trustee and the Litigation Trust Oversight Committee setting forth all receipts and disbursements of the Litigation Trust as required by the United States Trustee guidelines.

M. *Distribution Record Date*

As of the close of business on the applicable Distribution Record Date, the transfer register for all Claims maintained by the Debtors or their agents, shall be closed, and there shall be no further changes in the Record Holders of any such Claims. Moreover, the Debtors, the Reorganized Debtor, the Litigation Trust, the Litigation Trust Trustee or the Litigation Trust Oversight Committee, as applicable, shall have no obligation to recognize the transfer of any such Claims occurring after the applicable Distribution Record Date and shall be entitled for all purposes herein to recognize and deal only with those Holders of record as of the close of business on the applicable Distribution Record Date.

N. *Timing and Calculation of Amounts to be Distributed*

Except as otherwise provided herein, on the Effective Date or as soon as practicable thereafter, each Holder of an Allowed Claim against the Debtors shall receive the distributions that the Plan provides for Allowed Claims in the applicable Class~~,~~; *provided however*, the Litigation Trust shall maintain reserve accounts in trust for the payment or distribution on account of Litigation Trust Beneficiaries with respect to ~~disputed claims~~Disputed Claims and shall make the appropriate adjustments in distributions to adequately take into consideration and fund such reserve accounts. The Litigation Trust Trustee, as Disbursing Agent, shall be authorized to make interim distributions and any subsequent distributions necessary to distribute any Cash, or other consideration held in any reserve account to the appropriate Claim Holder as Claims are resolved and Allowed and reserves are reduced in accordance with this Plan.

O. *Settlement of Claims and Controversies*

Pursuant to Fed. R. Bankr. P. 9019 and in consideration for the distributions and other benefits provided under this Plan, the provisions of this Plan shall constitute a good faith compromise and settlement of claims and/or controversies relating to the contractual, legal and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim, or any distribution to be made on account of any such Allowed Claim.

ARTICLE VIII.
CONDITIONS PRECEDENT TO CONFIRMATION AND OCCURRENCE OF THE EFFECTIVE DATE

A. *Conditions Precedent to Confirmation*

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

B. *Conditions Precedent to Occurrence of Effective Date*

It shall be a condition to occurrence of the Effective Date that the following conditions shall have been satisfied or waived pursuant to the provisions herein:

1. Fourteen (14) days have passed since the entry of the Confirmation Order as a Final Order in form and substance satisfactory to the ~~Debtors~~Plan Proponents and the Committee in their absolute discretion. The Confirmation Order shall provide that, among other things:

(i) the ~~Debtors~~Plan Proponents are authorized and directed to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, and other agreements or documents created in connection with the Plan; and

(ii) the provisions of the Confirmation Order are nonseverable and mutually dependent.

2. The appointment of the Litigation Trust Trustee shall have been confirmed by the Confirmation Order or order of the Bankruptcy Court.

3. All actions, documents, consents, and agreements necessary to implement the Plan, including, without limitation, creating the Litigation Trust and entering into the Litigation Trust Agreement, shall have been effected or executed and delivered to the required parties and, to the extent required, filed with the applicable government units in accordance with applicable law, and all other actions required to be taken in connection with the Effective Date shall have occurred.

~~4. The Debtors shall have established a reserve for all then outstanding Professional Fee Claims and Committee Professional Fee Claims (as limited by the Plan) as estimated by the Debtors and the Committee on or prior to the Effective Date.~~

4. The Professional Fee Reserve shall have been established and funded.

C. *Waiver of Conditions*

Except as otherwise required by the tenets of the Plan, the ~~Debtors~~Plan Proponents may waive any of the conditions to Confirmation of the Plan and/or to occurrence of the Effective Date of the Plan set forth in this Article VIII, at any time, without notice, without leave or order of the Bankruptcy Court, and without any formal action other than proceeding to confirm and/or consummate the Plan.

D. ~~*Debtors'*~~ *Plan Proponents' Right of Revocation or Withdrawal*

The ~~Debtors~~Plan Proponents reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent plans. If the ~~Debtors~~Plan Proponents revoke or withdraw the Plan, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing

or limiting to an amount certain any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts affected by the Plan, and any document or agreement executed pursuant hereto, shall be deemed null and void, and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claims by or against, or any Interests in, such Debtors or any other Person (ii) prejudice in any manner the rights of such Debtors or any other Person, or (iii) constitute an admission of any sort by the Debtors or any other Person.

ARTICLE IX.
EFFECT OF CONFIRMATION

A. *Injunction*

~~**Effective as of the Effective Date, pursuant to section 524(a) of the Bankruptcy Code, to the fullest extent permissible under applicable law, and except**~~ Except as otherwise ~~**expressly**~~specifically provided in ~~**the Plan or for obligations issued or required to be paid pursuant to the**~~ this Plan or the Confirmation Order, all Persons or Entities who have held, hold~~,~~ or may hold (a) Claims or Interests that ~~**have been discharged pursuant**~~arose prior to ~~**Article IX**~~the Effective Date, (b) Causes of ~~**the Plan or**~~Action that are subject to exculpation pursuant to Article IX ~~**of the**~~.C of this Plan (but only to the extent of the exculpation provided in Article IX.C of this Plan), or (c) Claims, Interests or Causes of Action that are otherwise discharged, satisfied, stayed or terminated pursuant to the terms of this Plan~~,~~ and all other parties-in-interest seeking to enforce such Claims, Interests or Causes of Action are permanently enjoined, from and after the Effective Date, from ~~**taking any of the following actions against, as applicable, the Debtors, the Reorganized Debtor, or the Exculpated Parties: (1)**~~ (i) commencing or continuing in any manner any action or ~~**another**~~other proceeding of any kind ~~**on account of or in connection with or**~~ with respect to any such ~~**Claims**~~Claim against or Interest~~; (2) enforcing, attaching, collecting,~~ in the Debtors or the Reorganized Debtor, or property of any Debtors or ~~**recovering**~~the Reorganized Debtor, other than to enforce any right to a distribution pursuant to this Plan, (ii) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree~~,~~ or order against the ~~**aforementioned entities on account of**~~ Debtors or ~~**in connection with**~~the Reorganized Debtor or property of any Debtors or the Reorganized Debtor with respect to any such ~~**Claims or Interests; (3**~~Claim or Interest, other than to enforce any right to a distribution pursuant to this Plan, (iii) creating, perfecting~~,~~ or enforcing any Lien or encumbrance of any kind against the ~~**aforementioned entities or**~~ Debtors or the Reorganized Debtor, or against the property or interests in property of the ~~**estates of**~~Debtors or the ~~**aforementioned entities on account of or in connection with or**~~ Reorganized Debtor with respect to any such ~~**Claims or Interests; (4**~~Claim or Interest, other than to enforce any right to a distribution pursuant to this Plan, or (iv) asserting any right of setoff~~,~~ (except for setoffs validly exercised prepetition) or subrogation~~, or recoupment~~ of any kind against any obligation due from the ~~**aforementioned entities or against**~~Debtors or the ~~**property of**~~ Reorganized Debtor, or against the ~~**aforementioned entities on account of or in connection with or**~~property or interests in property of the Debtors or the Reorganized Debtor, with respect to any such ~~**Claims unless, such holder has filed a motion requesting**~~

~~the right to perform such setoff on or before the Effective Date, and notwithstanding an indication of a Claim, Interest or otherwise that such holder asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect~~Claim or Interest. Such injunction shall extend to any ~~such Claims~~successors or ~~Interests r settled pursuant to the Plan.~~

~~Upon entry~~assignees of the ~~Confirmation Order, all holders of Claims~~Debtors or the Reorganized Debtor and ~~Interests and their~~its respective ~~current and former employees, agents, officers, directors, principals, and direct and indirect affiliates shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan. Each holder of an Allowed Claim or Allowed Interest, as applicable, by accepting, or being eligible to accept, distributions under or Reinstatement of such Claim or Interest, as applicable, pursuant to the Plan, shall be deemed to have consented to the injunction provisions set forth in this Article IX of the Plan.~~properties and interests in properties.

B. *Term of Injunctions or Stays*

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 ~~Case~~Cases under Bankruptcy Code §§ 105 or 362, this Plan or otherwise, and extant on the Confirmation Date, shall remain in full force and effect until the later of (i) the closing of the Chapter 11 Cases or (ii) the dissolution of the Litigation Trust.

C. *Exculpation*

Effective as of the Effective Date, to the ~~fullest~~ extent ~~permissible~~permitted under ~~11 U.S.C. §~~section 1125(e) ~~and notwithstanding anything herein to~~ of the ~~contrary,~~ Bankruptcy Code, and except as otherwise specifically provided in this Plan, no Exculpated Party shall have or incur liability for, and each Exculpated Party is ~~hereby~~ exculpated from any ~~claim, obligation,~~ Cause of Action~~, or liability for (a)~~ related to any act or omission ~~occurring between the Petition Date and the Effective Date in connection with, the representation of the Debtors, or (b) any act or omission occurring~~taking place between the Petition Date and the Effective Date, in connection with, relating to, or ~~related to formulating, negotiating, soliciting, preparing, disseminating, confirming, administering, or implementing~~arising out of, the Chapter 11 Cases, the Involuntary Proceedings, the filing of the Involuntary Petitions, the ~~Plan, or consummating the~~formulation, preparation, dissemination, negotiation, or filing of this Plan, the Disclosure Statement, the ~~Reorganized Holdings Organizational Documents, the Reorganized Debtors Organizational Documents, the Restructuring Transactions, the Litigation Trust Interests, or any contract, instrument, release, or other agreement or document created or entered into in connection with the Plan (including, for the avoidance of doubt, providing any legal opinion requested by any Entity regarding any transaction, contract, instrument, document, or other agreement contemplated by the Plan or the reliance by any Exculpated Party on the Plan or the Confirmation Order~~ Plan Supplement, or any transaction under the Plan, contract, instrument, or document or

transaction approved by the Bankruptcy Court in these Chapter 11 Cases, except for (a) any Cause of Action related to any act or omission that is determined in ~~lieu of such legal opinion), in each case except for~~a Final Order by a court of competent jurisdiction to have constituted fraud, willful misconduct, or gross negligence ~~or claims for legal malpractice, release of which is prohibited by~~of such Person, and (b) any Cause of Action related to any liability of professionals to their clients pursuant to N.Y. Comp. Codes R. & Regs. tit. 22 § 1200.8 Rule 1.8(h~~) of the New York Rules of Professional Conduct (22 N.Y.C.R.R. § 1200), each solely to the extent as determined by a Final Order of a court of competent jurisdiction;~~)(1); *provided*, *however*, *that*, for the avoidance of doubt, any such exculpation shall not act or be construed to exculpate, channel, release, enjoin, or otherwise affect any civil or criminal enforcement action by a Governmental Unit. ~~Notwithstanding the foregoing, the Exculpation shall not release any obligation or liability of any Entity under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan or impair the ability of any Entity under the Plan to object to any request for payment on account of Professional Fee Claims.~~

D. *Release of Liens*

Except as otherwise provided in the Plan, the Plan Supplement, or any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, compromised, and discharged, and all of the right, title, and interest of any holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert automatically to the ~~applicable Debtor and its successors and assigns.~~ Reorganized Debtor and its successors and assigns, in each case, without any further approval or order of the Bankruptcy Court and without any action of filing being required to be made by the Debtors, the Reorganized Debtor, the Plan Proponents, or any Holder of a Secured Claim.

Any holder of such security interest (and the applicable agents for such holder) shall be authorized and directed, at the sole cost and expense of the Reorganized ~~Debtors~~Debtor, to release any collateral or other property of any Debtor (including any cash collateral and possessory collateral) held by such holder (and the applicable agents for such holder), and to take such actions as may be reasonably requested by the Reorganized Debtor to evidence the release of such Lien, including the execution, delivery, and filing or recording of such releases. The presentation or filing of the Confirmation Order to or with any federal, state, provincial, or local agency or department shall constitute good and sufficient evidence of, but shall not be required to effect, the termination of such Liens.

ARTICLE X.

RETENTION OF JURISDICTION

This Plan shall not in any way limit the Bankruptcy Court's post-confirmation jurisdiction as provided under the Bankruptcy Code. Pursuant to sections 105(a) and

1142 of the Bankruptcy Code, the Bankruptcy Court shall retain and have exclusive jurisdiction (to the extent granted by applicable law, including any provisions permitting mandatory or discretionary withdrawal of such jurisdiction) over any matter arising out of or related to the Chapter 11 Cases and this Plan, including, without limitation, the following:

1. All matters relating to the assumption or rejection or the assumption and assignment of Executory Contracts, or Claims or disputes relating thereto;

2. All matters relating to the ownership of a Claim or Interest;

3. All matters relating to the distribution to Holders of Allowed Claims and Interests and to the determination of Claims and Interests;

4. Any and all matters involving the Litigation Trust Trustee and/or the Litigation Trust and/or the Litigation Trust Oversight Committee;

5. All matters relating to or arising in connection with the disallowance, Allowance or estimation of Claims or Interests filed, both before and after the Confirmation Date, including any objections to the classification of any Claim or Interest;

6. To enter and implement such orders as may be appropriate if the Confirmation Order is for any reason stayed, revoked, modified and/or vacated;

7. All matters relating to the construction and implementation of the Plan and the provisions thereof, and to hear and determine all requests for orders in aid of execution, implementation or consummation of this Plan;

8. All matters relating to disputes arising in connection with the interpretation, implementation or enforcement of this Plan or the Confirmation Order, including disputes involving the injunction and exculpation provisions of this Plan, and disputes arising under agreements, documents or instruments executed in connection with this Plan;

9. To consider any modifications of this Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code or modifications to the Confirmation Order, to cure any defect or omission or to reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

10. All applications for allowance of compensation and reimbursement of Professional Fee Claims and Committee Professional Fee Claims under this Plan or under §§ 328, 330, 331, 503(b), 1103 and 1129(a)(4) of the Bankruptcy Code;

11. To hear and determine all motions requesting allowance of an Administrative Claim;

12. To determine requests for the payment of Claims entitled to priority under § 507(a)(2) of the Bankruptcy Code, including compensation and reimbursement of expenses of parties entitled thereto;

13. All Causes of Action, Avoidance Actions and other suits and adversary proceedings, including proceedings to recover assets of the Litigation Trust, as successor-in-interest to the Debtors and property of the Estates, wherever located, and to adjudicate any and all other Causes of Action, Avoidance Actions, suits, adversary proceedings, motions, applications and contested matters that may be commenced or maintained pursuant to the Chapter 11 Cases or this Plan, proceedings to adjudicate the allowance of Disputed Claims and Interests, and all controversies and issues arising from or relating to any of the foregoing, including, without limitations, Known Cases of Action and Unknown Causes of Action;

~~14. All disputes between the Independent Committee and Committee or Litigation Trust Trustee as applicable regarding the ownership of any discovered Unknown Cause of Action;~~

~~15.~~14. All disputes regarding the payment of the Excess SME Proceeds, the accounting supporting the Excess SME Proceeds, the refund of any Excess SME Proceeds during the Excess SME Proceeds Period;

~~16.~~15. All matters concerning state, local and federal taxes in accordance with §§ 346, 505 and 1146 of the Bankruptcy Code;

~~17.~~16. Any other matter to the extent such jurisdiction is consistent with the Bankruptcy Code;

~~18.~~17. To enter the Final Decree closing the Chapter 11 Case; and

~~19.~~18. To enforce all orders previously entered by the Bankruptcy Court, including the Confirmation Order.

ARTICLE XI.

MISCELLANEOUS PROVISIONS

A. *Effectuating Documents, Further Transactions and Corporation Action*

The ~~Debtors~~Plan Proponents are authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements of documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions hereof.

Prior to, on or after the Effective Date (as appropriate), all matters provided for hereunder that would otherwise require approval of the shareholders or directors of the Debtors shall be deemed to have occurred and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to the applicable general corporation law of the

states where each of the Debtors are organized without any requirement of further action by the shareholders or directors of any Debtor.

B. *Payment of Statutory Fees*

All fees payable pursuant to section 1930(a) of Title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid, prior to the Effective Date, out of the Assets of the Estate for each quarter (including any fraction thereof) and after the Effective Date by the Litigation Trust until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first.

C. *Headings*

The headings of the articles, paragraphs and sections of this Plan are inserted for convenience only and shall not affect the interpretation hereof.

D. *Binding Effect of Plan*

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Effective Date, the provisions of this Plan shall bind any Holder of a Claim against, or Interest in, the Debtors, the Estates, the Litigation Trust and their respective successors or assigns, whether or not the Claim or Interest of such Holders is Impaired under this Plan and whether or not such Holder has accepted this Plan. The rights, benefits and obligations of any entity named or referred to in this Plan, whose actions may be required to effectuate the terms of this Plan, shall be binding on and shall inure to the benefit of any heir, executor, administrator, successor or assign of such entity (including, without limitation, the Litigation Trust Trustee and any trustee appointed for the Debtors under chapters 7 or 11 of the Bankruptcy Code).

E. *Final Order*

Except as otherwise expressly provided in this Plan, any requirement in this Plan for a Final Order may be waived by the ~~Debtors~~Plan Proponents in consultation with the Committee upon written notice to the Bankruptcy Court. No such waiver shall prejudice the right of any party in interest to seek a stay pending appeal of any order that is not a Final Order.

F. *Withholding and Reporting Requirements*

In connection with this Plan and all instruments issued in connection herewith and distributions hereunder, the Debtors, the Reorganized Debtor, the Litigation Trust and the Litigation Trust Trustee shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements.

G. *Tax Exemption*

Pursuant to section 1146 of the Bankruptcy Code, any transfers from the Debtors, the Litigation Trust or the Litigation Trust Trustee to any other Person or entity pursuant to this Plan, or any agreement regarding the transfer of title to or ownership of the Debtors' or the Litigation Trust's personal property, or the issuance, transfer or exchange of any security under this Plan, or the execution, delivery or recording of an instrument of transfer pursuant to, in implementation of or as contemplated by this Plan, including, without limitation, any transfers to or by the Litigation Trust Trustee of the Debtors' or the Litigation Trust's property in implementation of or as contemplated by this Plan shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city or governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument, without requiring the payment of any documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax or similar tax.

H. *Governing Law*

Except to the extent a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless specifically stated, the rights, duties and obligations arising under this Plan, any agreements, documents and instruments executed in connection with this Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreements shall control), and, with respect to the Debtors and the Litigation Trust, corporate governance matters shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to conflicts of law principles.

I. *Severability*

After the Effective Date, should the Bankruptcy Court or any other court of competent jurisdiction determine that any provision in this Plan is either illegal on its face or illegal as applied to any Claim, such provisions shall be unenforceable either as to all Holders of Claims or as to the Holder of such Claim as to which the provision is illegal, respectively. Such a determination of unenforceability shall in no way limit or affect the enforceability and operative effect of any other provision of this Plan.

J. *Plan Controls*

In the event and to the extent any provision of this Plan is inconsistent with any provision of the Disclosure Statement or the Plan Supplement, the provisions of this Plan shall control and take precedence.

K. *Amendments and Modifications*

The ~~Debtors~~Plan Proponents may alter, amend or modify this Plan under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Hearing. After the Confirmation

Date and prior to "substantial consummation" (as such term is defined in section 1101(2) of the Bankruptcy Code) of this Plan, the ~~Debtors~~Plan Proponents in consultation with the Committee may institute proceedings in the Bankruptcy Court pursuant to section 1127(b) of the Bankruptcy Code to remedy any defect or omission or reconcile any inconsistencies in this Plan, the Disclosure Statement or the Confirmation Order, and pursue such matters as may be necessary to carry out the purposes and effects of this Plan, by the filing of a motion on notice to the Bankruptcy Rule 2002 service list only, and the solicitation of all Creditors and other parties-in-interest shall not be required.

L. *Notices*

Any notices required under this Plan or any notices or requests of the Debtors, the Plan Proponents, the Reorganized Debtor, or the Litigation Trust Trustee by parties in interest under or in connection with this Plan shall be in writing and served either by (i) certified mail, return receipt requested, postage prepaid, (ii) hand delivery, or (iii) reputable overnight delivery service, all charges prepaid, and shall be deemed to have been given when received by the following parties:

To the Debtors:

Reed Smith LLP
Attn: Derek J. Baker, Esq. and Derek M. Osei-Bonsu, Esq.
Three Logan Square
1717 Arch Street Suite 3100
Philadelphia, PA 19146

-and-

Reed Smith LLP
Attn: Ann E. Pille, Esq.
10 S. Wacker Drive, Suite 4000
Chicago, IL 60606

To the Committee:

Dechert LLP
Attn: Stephen Zide, Esq. and David Herman, Esq.
Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036

To the Reorganized Debtor and the Plan Proponents:

Togut, Segal & Segal LLP
Attn: Kyle J. Ortiz, Esq. and Bryan M. Kotliar, Esq.
One Penn Plaza, Suite 3335
New York, NY 10119

To the Litigation Trust and the Litigation Trust Trustee:

M. *Filing of Additional Documents*

On or before substantial consummation of this Plan, the ~~Debtors~~Plan Proponents may file with the Bankruptcy Court such agreements or other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan.

N. *Direction to a Party*

From and after the Effective Date, the ~~Debtors~~Plan Proponents, the Litigation Trust or the Litigation Trust Trustee may apply to the Bankruptcy Court for the entry of an order directing any Person to execute or deliver or to join in the execution or delivery of any instrument or document reasonably necessary or reasonably appropriate to effect a transfer of properties dealt with by this Plan, and to perform any other act (including the satisfaction of any lien or security interest) that is reasonably necessary or reasonably appropriate for the consummation of this Plan.

O. *Successors and Assigns*

The rights, benefits and obligations of any Person or Entity named or referred to herein shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign of such Person or Entity.

P. *Reservation of Rights*

Except as expressly set forth herein, this Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of this Plan, any statement or provision contained herein, or the taking of any action by the ~~Debtors~~Plan Proponents with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of the ~~Debtors~~Plan Proponents with respect to the Holders of Claims or Interests prior to the Effective Date.

Q. *Further Assurances*

The Debtors, the Reorganized Debtor, the Litigation Trust Trustee, and all Holders of Claims receiving distributions hereunder and all other parties in interest shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan.

R. *Entire Agreement*

The Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations on such subjects, all of which have become merged and integrated into the Plan.

S. *Filing of Additional Documents*

On or before the Effective Date, the ~~Debtors~~Plan Proponents may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

~~Respectfully Submitted,~~

~~Eletson Holdings, *et al.*, as Debtors and Debtors-in-Possession~~

~~By: /s/ Vasillis E. Kertsikoff~~
~~Name: Vasillis E. Kertsikoff~~
~~Title: Vice President & Director~~

[*Signature Page Follows*]

Dated: June 17, 2024
New York, New York

Respectfully submitted,

TOGUT, SEGAL & SEGAL LLP

/s/ Kyle J. Ortiz
Kyle J. Ortiz
Bryan M. Kotliar
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Counsel for the Petitioning Creditors

APPENDIX C

PC Alternative Term Sheet

In re Eletson Holdings Inc., et al.,
Case No. 23-10322 (JPM)

Plan Term Sheet

June 17, 2024

This term sheet (the "Term Sheet") sets forth the principal terms of a comprehensive restructuring (the "Restructuring") of the existing debt and other obligations of Eletson Holdings Inc. ("Eletson Holdings" and, as reorganized in accordance with this Term Sheet, "Reorganized Holdings"), Eletson Finance (US) LLC ("Eletson Finance"), and Agathonissos Finance, LLC ("Eletson MI" and, together with Eletson Holdings and Eletson Finance, the "Debtors" and, together with their non-Debtor subsidiaries, the "Company').

The Restructuring will be consummated pursuant to a chapter 11 plan of reorganization for the Debtors (the "Plan") in their currently pending above-captioned cases under chapter 11 (the "Chapter 11 Cases") under title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") proposed and filed by the Debtors. The Plan shall consist of the restructuring transactions and distributions to creditors set forth in the *Second Amended Joint Plan of Reorganization of Debtors Under Chapter 11 of the United States Bankruptcy Code* [Docket No. 786, Ex. A] (the "Shareholders' Plan") with the modifications described herein.

THIS TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN, IT BEING UNDERSTOOD THAT SUCH A SOLICITATION, IF ANY, ONLY WILL BE MADE IN COMPLIANCE WITH APPLICABLE PROVISIONS OF SECURITIES, BANKRUPTCY AND/OR OTHER APPLIACBLE LAW.

THE TRANSACTIONS DESCRIBED HEREIN WILL BE SUBJECT TO THE NEGOTIATION AND COMPLETION OF DEFINITIVE DOCUMENTATION INCORPORATING THE TERMS SET FORTH HEREIN AND THE CLOSING OF ANY TRANSACTION SHALL BE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN SUCH AGREED DEFINTIVE DOCUMENTS.

Term	Shareholders' Plan	Proposal
Overview		
Plan Proponent (Preamble)	The Debtors.	The Debtors; *provided* that if the Debtors do not propose the Plan, the Petitioning Creditors intend to do so.
Sponsor (Art. IV.A.1)	Certain holders of the common shares in Eletson Holdings (the "Eletson Holdings Members").	Pach Shemen LLC or one or more of its affiliate(s) or designee(s) (the "Plan Sponsor").
New Value Contribution – Cash Contribution	$30 million in cash and cash equivalents (the "Shareholder New Value Contribution").	$41 million in cash (the "Equity Investment") utilized pursuant to the same waterfall, subject to the adjustments for the

(Art. IV.A.1-2)	The cash portion of the Shareholder New Value Consideration shall be utilized as follows (each, as defined herein): *First*, for payment of Administrative Claims (including Professional Fee Claims, DIP Claims (if any), and Committee Professional Fee Claims), including the funding of any reserves on account of the Professional Fee Claims required under the Plan; *Second*, to fund the Administrative Fund; *Third*, to fund the Azure Guaranty Recovery; *Fourth*, to fund the Eletson Corporation Guaranty Recovery; *Fifth*, to fund the Trade Creditor Claim Reserves; *Sixth,* to fund the Noteholder Election Recovery Reserve; and *Seventh*, any remaining cash amounts shall become Distributable Cash, which shall be transferred to the Litigation Trust.	amounts therein set forth below.
New Value Contribution – Collections Contribution (Art. I. B.30; Art. IV.A.1)	In addition, the Shareholder New Value Contribution shall include the Gas Ownership Defendants'[1] contribution of the following amounts collected as a result of the final arbitration award (the "Final Award") in the JAMS Arbitration initiated by Eletson Holdings and Eletson Corporation against Levona Holdings, Ltd. (the "Arbitration") (collectively, the "Collections Contribution"): - 90% of the net cash recoveries less than or equal to $21 million under the Final Award; - 50% of the net cash recoveries greater than $21 million, but less than $41 million; and - 75% of the net cash recoveries greater than $41 million; *provided*, "net cash recoveries" means net of costs of collection incurred by Eletson Corporation and/or Gas Ownership Defendants following the date of the Final Award (i.e., September 29, 2023) and net of	The Litigation Trust shall receive contingent value rights (the "CVRs") equal to the same dollar amount that would be received pursuant to the Collections Contribution (***before deducting costs***) and payable in cash by the Plan Sponsor. The CVRs shall be secured by the Plan Sponsor's equity in Reorganized Holdings.

[1] As used in the Shareholders' Plan, the term "Gas Ownership Defendants" means, collectively, Eletson Gas LLC ("Eletson Gas"), Desimuso Trading Company, Apargo Limited, Fentalon Limited and/or any officers or directors of the same.

	any offsets by any Gas Ownership Defendants for amounts owed to Levona.[2]	
Means for Implementation (Art. IV.A)	Reorganization of the Debtors with new capital infusion (the Shareholder New Value Contribution, including the Collections Contribution); SME Revenue;[3] Retained Causes of Action Contribution;[4] Excess SME Proceeds;[5] Creation of a Litigation Trust that includes certain transferred and assigned claims and causes of action.	Same, except, as described in further detail herein: (a) the Shareholder New Value Contribution shall be replaced with the Equity Investment; (b) the Collections Contribution shall be replaced with the CVRs; (c) the Litigation Trust shall receive the Revised Litigation Trust Causes of Action (as defined herein); (d) the Litigation Trust shall receive the excess amounts remaining in the professional fee escrow after the Bankruptcy Court enters final fee orders (the "Excess Professional Fee Reserve").
Treatment of Claims and Interests		
Administrative Claims (Art. II.B.a.)	Paid in full in cash on the Effective Date.	Same.

[2] As used in the Shareholders' Plan, the term "Levona" means, collectively, Levona Holdings, Ltd. and/or it's alter egos as determined in the Arbitration or necessary or appropriate to collect the Final Award.
[3] As used in the Shareholders' Plan, the term "SME Revenue" means any excess cash on hand of each of the SMEs existing as of the Effective Date, *less* (a) any amounts, as necessary to satisfy the projected operating expenses of the SMEs not otherwise reasonably expected to be satisfied by anticipated revenues of the SMEs (on a consolidated basis) through the first business day after the Effective Date and ending 180 days later, and (b) $250,000 (on a consolidated basis).
[4] As used in the Shareholders' Plan, the term "Retained Causes of Action Contribution" means 75% of the net cash recoveries on account of Retained Causes of Action; *provided*, *however*, for purposes of the foregoing, "net cash recoveries" shall mean cash actually collected under any Retained Causes of Action net of costs of collection incurred by the Reorganized Debtor and net of any amounts setoff by the Reorganized Debtor for amounts owed to any defendant under a Retained Cause of Action.
[5] As used in the Shareholders' Plan, the term "Excess SME Proceeds" means, collectively, (a) 20% of the gross proceeds from the sale of any SME and/or SME Vessel less said SME's existing debt (including any unpaid obligations under the terms of the applicable bareboat charter and any trade obligations applicable to the operation of such SME Vessel which were incurred but not paid prior to the sale closing date) up to a maximum of $5 million in the aggregate, and (b) the future cash contributions of the Reorganized Debtor to the Litigation Trust during the earlier of (i) the 4-year anniversary of the Effective Date or (ii) the date on which the sale of all of the SMEs and/or the SME Vessels has been consummated (the "Excess SME Proceeds Period"), of 20% of the consolidated excess cash flow (calculated on a semi-annual basis) of the consolidated operating revenues of the SMEs less the consolidated operating expenses for the previous 6 month period, up to a maximum of $5 million in the aggregate.

Professional Fee Claims and Committee Professional Fee Claims (Art. II.B.b.)	Paid in full in cash upon approval by the Bankruptcy Court. Objections previously filed will be deemed withdrawn with prejudice on the Effective Date.	Same. Objections and final fee applications to be determined by the Court with any post-Effective Date reduction contributed to the Litigation Trust as Distributable Cash (see below).
DIP Claims (Art. II.B.c.)	Paid in full in cash on the Effective Date.	Same.
Priority Claims	N/A	Same.
OCM Guaranty Claims (Class 1) **Impaired / Entitled to Vote** (Art. II. C.1.)	Reinstated, except the Reorganized Debtor shall only be obligated to guaranty 50% of the obligations of the SMEs subject to the OCM Guarantees.	Unimpaired (not entitled to vote); the OCM Guarantees are fully reinstated.
Corp Guaranty Claims (Class 2) **Impaired / Entitled to Vote** (Art. II.C.2)	Pro rata share of $1 million (the "Eletson Corporation Guaranty Recovery"). Reinstated, except the Reorganized Debtor shall only be obligated to guaranty 50% of the obligations of Eletson Corporation subject to the Corp Guarantees.	At such holder's election, either: (a) (i) pro rata share of $1.25 million and (ii) reinstatement, except the Reorganized Debtor shall only be obligated to guaranty 50% of the obligations of Eletson Corporation subject to the Corp Guarantees; or (b) pro rata share of $3 million.
Azure Guaranty Claims (Class 3) **Impaired / Entitled to Vote** (Art. II.C.3)	Pro rata share of $200,000 (the "Azure Guaranty Recovery").	Same.
Trade Creditor Claims (Class 4) **Impaired / Entitled to Vote** (Art. II.C.4)	Cash equal to 15% of the face amount of such holder's claim; *provided*, that if the aggregate distributions exceed $1 million, then holders will receive their pro rata share of $1 million. A reserve in the amount shall be created to fund recoveries for Trade Creditor Claims (the "Trade Creditor Claim Reserve").	Same.

Noteholder Election Recovery Claims (Class 5) **Impaired / Entitled to Vote** (Art. II.C.5)	The lesser of (a) the face amount of such holder's claim, (b) such holder's pro rata share of $7 million, or (c) $70,0000. A reserve in the amount of $7 million shall be created to fund recoveries for Noteholder Election Recovery Claims (the "Noteholder Election Recovery Reserve"). Holders of Allowed Claims in Class 6A and Class 6B may elect to have their claims treated as a Noteholder Election Recovery Claim.	Same, except clause (b) shall be $8 million and clause (c) shall be $100,000. The Noteholder Election Recovery Reserve shall be in the amount of $8 million. The Plan shall provide that, to the extent that the Court does not approve the Noteholder Election Recovery, the Plan shall be amended to provide for pro rata treatment for all claims in Class 5 (Noteholder Election Recovery Claims).

Non-Petitioning Creditor Exchange Note Claims (Class 6A)
Impaired / Entitled to Vote
(Art. II.C.6)
	Pro rata share of the following (collectively, the "Litigation Trust Distributable Proceeds"):
	• proceeds of Litigation Trust Causes of Action (as defined below), net of:
	  ○ repayment of any funding for the Litigation Trust;
	  ○ repayment of all reasonable fees, costs, and expenses of and incurred by the Litigation Trust (including professional fees) ("Litigation Trust Expenses"); and
	  ○ as otherwise provided in accordance with the Litigation Trust Agreement;
	• Remaining Distributable Cash[6] after satisfaction of the Litigation Trust Expenses;
	• Collections Contribution;
	• Retained Cases of Action Contributions; and
	• Excess SME Proceeds.
	Holders may elect to have such claims treated as Noteholder Election Recovery Claims (Class 5).
		Same, except:
		(a) Distributable Cash is subject to the adjustments set forth herein and will also include the Excess Professional Fee Reserve;
		(b) the Collections Contribution shall be replaced with the CVRs, and
		(c) the Litigation Trust Causes of Action and the proceeds thereof shall be replaced with the Revised Litigation Trust Causes of Action and the proceeds thereof, subject to the same netting.

[6] As used in the Shareholders' Plan, the term "Distributable Cash" includes all remaining cash or cash equivalents comprising the Shareholder New Value Contribution after (i) payment of the Allowed Administrative Claims (including Professional Fee Claims and Committee Fee Claims), (ii) funding the Administrative Fund, (iii) funding of the Azure Guaranty Recovery, (iv) funding of the Eletson Corporation Guaranty Recovery, (v) funding of the Trade Creditor Claim Reserve, and (vi) funding of the Noteholder Recovery Election Reserve; *provided*, Distributable Cash shall also include (i) any excess amounts remaining in the Trade Creditor Claim Reserve and Noteholder Election Recovery Reserve, if any, after final distributions on account of Allowed Trade Creditor Claims and Noteholder Election Recovery Claims, (ii) any excess amounts remaining in the Administrative Fund, and (ii) the SME Revenue, in each case, shall be Distributable Cash.

Petitioning Creditor Exchange Note Claims (Class 6B) **Impaired / Entitled to Vote** (Art. II.C.7)	Claims are equitably subordinated pursuant to section 510(c) of the Bankruptcy Code. If the claims in Class 6A are satisfied in full, then holders will receive their pro rata portion of the Litigation Trust Distributable Proceeds. In the alternative, if the claims are not equitably subordinated by the Bankruptcy Court, then the claims will be treated as Class 6A. Holders may elect to have such claims treated as Noteholder Election Recovery Claims (Class 5).	Same, except: (a) the Litigation Trust Distributable Proceeds shall be subject to the adjustments set forth herein, and (b) claims are equitably subordinated solely to the extent determined by the Court.
Interests (Class 7) **Impaired / Entitled to Vote** (Art. II.C.8)	All interests shall be discharged, cancelled, released, and extinguished. Holders shall receive their pro rata share of equity in Reorganized Holdings equal to their portion of the Shareholder New Value Contribution made.	Same; *provided*, no equity shall be distributed to existing Eletson Holdings Members.
Miscellaneous		
Equity of Reorganized Debtor (Art. II.C.8)	Issued and distributed to the Holders of Class 7 (Interests) on a pro rata basis in proportion to each holder's contribution to the Shareholder New Value Contribution.	Distributed to the Plan Sponsor.
Litigation Trust (Art. IV.A.4; Art. IV.H; Art. V.A)	A trust that will be created to pursue the Litigation Trust Causes of Action and effect distributions to applicable holders of Litigation Trust Interests in accordance with the Litigation Trust Agreement (the "Litigation Trust"). On the Effective Date, the Litigation Trust Assets shall vest in the Litigation Trust for distribution of the Litigation Trust Distributable Proceeds to holders of Classes 6A and 6B.	Same, except (a) the Litigation Trust Causes of Action shall be replaced with the Revised Litigation Trust Causes of Action, and (b) the Litigation Trust Assets and Litigation Trust Distributable Proceeds shall be subject to the adjustments set forth herein.
Litigation Trust Governance (Art. IV.K, M, P, Q)	Litigation Trust Trustee: selected by the Committee to administer to the Litigation Trust. Litigation Trust Oversight Committee: a committee of up to 5 members composed of members selected by the Committee to advise the Litigation Trust Trustee.	Same.
Litigation Trust Funding	Initial funding of $200,000 on the Effective Date (the "Administrative Fund"). Additional funding may be augmented with Litigation Trust Assets by the Litigation Trust	Same, except: (a) Distributable Cash is subject to the adjustments set forth herein and will

(Art. I.B.4, 58, 92; Art. IV.N-O)	Trustee in consultation with and at the direction of the Litigation Trust Oversight Committee. "Litigation Trust Assets" includes the Litigation Trust Causes of Action (defined below), the Excess SME Proceeds, Collections Contribution, Retained Causes of Action Contribution, and Distributable Cash.	also include the Excess Professional Fee Reserve; (b) the Collections Contribution shall be replaced with the CVRs; and (c) the Litigation Trust Causes of Action shall be replaced with the Revised Litigation Trust Causes of Action.
Litigation Trust Causes of Action (Art. I.B.97, 98; Docket No. 726, Ex. 6 (Disclosure Statement, Litigation Trust Causes of Action Schedule))	On the Effective Date, the following claims and causes of action shall vest in the Litigation Trust free and clear of all claims, liens, charges, and other encumbrances (collectively, "Litigation Trust Causes of Action"): • any and all Causes of Action that Eletson Holdings may assert, directly or derivatively, against the Debtors' current or former directors, officers, shareholders, based on, relating to, or in any manner arising from, or in connection with, the transfer of the Preferred Shares of Eletson Gas to Desimuso Trading Company, Apargo Limited, and Fentalon Limited (collectively, the "Preferred Owners"); • any and all Causes of Action of any kind whatsoever that Eletson Holdings may hold or may assert, directly or derivatively, against the Preferred Owners based on, relating to, or in any manner arising from, or in connection with, the transfer of the Preferred Shares of Eletson Gas to the Preferred Owners; • any and all Avoidance Actions against any party other than those specifically defined in the "Retained Causes of Action" section of Exhibit 6 to the Shareholders' Disclosure Statement [Docket No. 726, Ex. A] (Litigation Trust Causes of Action Schedule), including, among others, (a) Murchinson Ltd., Pach Shemen LLC, Levona Holdings Ltd., Nomis Bay Ltd., and BPY Limited, and (b) the law firms that have represented the Debtors, Eletson Corporation, Eletson Gas, and the Eletson	Same, except the Litigation Trust Causes of Action shall be replaced with any and all claims and causes of action occurring prior to the Effective Date, whether known or unknown, including, but not limited to (the "Revised Litigation Trust Causes of Action"): • the purported transfer of the Preferred Shares of Eletson Gas; • the transfer of the Final Award from Eletson Holdings to Eletson Gas and the Preferred Owners; • Levona Holdings, Ltd.; • any Avoidance Actions; • any Debtor or its related parties; • any non-Debtor Affiliate or its Related Parties; • any non-Debtor direct or indirect subsidiary or its related parties; and • any Eletson Insider and its Related Parties;

	Holding Members in any past or ongoing legal proceedings.	*provided*, the Retained Causes of Action shall not be Litigation Trust Causes of Action.
Litigation Trust Privileges (Art. I.B.103; Art. IV.A.4, L.)	On the Effective Date, the privileges held by the Debtors that relate exclusively to the Litigation Trust Causes of Action (the "Litigation Trust Privileges") and privileges held by the Committee (if any), shall transfer to and vest exclusively in the Litigation Trust and the Reorganized Debtors shall preserve all of the Debtors' records and documents exclusively related to the Litigation Trust Causes of Action and Litigation Trust Privileges for the later of a period of 3 years after the Effective Date or until such other time as the Litigation Trust Trustee notifies the Reorganized Debtor in writing that such records are no longer required to be preserved. The Litigation Trust Agreement shall provide for the Litigation Trust Trustee's reasonable access to records and information relating to the Litigation Trust Causes of Action of the Debtors' (which shall be maintained by the Reorganized Debtor) and the Committee's.	Same, except: (a) the Litigation Trust Privileges, preservation, and access to documents shall relate to the Revised Litigation Trust Causes of Action, and (b) on the Effective Date, the Reorganized Debtor and the Litigation Trust shall enter into a common interest agreement whereby the Reorganized Debtor will be able to share documents, information, or communications (whether written or oral) relating to the Revised Litigation Trust Causes of Action.
Non-Litigation Trust Causes of Action / Retained Causes of Action (Art. V.B-D; Art. X.14; Docket No. 726, Ex. 6 (Disclosure Statement, Litigation Trust Causes of Action Schedule))	The Reorganized Debtor may pursue or settled any Retained Causes of Action, which include any and all claims or causes of action (collectively, the "Retained Causes of Action"): • other than the Litigation Trust Causes of Action listed above; • necessary to collect the Final Award; • against Murchinson Ltd., Pach Shemen LLC, Levona Holdings Ltd., Nomis Bay Ltd., BPY Limited, and any other person or entity acting at the direction or in concert, cooperation, or participation with or representing any of the foregoing persons or entities; • of the Debtors against the law firms that have represented the Debtors, Eletson Corporation, Eletson Gas, the Existing Shareholders[7] and their respective	Same, except: (a) the Retained Causes of Action shall be limited to any and all claims or causes of action necessary to collect the Final Award, and (b) any Unknown Causes of Action will be included as a Revised Litigation Trust Cause of Action.

[7] The term "Existing Shareholders" is not defined in the Shareholders' Plan. For the purposes of this Term Sheet, the term "Existing Shareholders" shall have the same meaning ascribed herein to the term Eletson Holdings Members.

	affiliates, including without limitation based on, relating to, or in any manner arising from, or in connection with, the transfer of the Preferred Shares of Eletson Gas to the Cypriot Nominees,[8] the Arbitration (including any appeals), and the District Court Confirmation Proceedings (including any appeals), other past or ongoing legal proceedings in foreign jurisdictions against Murchison Ltd., Levona, Pach Shemen LLC and their affiliates. All collections on account of any Retained Causes of Action shall be subject to the Retained Causes of Action Contribution. Unknown Causes of Action: Within 20 business days of discovery of the facts and circumstances relating to a subsequently discovered claim relating to pre-Effective Date conduct (an "Unknown Cause of Action"), Eletson Holdings' Independent Committee shall notify the Committee or Litigation Trustee, as applicable, of the Unknown Cause of Action and the parties shall confer to determine whether the Unknown Cause of Action will be transferred to the Litigation Trust. The Bankruptcy Court retains jurisdiction over any disputes between the Independent Committee and Committee or Litigation Trust Trustee, as applicable, regarding the ownership of any Unknown Cause of Action. Retained Causes of Action Contribution: Beginning on the 6-month anniversary of the Effective Date and every 6 months thereafter, the Reorganized Debtor shall provide the Litigation Trust and the Litigation Trust Trustee a report on the status of the pursuit of any Retained Causes of Action. The Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee within ten (10) business days of any proposed settlement of any Retained Cause of Action.	

[8] The term "Cypriot Nominees" is not defined in the Shareholders' Plan. For the purposes of this Term Sheet, the term "Cypriot Nominees" shall have the meaning ascribed herein to the term Preferred Owners.

	In the event of a successful collection of any Retained Causes of Action, the Reorganized Debtor shall notify the Litigation Trust and Litigation Trust Trustee within ten (10) business days of the collection made thereon. Within ten (10) business days of receipt of any Retained Causes of Action Contributions arising from the final, non-appealable prosecution of a Retained Cause of Action or the settlement of a Retained Cause of Action, the Reorganized Debtor shall transfer the applicable Retained Causes of Action Contributions, along with reasonable supporting accounting documentation, to the Litigation Trust in accordance with the instructions provided by the Litigation Trust Trustee.	
Executory Contracts and Unexpired Leases **(**Art. VI.A)	Except for any executory contracts that were previously assumed or rejected, each executory contract shall be deemed rejected.	Same.
Claim Objections (Art. VII.F.2)	The Reorganized Debtor shall have the sole authority to file objections and otherwise object to all Administrative Claims not paid on or prior to the Effective Date. The Litigation Trust and Litigation Trust Trustee shall have the sole authority to file objections and otherwise object to any other claims.	Same.
Injunction and Exculpation (Art. IX.A, C)	The Shareholders' Plan provides for various exculpation and injunction provisions.	Injunction solely to effectuate the Debtors' discharge under section 1141 of the Bankruptcy Code. Exculpation limited to the Debtors, as plan proponents, to the extent covered by section 1125(e) of the Bankruptcy Code.

APPENDIX D

Plan Sponsor Financial Wherewithal

Mulberry Street Ltd

June 14, 2024

Eletson Holdings Inc.
c/o Eletson Maritime, Inc.
1 Landmark Square, Suite 424
Stamford, Connecticut 06901

The Official Committee of Unsecured Creditors
c/o Stephen Zide
Dechert LLP
Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036

Re: **Commitment Letter**

Ladies and Gentlemen:

Reference is made to the (i) *Petitioning Creditors' Amended Joint Chapter 11 Plan of Reorganization of Eletson Holdings Inc. and its Affiliated Debtor*s filed on June 6, 2024 at Docket Number 740, Exhibit 1 (as amended or modified from time to time, the "PC Plan")[1] and (ii) *Petitioning Creditors' Overbid Chapter 11 Plan for Eletson Holdings Inc. and its Affiliated Debtor*s filed on June 11, 2024 at Docket Number 762, Exhibit 1 (as amended or modified from time to time, the "PC Overbid Plan"), each by the Petitioning Creditors,[2] as plan proponents, to reorganize the claims against and interests in Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC (collectively, the "Debtors"), as debtors and debtors-in-possession in their chapter 11 cases currently pending in the United Stated Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") and jointly administered under Case No. 23-10322 (JPM) (the "Chapter 11 Cases").

The PC Plan contemplates an offering of rights, up to $43.5 million (the "Backstop Amount"), to purchase up to 75% of the new common stock of reorganized Eletson Holdings Inc. ("Reorganized Holdings") (subject to dilution on account of the Backstop Premium and the EIP) in connection with the consummation of the PC Plan (the "Rights Offering"). The PC Overbid Plan contemplates an equity investment contribution, in the amount of $33 million (the "Equity Investment"), in connection with the consummation of the PC Overbid Plan.

This letter (the "Commitment Letter") is hereby issued by Mulberry Street Ltd. (in such capacity, the "Backstop Party"), an affiliate of Pach Shemen LLC ("Pach Shemen"), to backstop, on a fully committed basis, up to $43.5 million (the "Commitment Amount") in cash, either in connection with (i) the Rights Offering, up to the Rights Offering Amount, on the terms and conditions set forth in the PC Plan, the Rights Offering Procedures, Rights Offering Procedures Order, and the Backstop Agreement (each, as defined in the PC Plan) or (ii) the Equity Investment on the terms and conditions set forth in the PC Overbid Plan.

[1] Capitalized terms used herein but undefined have the meaning provided in the PC Plan.
[2] For the purposes of this Commitment Letter, "Petitioning Creditors" consist of Pach Shemen LLC, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike.

The Backstop Party hereby irrevocably commits to provide Reorganized Holdings up to the Commitment Amount for the purposes of effecting either (but not both) the Rights Offering or the Equity Investment, as applicable, in connection with consummation of the PC Plan or PC Overbid Plan, as applicable, following confirmation thereof by the Bankruptcy Court.

Pursuant to this Commitment Letter, the Backstop Party hereby agrees to, and will, pay up to the Commitment Amount in cash to Reorganized Holdings upon the Effective Date of the PC Plan or PC Overbid Plan, as applicable, in accordance with the terms thereof solely for purposes of consummating the PC Plan or PC Overbid Plan, as applicable. Upon receipt by Reorganized Holdings of the Rights Offering Amount or Equity Investment, as applicable, and the consummation of the PC Plan or PC Overbid Plan, as applicable, the Backstop Party understands that Pach Shemen (or one or more affiliate(s) or designee(s) of Pach Shemen) will receive the Interests in Reorganized Holdings, pursuant to the terms and conditions provided for in the PC Plan or PC Overbid Plan, as applicable.

In the event a Confirmation Order with respect to the PC Plan and/or the PC Overbid Plan is not entered or does not become a Final Order, or in the event the Effective Date of the PC Plan and/or the PC Overbid Plan does not occur for any reason other than due to any action or inaction by the Backstop Party, the Backstop Party's obligations hereunder shall immediately terminate without further notice or action by any party. In addition, the Backstop Party's obligations hereunder shall terminate, without further notice or action by any party, on (i) August 15, 2024, if the Bankruptcy Court has not entered a Confirmation Order, in form and substance satisfactory to the Backstop Party, confirming the PC Plan or PC Overbid Plan, as applicable, on or prior to August 15, 20204, or (ii)(a) October 31, 2024, if the Bankruptcy Court has entered a Confirmation Order confirming the PC Plan, but it has not been consummated or the Rights Offering has not closed on or prior to October 31, 2024, or (b) September 30, 2024, if the Bankruptcy Court has entered a Confirmation Order confirming the PC Overbid Plan, but it has not been consummated on or prior to September 30, 2024.

The Backstop Party hereby represents and warrants that:

a. it has uncalled capital commitments, committed financing lines, or otherwise has available funds to fund its obligations under this Commitment Letter and such available funds are not subject to claw back;
b. it is duly organized, validly existing and, where applicable, in good standing under the laws of its jurisdiction of organization or establishment;
c. it has the corporate power and authority to execute and deliver this Commitment Letter and to perform its obligations hereunder;
d. this Commitment Letter has been duly authorized by all necessary corporate action on the part of the Backstop Party, and this Commitment Letter constitutes a legal, valid and binding obligation of the Backstop Party enforceable against the Backstop Party in accordance with its terms;
e. no restrictions in contract or law of any kind governing the Backstop Party prohibits, limits, or restricts in any way the execution of this Commitment Letter by the Backstop Party or the performance of the Backstop Party's obligations hereunder;

f. the operations of the Backstop Party and its subsidiaries are and have been at all times since June 14, 2019, conducted in compliance in all material respects with applicable financial recordkeeping and reporting requirements of the U.S. Currency and Foreign Transactions Reporting Act of 1970, the money laundering statutes of all jurisdictions in which the Backstop Party or any of its subsidiaries operate and any related or similar law and no legal proceeding by or before any Governmental Entity or any arbitrator involving the Backstop Party or any of its subsidiaries with respect to such laws is pending or, to the knowledge of the Backstop Party, threatened;
g. Neither the Backstop Party and its subsidiaries nor, to the knowledge of the Backstop party, any of their respective directors, officers, employees or other persons acting on their behalf with express authority to so act are currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department;
h. none of the funds comprising the Commitment Amount has been or will be derived, directly or indirectly, from or relate to illicit, illegal, or improper origin;
i. none of the funds comprising the Commitment Amount are derived from or relate to assets subject to the *Stipulation and Order Granting Alleged Debtor's Motion for Relief from Stay to Proceed With, or, to Confirm the Inapplicability of, the Automatic Stay to Prepetition Arbitration Proceedings* [Docket No. 48]; and
j. it will reasonably cooperate with the Committee (as defined herein) to ensure the representations herein are accurate and reliable.

Further supporting the foregoing representations and warranties, attached hereto as **Exhibit A** is account information showing readily available cash in the amount of $43.5 million.

This Commitment Letter has been and is made solely for the benefit of the Debtors and their estates and solely for purposes of backstopping the Rights Offering under the PC Plan and/or the Equity Investment under the PC Overbid Plan. The Backstop Party acknowledges and agrees that the Debtors and their estates shall have all rights for purposes of seeking specific performance of the Backstop Party's obligations to pay, as applicable, the Rights Offering Amount pursuant to the PC Plan or the Equity Investment pursuant to the PC Overbid Plan. The Backstop Party agrees that the Official Committee of Unsecured Creditors (the "Committee") in the Chapter 11 Cases is a third-party beneficiary to this Commitment Letter and shall have all rights to enforce this Commitment Letter. The Backstop Party agrees not to oppose the granting of any specific performance or other equitable relief on the basis that the Debtors and their estates have an adequate remedy at law or that an award of specific performance is not an appropriate remedy for any reason at law or equity. Nothing in this Commitment Letter, expressed or implied, is intended to confer or does confer on any other person or entity (other than the Committee acting on behalf of the estates) any rights or remedies under or by reason of this Commitment Letter or the agreements contained herein.

This Commitment Letter, the PC Plan (including the Rights Offering Order, Rights Offering Procedures, and Backstop Agreement), and the PC Overbid Plan embody the entire agreement and understanding among the Backstop Party, the Debtors, and the Committee with respect to the Commitment Amount, supersedes all prior agreements and understandings relating to the specific matters hereof, and may not be contradicted

by evidence of prior, contemporaneous, or subsequent oral agreements of the Backstop Party, the Debtors, and the Committee. The commitment and obligations of the Backstop Party are not assignable. This Commitment Letter is not assignable by the Debtors and all rights hereunder are intended to be solely for the benefit of the Debtors and their estates.

The Backstop Party agrees that the Bankruptcy Court shall have exclusive jurisdiction with respect to this Commitment Letter. For the avoidance of doubt, the Backstop Party irrevocably submits to the jurisdiction of the Bankruptcy Court solely for purpose (i) of enforcement of the terms of this Commitment Letter or (ii) to compel the payment of the applicable Commitment Amount by the Backstop Party.

This Commitment Letter shall be governed by, and construed in accordance with, the laws of the State of New York and, to the extent applicable, the Bankruptcy Code.

[*Signature Page Follows*]

MULBERRY STREET LTD

By: BG Management Limited
Name: Jason Jagessar / Engelbert van Aalst
Title: Authorised signatories

Exhibit A

Account Information

Mulberry Street Ltd

Sea Meadow House, 3rd Floor PO Box 116
Road Town, Tortola VG VG1110

Mulberry Street Ltd

Monthly Statement

Period: June 1, 2024 - June 12, 2024

Account Name:	Mulberry Street Ltd	Rep/Advisor:	
Correspondent:	CVMS	Margin Type:	Cash
Account No:	CVMS001		
Master Account No:	CVMS001		

Account Summary	This Period	Year to Date
Beginning Account Value	$ --	$ --
Deposit	$47,315,000.00	$69,057,774.99
Withdrawals	-$3,815,000.00	-$25,565,000.00
Income	$7,225.01	$7,225.01
Fees	$ --	$ --
Change In Investment Value	$ --	$ --
Ending Account Value	$43,507,225.01	$43,507,225.01

Position Summary	
Unrealized Gain/(Loss)	$ --
Cash Balance	$43,507,225.01
Long Market Value	$ --
Short Market Value	$ --
Equity	$43,507,225.01

Realized Gain/Loss from Sales	This Period	Year to Date
Short Term		
Gain	$ --	$ --
Loss	$ --	$ --
Net Short Term	$ --	$ --
Long Term		
Gain	$ --	$ --
Loss	$ --	$ --
Net Long Term	$ --	$ --
Other		
Dividend	$ --	$ --
Interest	$7,225.01	$7,225.01
Miscellaneous	$ --	$ --

Holdings

Symbol	Symbol Description	Quantity	Market Price	Market Value	Cost Price	Cost Basis	Unrealized
No holdings found.							

Trade Activity

Trade Date	Settle Date	Side	Symbol	Description	Quantity	Price	Fees	Net Amount	Status
No record found.									

Cash Activity

Trade Date	Settle Date	Entry Type	Description	Net Amount	Status
06/03/2024	06/03/2024	CSW	Transfer request as per email	$3,815,000.00	Executed
06/04/2024	06/04/2024	JNLC	Journal Funds - Same Beneficial Owner	-$2,289,000.00	Executed
06/04/2024	06/04/2024	JNLC	Journal Funds - Same Beneficial Owner	-$1,526,000.00	Executed
06/11/2024	06/11/2024	CSW	Transfer request as per email from Elliot on 6/11/2024	$6,500,000.00	Executed
06/11/2024	06/11/2024	CSW	Transfer request as per email from Elliot on 6/11/2024	$16,000,000.00	Executed
06/12/2024	06/12/2024	CSW	transfer request as per email from Elliot	$6,000,000.00	Executed
06/12/2024	06/12/2024	CSW	transfer request as per email from Elliot	$15,000,000.00	Executed

Other Entries

Trade Date	Settle Date	Entry Type	Symbol	Description	Quantity	Price	Fees	Net Amount	Status
06/05/2024	06/05/2024	INT		Margin Int: May 2024 Group by: Correspondent - CVMS001	0	$ --	$ --	$7,225.01	Executed

Terms & Conditions

You may have received a confirmation for a trade, which does not appear on this statement. If the settlement date of the trade as shown on the confirmation is later than the period ending date that appears at the top of this statement, the trade will appear on your next regular monthly statement.

If this is a margin account and we maintain a special miscellaneous account for you, this is a combined statement of your general account and special miscellaneous account maintained for you under Regulation T issued by the Board of Governors of the Federal Reserve System. The permanent record of the special miscellaneous account as required by Regulation T is available for your inspection at your request.

The per annum rate of interest charged on the debit balance in your account is shown on this statement. This rate may change from time to time in accordance with fluctuations in interest rates. The interest is based on the average daily net debit balance in your account with us and for the actual number of days based on an interest year of 360 days.

We are required to report to the Internal Revenue Service all cash dividends and registered bond interest credited to your account on securities held for you in

our name. We also report coupon bond interest. All dividends and interest credits should be included in your income tax return.

You are to promptly advise your brokerage firm or bank of any material changes concerning your investment objectives or financial situation. Our financial statement is available for your personal inspection on our website at www.curvaturesecurities.com/clearing or a copy will be mailed upon your written request.

SIPC Protection. As a member of the Securities Investor Protection Corporation (SIPC). funds are available to meet customer claims up to a ceiling of $500,000. including a maximum of $250,000 for cash claims. For additional information regarding SIPC coverage. including a brochure. please contact SIPC at (202) 371-8300 or www.sipc.org.

Any free credit balance represents funds payable upon demand, although properly accounted for on our books of records, is not segregated and maybe used in the conduct of this firm's business as permissible under the SEC Rule 15c3-2.

Curvature Securities, LLC (“Curvature”) acts as a clearing agent for your trades.

As required under SEC rules, both the Firm's Order Routing Report as well as information regarding specific order routing information are available free of charge upon request.

In addition to the above-mentioned services. **Curvature** will provide cashiering services, safeguarding of funds and securities while in **Curvature** possession, monitoring compliance with applicable credit Regulation T and **Curvature** internal policies, preparing and mailing your account records (including transaction confirmations and periodic statements of your account).

Interest charges to your account will be based on the size and net debit balance during the interest period. These rates are subject to revision without notice. For more complete information regarding Interest charged to customers, consult the Truth in Lending Notice which is made available on **Curvature** website at www.curvaturesecurities.com.

Curvature is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA") and we are required to inform you of the availability of the FINRA Investor Brochure, which contains information on FINRA Broker Check. You may contact FINRA at 800-289-9999 or through their website at www.finra.org.

Curvature carries your account and acts as your custodian for funds and securities deposited with us directly by you, through your brokerage firm or bank or as a result of transactions we process for your account. Any suspected inaccuracy or discrepancy in your account statement must be promptly reported to both your brokerage firm or bank (not to your individual broker or agent) and Curvature. In order to protect your rights, including your right to SIPC coverage, please confirm any oral communication in writing and include your brokerage account number. General inquiries or concerns regarding your account should be directed to your brokerage firm or bank. Account positions and balance inquiries or concerns should be directed to Curvature Securities via email at www.curvaturesecurities.com .

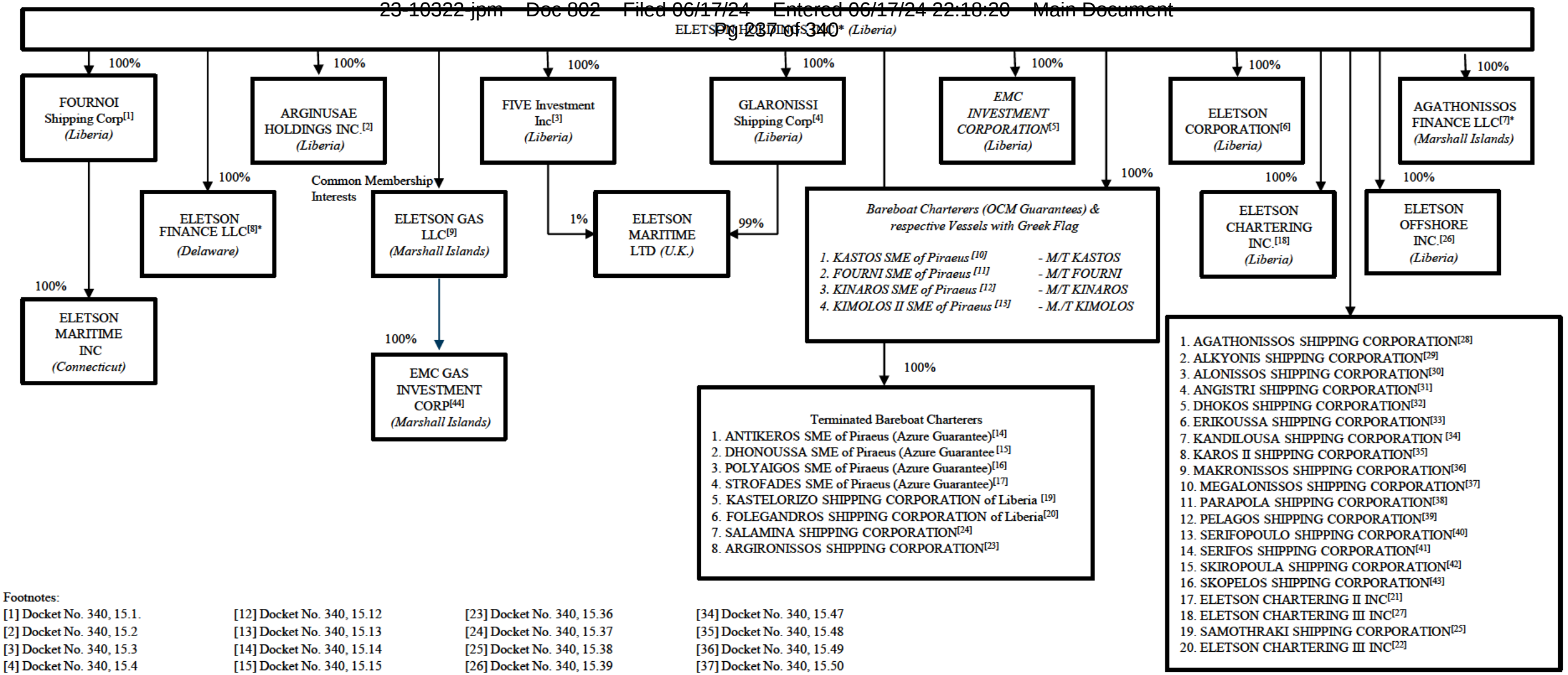
The SEC requires all broker-dealers that route orders in equity securities and options to make available quarterly reports that present a general overview of their routing practices. These ports must identify the executing venues to which customer orders were routed for execution during the applicable quarter and disclose the material aspects of the broker-dealer's relationship with such venues. In addition. the Rule (SEC 606) [www.INTRODUCINGBROKER.com/Rule606] requires broker-dealers to disclose, on customer request, the venues to which the individual customer's orders were routed for the six months prior to the request, and the execution time for the orders that were executed. For further information. please contact your broker.

PLEASE RETAIN THIS STATEMENT AS IT WILL BE HELPFUL IN PREPARING YOUR INCOME TAX RETURNS AND MAY BE NEEDED ALONG WITH SUBSEQUENT STATEMENTS TO VERIFY INTEREST CHARGES IN YOUR ACCOUNT. THIS STATEMENT SHALL BE DEEMED CONCLUSIVE UNLESS OBJECTED TO IN WRITING WITHIN

10 BUSINESS DAYS OF THE STATEMENT CLOSING DATE. MUTUAL FUNDS AND OTHER SECURITIES ARE NOT INSURED BY THE FDIC, ARE NOT DEPOSITS OR OBLIGATIONS OF, OR GUARANTEED BY CURVATURE, AND INVOLVE INVESTMENT RISKS, INCLUDING THE POSSIBLE LOSS OF THE PRINCIPAL AMOUNT INVESTED.

APPENDIX E

Corporate Organization Chart



Footnotes:

[1] Docket No. 340, 15.1.
[2] Docket No. 340, 15.2
[3] Docket No. 340, 15.3
[4] Docket No. 340, 15.4
[5] Docket No. 340, 15.5
[6] Docket No. 340, 15.6
[7] Docket No. 340, 15.7
[8] Docket No. 340, 15.8
[9] Docket No. 340, 15.9
[10] Docket No. 340, 15.10
[11] Docket No. 340, 15.11.
[12] Docket No. 340, 15.12
[13] Docket No. 340, 15.13
[14] Docket No. 340, 15.14
[15] Docket No. 340, 15.15
[16] Docket No. 340, 15.16
[17] Docket No. 340, 15.17
[18] Docket No. 340, 15.18
[19] Docket No. 340, 15.19
[20] Docket No. 340, 15.20
[21] Docket No. 340, 15.21
[22] Docket No. 340, 15.35
[23] Docket No. 340, 15.36
[24] Docket No. 340, 15.37
[25] Docket No. 340, 15.38
[26] Docket No. 340, 15.39
[27] Docket No. 340, 15.40
[28] Docket No. 340, 15.41
[29] Docket No. 340, 15.42
[30] Docket No. 340, 15.43
[31] Docket No. 340, 15.44
[32] Docket No. 340 15.45
[33] Docket No. 340, 15.46
[34] Docket No. 340, 15.47
[35] Docket No. 340, 15.48
[36] Docket No. 340, 15.49
[37] Docket No. 340, 15.50
[38] Docket No. 340, 15.51
[39] Docket No. 340, 15.52
[40] Docket No. 340, 15.53
[41] Docket No. 340, 15.54
[42] Docket No. 340, 15.55
[43] Docket No. 340, 15.56
[44] Docket No. 458 at ¶ 11

(*) Asterisk indicates entity is a Debtor in the Chapter 11 Cases (*i.e.*, Eletson Holdings Inc., Eletson Finance LLC, and Agathonissos Finance LLC)

APPENDIX F

Liquidation Analysis

LIQUIDATION ANALYSIS

I. Best Interests Test

Under the "best interests of creditors" test set forth in section 1129(a)(7) of the Bankruptcy Code, the Bankruptcy Court may not confirm a Chapter 11 plan unless, with respect to each impaired class of claims or interests, each holder of a claim or interest either (i) accepts the plan or (ii) receives or retains under the plan, on account of such claim or interest, property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtor were liquidated under Chapter 7 of the Bankruptcy Code on the effective date. *See* 11 U.S.C. § 1129(a)(7). Accordingly, to demonstrate that the Plan satisfies the "best interests of creditors" test, the Plan Proponents[1] have prepared the following hypothetical liquidation analysis (the "Liquidation Analysis") based upon certain assumptions discussed in the Disclosure Statement and in the accompanying notes to the Liquidation Analysis.

The Liquidation Analysis estimates potential cash distributions to holders of Allowed Claims and Interests in a hypothetical Chapter 7 liquidation of the Debtors' assets. Asset values discussed in the Liquidation Analysis may differ materially from values referred to in the Plan and Disclosure Statement. Batuta Capital Advisors LLC ("Batuta"), at the direction of the Plan Proponents, prepared the Liquidation Analysis.

THE LIQUIDATION ANALYSIS HAS NOT BEEN EXAMINED OR REVIEWED BY INDEPENDENT ACCOUNTANTS IN ACCORDANCE WITH STANDARDS PROMULGATED BY THE AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS. ALTHOUGH THE PLAN PROPONENTS CONSIDER THE ESTIMATES AND ASSUMPTIONS SET FORTH HEREIN TO BE REASONABLE UNDER THE CIRCUMSTANCES, SUCH ESTIMATES AND ASSUMPTIONS ARE INHERENTLY SUBJECT TO SIGNIFICANT UNCERTAINTIES AND CONTINGENCIES BEYOND THE PLAN PROPONENTS' CONTROL. ACCORDINGLY, THERE CAN BE NO ASSURANCE THAT THE RESULTS SET FORTH IN THE LIQUIDATION ANALYSIS WOULD BE REALIZED IF THE DEBTORS WERE ACTUALLY LIQUIDATED PURSUANT TO CHAPTER 7 OF THE BANKRUPTCY CODE, ACTUAL RESULTS IN SUCH A CASE COULD VARY MATERIALLY FROM THOSE PRESENTED HEREIN, AND DISTRIBUTIONS AVAILABLE TO HOLDERS OF CLAIMS AND INTERESTS IN SUCH A CASE COULD DIFFER MATERIALLY FROM THE PROJECTED RECOVERIES SET FORTH IN THE LIQUIDATION ANALYSIS.

THE LIQUIDATION ANALYSIS IS A HYPOTHETICAL EXERCISE THAT HAS BEEN PREPARED FOR THE SOLE PURPOSE OF PRESENTING A REASONABLE, GOOD- FAITH ESTIMATE OF THE PROCEEDS THAT WOULD BE REALIZED IF THE DEBTORS WERE LIQUIDATED IN ACCORDANCE WITH CHAPTER 7 OF THE BANKRUPTCY CODE AS OF THE COMMENCEMENT DATE. THE LIQUIDATION ANALYSIS IS NOT INTENDED AND SHOULD NOT BE USED FOR ANY OTHER

[1] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan or in the Disclosure Statement, to which the Liquidation Analysis is attached as an appendix.

PURPOSE. THE LIQUIDATION ANALYSIS DOES NOT PURPORT TO BE A VALUATION OF THE DEBTORS' ASSETS AS A GOING CONCERN, AND THERE MAY BE A SIGNIFICANT DIFFERENCE BETWEEN THE VALUES AND RECOVERIES REPRESENTED IN THE LIQUIDATION ANALYSIS AND THE VALUES THAT MAY BE REALIZED OR CLAIMS GENERATED IN AN ACTUAL LIQUIDATION. NOTHING CONTAINED IN THE LIQUIDATION ANALYSIS IS INTENDED TO BE, OR CONSTITUTES, A CONCESSION, ADMISSION, OR ALLOWANCE OF ANY CLAIM BY THE PLAN PROPONENTS. THE ACTUAL AMOUNT OR PRIORITY OF ALLOWED CLAIMS IN THE CHAPTER 11 CASES COULD MATERIALLY DIFFER FROM THE ESTIMATED AMOUNTS SET FORTH AND USED IN THE LIQUIDATION ANALYSIS. THE PLAN PROPONENTS RESERVE ALL RIGHTS TO SUPPLEMENT, MODIFY, OR AMEND THE ANALYSIS SET FORTH HEREIN.

The Liquidation Analysis should be read in conjunction with the foregoing notes and assumptions:

II. Summary Notes to Liquidation Analysis

A. Basis of Presentation

The Liquidation Analysis has been prepared assuming the Debtors converted their Chapter 11 Cases to Chapter 7 cases on June 30, 2024 (the "Commencement Date").

The Debtors have not issued audited financial statements since 2017. Further, to Batuta's knowledge, the Debtors have not provided any *Management Discussion and Analysis* since 2018, nor any material consolidated or subsidiary financial statements after December 30, 2023. As such, where noted below, Batuta has relied on unaudited financial information disclosed by the Debtors in the Chapter 11 Cases. Where appropriate and available, Batuta has relied on recognized third-party market data to inform its analysis.

The Liquidation Analysis assumes that the Debtors would be liquidated in a jointly administered and substantively consolidated proceeding.

B. Dependence on Assumptions

The Liquidation Analysis relies on multiple estimates and assumptions in identifying potential outcomes of a liquidation of the Debtors and their assets under Chapter 7 of the Bankruptcy Code. Given the historical volatility and the commodity nature of the petroleum product tanker market in which the Debtors operate, any estimates or projections are inherently subject to market uncertainties. In addition, historical spot rates have displayed significant volatility and wide ranges of daily rates—directly impacting the demand and value of transportation vessels such as the Debtors' tankers. The Liquidation Analysis is also based on Batuta's reasonable best judgment as to various assumptions and numerous uncertainties surrounding various legal challenges still ongoing. In addition, Batuta used its reasonable best efforts to account for costs associated with undertaking an expedited sale process of approximately three to six months. The Liquidation Analysis does not include the legal expenses or other costs that would be associated with the pursuit of various claims and causes of action belonging to the Debtors and their Estates or the collection of any resulting judgments.

As such, there can be no guarantee that the values presented in the Liquidation Analysis would be realized in the event an actual liquidation under Chapter 7 of the Bankruptcy Code was to be pursued. As such, the results of any actual Chapter 7 liquidation could vary materially and adversely from those contained herein.

The SMEs (as defined herein) are operated by the Debtors pursuant to finance leases with an end-of-term purchase option, which may not be exercisable by the Debtors if the agreement is terminated by the contract counterparty. Accordingly, in any actual Chapter 7 liquidation, to the extent that one or more of the applicable finance leases is terminated by the applicable contract counterparty, the Debtors may not be able to purchase one or more of the SMEs. In such scenarios, the Debtors may be unable recover some or all of the value ascribed to the SMEs set forth herein.

C. Additional Claims

The cessation of a business that would occur in a Chapter 7 liquidation would likely trigger additional claims that would not exist where the Debtors' business and assets continue as a going concern. Given that many, if not all, of the existing fleet owned and/or operated by Eletson Holdings or its subsidiaries are operated pursuant to finance leases or secured by debt, some of these claims could be significant and would potentially be entitled to priority payment over general unsecured claims. Any such priority claims would be required to be paid in full from the liquidation proceeds before any remaining proceeds would be available to pay the general unsecured claims. Although, Batuta has considered all of the limited data available from Debtors to ascertain those additional claims, it is not possible to guarantee that all potential claims have been accounted for, or the results of the outcome of any such claims.

Furthermore, in a Chapter 7 liquidation, it is possible that various counterparties assert various rights that would not exist in a going concern sale, such as the attempted termination of contract or other valuable rights. Because many of these rights exist at non-Debtor subsidiaries that would potentially not be protected by the provisions of the Bankruptcy Code (such as the automatic stay under section 362 of the Bankruptcy Code), there are substantial risks in a Chapter 7 liquidation that counterparties take or attempt to take actions that would result in materially less proceeds (and, in turn, less value for creditors) than that reflected herein.

D. Potential Causes of Action

In the Chapter 7 liquidation, a Chapter 7 trustee (the "Trustee") may elect to pursue various claims and causes of action belonging to the Debtors and their Estates. The Liquidation Analysis does not provide an estimate of the likely outcomes of any such claims, the costs and risks attendant to pursuing such claims, and the proceeds that might be realized (including after accounting for the risks of collectability, among other issues with enforcing any judgment).

E. Chapter 7 Liquidation Costs and Length of Process

Batuta has assumed that the initial phase of a liquidation would involve minimal business operations and would require the Trustee to oversee the handling of disposing

of remaining assets, including retaining a broker to assist in the liquidation of vessels, distribute available net proceeds and arrange for the closing of the Debtors' Estates. Given the aforementioned volatility of the value of the Debtors' assets, there can be no assurance either of the realized value nor the timing of completing such divestitures. As such, the realized recoveries in an actual liquidation can vary greatly from those presented in this analysis.

In a Chapter 7 liquidation, the Trustee's administrative expenses incurred with managing the liquidation process will be entitled to full payment, as well as a statutory commission on all distributions to creditors, prior to making any distribution to administrative and other priority claims in connection with the Chapter 11 Cases (and thereafter, if any remainder, to general unsecured claims). 11 U.S.C § 726.[2] Furthermore, the Debtors do not have any cash, and Batuta has limited information on what, if any, cash may be available from the Debtors' non-Debtor subsidiaries at the commencement of the liquidation process. With limited or no cash available, the Trustee might have to obtain alternate sources of financing and contingency arrangements that could significantly further reduce recoveries from that reflected herein.

Finally, Batuta has assumed that the Trustee will engage professionals related both to the sale(s) process(es) for the Debtors' tangible assets (such as their vessels owned by subsidiaries) as well as reviewing, analyzing, and investigating potential claims and causes of action against the Debtors' insiders and other third parties. The costs reflected herein do not include the costs and expenses associated with pursuing any such potential claims and causes of action. The Trustee may determine to withhold liquidation proceeds from creditors (thereby reducing or, at the minimum, delaying their recoveries until proceeds, if any, net of costs are recovered) to fund the costs and expenses associated with pursuing potential claims and causes of action. Alternatively, the Trustee may obtain litigation funding or contingency fee arrangements that may significantly reduce the amount of proceeds ultimately available on account of any such potential claims and causes of action that would otherwise be distributable to creditors.

The foregoing costs and risks imply that any sale(s) process(es) might take materially longer and cost materially more than the amounts reflected herein, further increasing administrative and priority claims and related amounts that would be paid prior to general unsecured creditors receiving any distribution. The costs and timing and duration of the Chapter 7 liquidation are currently unknown, but the Liquidation Analysis reflected herein reflects Batuta's reasonable best judgment as to what creditors might recover—actual results are subject to change and may vary significantly.

The Liquidation Analysis assumes a process of approximately three to six months from the Commencement Date to conduct the orderly disposition of substantially all of the Debtors' assets (excluding the pursuit of various claims and causes of action belonging

[2] The Bankruptcy Court may allow reasonable compensation for the Trustee's services on a sliding scale based upon all moneys disbursed or turned over in the liquidation proceedings, by the Trustee. 11 U.S.C. § 326. For purposes of the Liquidation Analysis, these fees are estimated at 3% of the estimated gross liquidation proceeds.

to the Debtors and their Estates and the collection of any resulting judgments), arrange for distributions, and wind-down the Debtors' Estates.

F. Broker Fees

Liquidation of the Debtors' assets (namely liquified petroleum product tankers) would likely require a broker to conduct an auction process. Batuta has assumed that a broker and other associated fees related to the sale(s) process(es) for the Debtors' vessels of 5% of the Gross Transaction Value. Given the illiquidity of these assets, there can be no assurance that actual proceeds received (and therefore, creditors' recoveries) will equal those amounts reflected herein.

G. Claims Estimates

Claims are estimated based upon known liabilities as of May 2024 using the Debtors' schedules and statements as well as proofs of claim filed in these Chapter 11 Cases. For an explanation of these matters, please see the Disclosure Statement to which the Liquidation Analysis is attached.

H. Conclusion

Batuta has concluded that, based on the analysis presented herein, confirmation of the Plan Proponents' Plan included herewith, will provide creditors with a recovery that is not less than what they would otherwise receive pursuant to a hypothetical liquidation of the Debtors under Chapter 7 of the Bankruptcy Code.

Liquidation Analysis

Vessel Name	Type	Year Built	Shipyard	DWT	Class	Market Value[1]	Liquidation Discount Low	Liquidation Discount Base	Liquidation Discount High	Implied Liquidation Discount Low	Implied Liquidation Discount Base	Implied Liquidation Discount High	Liquidation Value before fees Low	Liquidation Value before fees Base	Liquidation Value before fees High
Fourni	HandyMax	2010	Hyundai Mipo Dockyard, S. Korea	51600	MR	26,563,261	25%	20%	15%	19,922,446	21,250,609	22,578,772	19,922,446	21,250,609	22,578,772
Kastos	HandyMax	2010	Hyundai Mipo Dockyard, S. Korea	51900	MR	25,864,665	25%	20%	15%	19,398,499	20,691,732	21,984,965	19,398,499	20,691,732	21,984,965
Kimolos	HandyMax	2010	Hyundai Mipo Dockyard, S. Korea	51500	MR	28,080,000	25%	20%	15%	21,060,000	22,464,000	23,868,000	21,060,000	22,464,000	23,868,000
Kinaros	HandyMax	2009	Hyundai Mipo Dockyard, S. Korea	51600	MR	27,010,000	25%	20%	15%	20,257,500	21,608,000	22,958,500	20,257,500	21,608,000	22,958,500
													80,638,444	**86,014,340**	**91,390,237**
Estimated Remaining OCM Leases & Other SME Liabilities													(53,300,000)	(53,300,000)	(53,300,000)
Ch.7 Trustee Fee[4]							3%	3%	3%				(2,419,153)	(2,580,430)	(2,741,707)
Ch.7 Professional Fees[5]													(5,000,000)	(4,500,000)	(4,000,000)
Broker Fee & Other Fees							5%	5%	5%				(4,031,922)	(4,300,717)	(4,569,512)
US Trustee Fees[6]							0.8%	0.8%	0.8%				(645,108)	(688,115)	(731,122)
Distributable Value to Creditors													**15,242,261**	**20,645,079**	**26,047,896**

	Recovery Waterfall Low	Recovery Waterfall Base	Recovery Waterfall High
Priority & Administrative Claims	**26,200,000**	**27,200,000**	**28,200,000**
recovery	*58%*	*76%*	*92%*
Remaining Value to GUCs	**(10,957,739)**	**(6,554,921)**	**(2,152,104)**
General Unsecured Claims	768,479,112	637,229,112	505,979,112
recovery	*0.0%*	*0.0%*	*0.0%*

Notes:
1) Vessel 3rd party market value assessment (VesselsValue.com 5/7/2024); adjusted for estimated spot vs. time charter rates through lease period
2) See Debtors' Valuation Analysis, filed on May 14, 2024 [Docket No. 687]
3) 3rd Amended 2015.3 filings
4) 11 U.S.C § 326
5) Includes general administration of estates and review / investigation of potential claims; does not include cost of pursuing claims
6) https://www.justice.gov/ust/chapter-11-quarterly-fees

III. Specific Notes to Liquidation Analysis

In addition to the footnotes set forth in the Liquidation Analysis above, the following contain additional notes to the Liquidation Analysis.

A. Special Maritime Enterprise Vessels

The principal assets of the Debtors are 4 MR class tankers that are secured by Bareboat Charters, and operate under four separate Special Maritime Enterprises (the "SMEs"): Kastos Special Maritime Enterprise ("Kastos"), Fourni Special Maritime Enterprise ("Fourni"), Kinaros Special Maritime Enterprise ("Kinaros"), Kimolos II Special Maritime Enterprise ("Kimolos"). All vessels are encumbered. Estimated recoveries are based on independent third-party market assessments, which have been reduced by 15% in the "high" scenario and 25% in the "low" scenario based on an accelerated sale of assets under a Chapter 7 proceeding which will be perceived to be highly distressed. In addition, additional allowances for the Trustee and professional fees, broker and other fees, and U.S. Trustee Fees to account for the potential of depressed valuations in an unfunded time-sensitive liquidation.

B. Cash

The latest (unaudited) financial information received in the *Debtors' Second Periodic Report Pursuant to Bankruptcy Rule 2015.3*, filed on February 12, 2024 [Docket No. 409] (the "2015.3 Report") for the period ending on December 31, 2023. At such time, none of the SMEs had reported material cash balances (collectively less than $100,000 USD). As such, Batuta deemed these unlikely to be collected and an immaterial outcome of the Liquidation Analysis.

C. Other Current Assets

The latest (unaudited) financial information received in the 2015.3 Report relates to the period ending on December 31, 2023. As stated above, Batuta deemed other current assets unlikely to be collected and an immaterial outcome of the Liquidation Analysis.

D. Litigation Claims

As noted in the Disclosure Statement included herewith, the Debtors and their non- Debtor subsidiaries will retain various claims and causes of action, including relating to Eletson Gas, LLC ("Eletson Gas"), Levona Holdings, Ltd. ("Levona"), and others. Given the costs and risks associated with such claims and causes of action, the Liquidation Analysis does not provide an estimate of (i) the fees and expenses needed to bring those claims and causes of action, including, among others, issues associated with collectability and enforcement of any judgments, and (ii) the gross recovery resulting from those claims and causes of action (if any).

E. Land, Buildings & Other PP&E

The latest (unaudited) financial information received in the 2015.3 Report for the period ending on December 31, 2023. As of that date, none of the SMEs reported any Fixed Assets or PP&E in addition to vessels.

F. Non-Special Maritime Enterprise Subsidiaries

Pursuant to the 2015.3 Report, all of the non- subsidiaries with the exception of Eletson Gas were deemed to be insolvent.

G. Intercompany Receivables

As stated above, for the purposes of the Liquidation Analysis any current or potential future claims arising from Intercompany transactions are treated as potential claims and are not assigned value in the Liquidation Analysis.

H. Payables & Current Liabilities

Given the independent operating structure of the SMEs, the Liquidation Analysis assumes that the SME's payables and current liabilities are satisfied from liquidation proceeds before any distributions to Claims of the Debtors. The remaining SMEs' lease obligations are accounted for in the Estimated Recovery Lease Obligations.

I. Wind-Down Expenses

Wind-Down Expenses include the non-resource related costs to wind down the Debtors' Estates after the Commencement Date, including, but not limited to any costs to maintain and repair the Debtors' assets, payments for any utilities, insurance, fuel, taxes, and other overhead costs.

J. Hypothetical Recoveries by Class

- Administrative Claims: For the purposes of the Liquidation Analysis, Administrative Claims include Claims for costs and expenses of administration of the Chapter 11 Cases, including Professional Fee Claims, U.S. Trustee Claims, Fees under section 503(b) of the Bankruptcy Code (including the Petitioning Creditors' section 503(b)(3)(A) claims [Docket Nos. 265, 322], the 2022 Notes Trustee's section 503(b)(3)(A) claim [Docket No. 323], and New Agathonissos Finance's ("NAF") section 503(b)(3)(A) claim [Docket No. 324]. The Liquidation Analysis concludes that Holders of Administrative Claims are not likely to be paid in full in a Chapter 7 liquidation.

- Priority Claims: The Liquidation Analysis concludes that Holders of Priority Claims are not likely to be paid in full in a Chapter 7 liquidation.

- Other Priority Claims: The Plan Proponents are not aware of any Other Priority Claims against the Debtors. Accordingly, the Liquidation Analysis concludes

that, to the extent there are any Other Priority Claims, Holders of Other Priority Claims are not likely to be paid in full in a Chapter 7 liquidation.

- Secured Claims: The Plan Proponents are not aware of any Secured Claims against the Debtors other than the Claims filed by the Azure Claimants (as defined in the Disclosure Statement) [Proof of Claim Nos. 9-1, 10-1, 11-1, 12-1] (the "Azure Guaranty Claims"), which are secured by certain collateral. In a Chapter 7 liquidation, the Liquidation Analysis concludes (i) Holders of Azure Guaranty Claims will receive their collateral in satisfaction of such Secured Claims and (ii) to the extent there are any Secured Claims other than the Azure Guaranty Claims, Holders of any such Secured Claims will likely be paid in full.

- General Unsecured Claims: In a Chapter 7 liquidation, the Liquidation Analysis concludes that Holders of General Unsecured Claims would not receive any recovery in a Chapter 7 liquidation.

  For purposes of a hypothetical Chapter 7 liquidation, the term "General Unsecured Claims" means, collectively, any Claim against any Debtor as of the Petition Date that is neither secured by collateral nor entitled to priority under the Bankruptcy Code, including, among others, the Old Notes Claims, the 2022 Notes Claims, the Claims filed by NAF [Proof of Claim No. 13-1], the Azure Guaranty Claims, and Convenience Claims. In addition, the "low" end of the recovery range includes the claim asserted by Levona [Proof of Claim No. 21-1] (the "Levona Claim"); in the "high" end of the recovery range, the Levona Claim is excluded.

- Convenience Claims: In a Chapter 7 liquidation, the Convenience Claims would be treated as General Unsecured Claims.

- OCM Guaranty Claims: In a Chapter 7 liquidation, the OCM Guaranty Claims would be treated as General Unsecured Claims; however, such OCM Guaranty Claims are contingent and not expected to require any recovery from the distributions made by the Trustee on account of claims against the Debtors.

- Subordinated Claims: The Liquidation Analysis concludes that Holders of Subordinated Claims will likely receive no recovery in a Chapter 7 liquidation.

- Intercompany Claims: The Liquidation Analysis concludes that Holders of Intercompany Claims will likely receive no recovery in a Chapter 7 liquidation.

- Intercompany Interests: The Liquidation Analysis concludes that Holders of Intercompany Interests will likely receive no recovery in a Chapter 7 liquidation.

- Existing Equity Interests: The Liquidation Analysis concludes that Holders of Existing Equity Interests will likely receive no recovery in a Chapter 7 liquidation.

APPENDIX G

Financial Projections

FINANCIAL PROJECTIONS

I. Introduction

In connection with the negotiation and development of the Plan[1], and for the purpose of determining whether the Plan meets the feasibility standard outlined in section 1129(a)(11) of the Bankruptcy Code, Batuta Capital Advisors LLC ("Batuta"), at the direction of the Plan Proponents, prepared financial projections (the "Projections"). Batuta analyzed Reorganized Holdings' ability to satisfy its financial obligations while maintaining sufficient liquidity and capital resources and projected these forward during the Projection Period (as defined below). With limited access to recent financial data provided by the Debtors, Batuta prepared consolidated financial projections for the years ending December 31, 2024 through December 31, 2029 (the "Projection Period").

The Plan Proponents believe that the Plan meets the feasibility requirements, as Confirmation is not likely to be followed by liquidation or the need for further financial reorganization of Reorganized Holdings or any successors under the Plan.

The Projections are based on a number of assumptions by Batuta with respect to the future performance of the assets currently held by the Debtors, namely, the four (4) special maritime entity subsidiaries ("SMEs") constituting the principal tangible assets of Reorganized Holdings. Certain assumptions were based on information available to Batuta, including information derived from public sources that have not been independently verified. No representations or warranties, express or implied, are provided in relation to the fairness, accuracy, correctness, completeness, or reliability of the information, opinions, or conclusions expressed herein.

The likelihood, and related financial impact, of a change in any of these factors cannot be predicted with certainty. Consequently, actual financial results could differ materially from the Projections. The Projections assume the Plan will be implemented in accordance with its stated terms and Reorganized Holdings will emerge from Chapter 11 as contemplated therein. The Projections should be read in conjunction with the assumptions and qualifications contained herein and as set out in the Disclosure Statement.

The Projections present, to the best of Batuta's knowledge and belief, Reorganized Holdings' projected financial position, results of operations, and cash flows for the Projection Period and reflect Batuta's assumptions and judgments of the projections based on an assumed emergence date of July 31, 2024 (the "Assumed Effective Date"). Although Batuta believes that these assumptions are reasonable under current circumstances, such assumptions are subject to inherent uncertainties, including, but not limited to:

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[1] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan or in the Disclosure Statement, to which the Financial Projection is attached as an appendix.

- Upward or downward changes in product tanker demand;
- Highly volatile charter rates;
- Changes in environmental standards and requirements;
- Geopolitical uncertainty in markets in which Reorganized Holdings and its subsidiaries will conduct business;
- Supply and demand dynamics in the crude oil and petroleum products markets and the resulting volatility in prices;
- Significant weather events impacting shipping in markets in which Reorganized Holdings and its subsidiaries will conduct business;
- Inherent risks associated with operating product tanker vessels;
- The impact of economic conditions outside of the control of Reorganized Holdings' and its subsidiaries control and any corresponding impact on charter rates;
- Reorganized Holdings' and its subsidiaries' ability to generate sufficient cash to service debt to which any one or more of them may be a party post the Assumed Effective Date;
- Reorganized Holdings' and its subsidiaries' ability to comply with any financial covenants contained in debt agreements to which any one or more of them may be a party post-Assumed Effective Date;
- Changes in interest rates;
- Regulatory changes and judicial rulings impacting Reorganized Holdings' and its subsidiaries' businesses;
- Adverse results from litigation, governmental investigations, or tax related proceedings or audits, whether initiated prior or subsequent to the Assumed Effective Date;
- Reorganized Holdings' and its subsidiaries' ability to maintain and/or enter into agreements with customers;
- Reorganized Holdings' and its subsidiaries' reliance on third-party vendors for various goods or services;
- Other events beyond the control of Reorganized Holdings and its subsidiaries that may result in unexpected adverse operating results;
- The possibility that the Bankruptcy Court does not confirm the Plan or the Assumed Effective Date does not timely occur as projected herein; and
- The risks related to other parties objecting to the Plan and the resulting cost and expense of delays in the Chapter 11 Cases.

The Projections contain certain forward-looking statements, all of which are based on various estimates and assumptions. Such forward-looking statements are subject to inherent uncertainties and to a wide variety of significant business, economic, and competitive risks, including those summarized herein. When used in the Projections, the words "anticipate," "believe," "estimate," "will," "may," "intend," and "expect" and similar expressions generally identify forward-looking statements. Although the Plan Proponents believe that their plans, intentions, and expectations reflected in the forward-looking statements are reasonable, the Plan Proponents cannot be sure that they will be achieved. These statements are only predictions and are not guarantees of future performance or results. Forward-looking statements are subject to risks and

uncertainties that could cause actual results to differ materially from those contemplated by a forward-looking statement. Forward-looking statements speak only as of the date on which they are made. Except as required by law, the Plan Proponents expressly disclaim any obligation to update any forward-looking statement, whether as a result of new information, future events, or otherwise.

THE PROJECTIONS WERE NOT PREPARED WITH A VIEW TOWARDS COMPLIANCE WITH PUBLISHED GUIDELINES OF THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION OR GENERALLY ACCEPTED ACCOUNTING PRINCIPLES ("GAAP") IN THE UNITED STATES. FURTHERMORE, THE PROJECTIONS HAVE NOT BEEN (A) AUDITED OR REVIEWED BY A REGISTERED INDEPENDENT PUBLIC ACCOUNTING FIRM OR (B) CONFIRMED WITH THE DEBTORS.

THE PROJECTIONS, WHILE PRESENTED WITH NUMERICAL SPECIFICITY, ARE BASED UPON MULTIPLE ESTIMATES AND ASSUMPTIONS WHICH MAY NOT BE REALIZED AND ARE SUBJECT TO SIGNIFICANT BUSINESS, ECONOMIC, AND COMPETITIVE UNCERTAINTIES AND CONTINGENCIES WHICH ARE RECOGNIZED BY BATUTA TO BE BEYOND ITS CONTROLTO FULLY ASSESS. CONSEQUENTLY, THE PROJECTIONS SHOULD NOT BE REGARDED AS A REPRESENTATION OR WARRANTY BY BATUTA, OR ANY OTHER PERSON AS TO THE ACCURACY OF THE PROJECTIONS OR THAT THE PROJECTIONS WILL BE REALIZED BY REORGANIZED HOLDINGS, POST THE ASSUMED EFFECTIVE DATE. ACTUAL RESULTS MAY DIFFER MATERIALLY FROM THOSE PRESENTED IN THE PROJECTIONS. HOLDERS OF CLAIMS MUST MAKE THEIR OWN ASSESSMENT AS TO THE REASONABLENESS OF SUCH ASSUMPTIONS AND THE RELIABILITY OF THE PROJECTIONS IN MAKING THEIR DETERMINATION OF WHETHER TO ACCEPT OR REJECT THE PLAN.

II. Current Business Description

The Debtors are an integrated owner, operator, and manager of a fleet of product tankers and LPG/LEG carriers specializing in the transport of refined petroleum products, liquefied petroleum gas ("LPG") and ammonia (NH3). The Debtor(s) have offices located in Piraeus, London, and Stamford, Connecticut and charter its fleet to customers including major international oil, LPG, ammonia (NH3), ethylene and other petrochemical gases ("LEG") companies and traders.

The Debtors' product tanker vessels are capable of carrying a wide range of petroleum products, such as fuel oil and vacuum gas oil (often referred to as "dirty products') and gas oil, gasoline, jet fuel, kerosene and naptha (often referred to as "clean products"), and crude oil.

The Debtors own 100% of the common units in Eletson Gas LLC, which owns handy-sized semi-ref and medium-sized fully ref LPG/LEG carriers, which are gas carriers that transport LPG, ammonia (NH3), ethylene, and other petrochemical gases. LPG, which consists of propane and butane, is a clean and efficient source of energy used as a heating, cooking, and transportation fuel and as a petrochemical and refinery feedstock,

while ammonia is mainly used in the agricultural industry as a fertilizer and ethylene is a feed stock material.

III. Summary of Significant Assumptions and Basis for Presentation

The Projections were developed by Batuta using assumptions based on limited information for the revenues and costs of the Debtors' and their subsidiaries' current business and projecting such assumptions forward for the Projection Period as to Reorganized Holdings and its subsidiaries. Batuta considered the following factors in developing the Projections:

- Current and projected market conditions in each of the respective markets in which the Debtors and their subsidiaries are currently active and believe Reorganized Holdings and its subsidiaries will remain active;
- Ability to sufficiently fund debt service payments;
- Capital expenditures needed, based on historic capital expenditures, to keep the vessel fleet in class post-Assumed Effective Date;
- Ability to realize sufficient charter rates to cover vessel operating expenditures and general and administrative expenses;
- No foreseeable material acquisitions or divestitures;
- The Debtors' emergence from Chapter 11 as Reorganized Holdings on or around the Assumed Effective Date.

The Projections do not set forth expenses related to the pursuit of various claims and causes of action belonging to the Debtors and their Estates or any proceeds derived therefrom (if any).

The Projections have been prepared in good faith and are based upon assumptions believed to be reasonable, including those set out under the Plan. The Projections include assumptions with respect to unaudited and in some cases dated financial accounts of the Debtors.

IV. Projected Cash Flow Statement and Balance Sheet Assumptions

EBITDA: EBITDA is measured as earnings (defined as total vessel operating revenue less vessel operating expenses, as described below) before interest, taxes, depreciation, and amortization. Pro Forma EBITDA is not a measurement of operating performance computed in accordance with GAAP and should not be considered as a substitute for net income (loss) prepared in conformity with GAAP. In addition, Pro Forma EBITDA may not be comparable to similarly titled measures of other companies. Batuta believes that these non-GAAP financial measures are important indicators of the future operations of the respective Reorganized Holdings and provide a baseline for analyzing Reorganized Holdings' underlying business. EBITDA, broadly defined, is a metric used by the financial community to provide insight into an organization's operating trends and to facilitate comparisons between peer companies, since interest, taxes, depreciation, and amortization can differ greatly between organizations as a result of differing capital structures and tax strategies.

Leveraged Free Cash Flow: Leveraged Free Cash Flow is the free cash flow that remains after Reorganized Holdings has paid their obligations on their debt—both interest and principal repayments. Leveraged Free Cash Flow is not a measurement of operating performance computed in accordance with GAAP and should not be considered as a substitute for cash flow from operations prepared in conformity with GAAP. In addition, Leveraged Free Cash Flow may not be comparable to a similarly titled measure of other companies. Batuta believes that this cash flow measure provides investors and holders of Claims with a relevant measure of liquidity and a useful basis for assessing Reorganized Holdings' ability to fund their activities and obligations post-emergence from these Chapter 11 Cases.

Capex: Capital expenditures ("Capex") include the Plan Proponents' estimates of maintenance and growth Capex.

Chapter 11 Professional Services Fees and D&O Insurance: Chapter 11 professional services and other fees as well as D&O insurance related to post-Assumed Effective Date chapter 11 filings and activities until the close of the Chapter 11 Cases.

V. Financial Assumptions/Projections

The future results of Reorganized Holdings are dependent upon various factors, many of which are beyond the control or knowledge of the Plan Proponents, and consequently are inherently difficult to project. Reorganized Holdings' actual future result may differ materially from the Projections and as a result, the actual total value of Reorganized Holdings may be significantly higher or lower than the estimated range herein. *See* Disclosure Statement ("Risk Factors").

The following summarizes the underlying key financial assumptions upon which the Projections were based.

1. Voyage Revenue

Reorganized Holdings will derive operating revenue primarily from the operation of four MR class product tankers ("Voyage Revenue"). Voyage Revenue primarily includes revenues from spot charters and time charters. Spot market revenues are recognized ratably over the duration of the spot market voyages from loading to discharge of the cargo and time charter revenues over the duration of the time charters. Reorganized Holdings and its subsidiaries also generate demurrage revenue, which represent fees charged to charterers associated with our spot market voyages when the charterer exceeds the agreed upon time required to load or discharge a cargo.

2. Time Charter Equivalent Rate

The time charter equivalent rate ("TCE Rate") is a standard industry measure of the average daily revenue performance of a vessel. TCE Rate is equal to Voyage Revenue, less voyage expenses during a period, divided by the number of available days during the period. TCE Rate is used primarily to compare daily earnings generated by vessels on time charters with earnings generated by vessels on spot charters, because charter rates for vessels on spot charters are generally not expressed in per day amounts, and

charter rates for vessels on time charters generally are expressed in such amounts. Time charter equivalent revenue and TCE Rate are not measures of financial performance under GAAP and may not be comparable to similarly titled measures of other companies.

3. Spot Charter

A spot charter is an agreement to charter a vessel for an agreed amount of cargo from specified loading port(s) to specified discharge port(s). In contrast to a time charter, the vessel owner is generally required to pay substantially all of the voyage expenses, including port costs, canal charges and fuel expenses, in addition to the vessel operating expenses.

4. Time Charter

A time charter is a contract for the use of a vessel for a specific period of time during which the charterer pays substantially all of the voyage expenses, including port costs, canal charges and fuel expenses. The vessel owner pays commissions on gross voyage revenues and the vessel operating expenses, which include crew wages, insurance, technical maintenance costs, spares, stores and supplies. Time charter rates are usually fixed during the term of the charter. Fluctuations in time charter rates are influenced by changes in spot charter rates. Prevailing time charter rates do fluctuate on a seasonal and year-to-year basis and may be substantially higher or lower from a prior time charter agreement when the subject vessel owner is seeking to renew the time charter agreement with the existing charterer or enter into a new time charter agreement with another charterer.

Drivers of time charter rates include, among others:

- General economic and market conditions affecting the shipping industry;
- Supply/demand balance for tankers and the types and sizes of comparable tankers;
- Demand for petroleum products;
- Vessel acquisitions and disposals;
- Cost of new buildings and the ability of shipyards and shipowners to finance the cost of construction of newbuilds;
- Governmental and other regulations; and
- Regulation of the tanker industry.

5. Vessel Operating Expenses

These expenses generally represent direct expenses incurred for costs associated with the operation of the vessels and activities related to the delivery of products and services to customers. Vessel operating expenses generally represent fixed costs. Vessel operating expenses mainly consist of the following:

- Crew Expenses;
- Victualling;
- Deck and Engine Stores;

- Insurance;
- Lubricants;
- Maintenance Repairs; and
- Spare Parts.

6. Depreciation

The cost of the Debtors' vessels is depreciated on a straight-line basis over the expected useful life of each vessel. Depreciation is based on the cost of the vessel less its estimated residual value. Batuta depreciated the Debtors' product tankers over 25 years.

7. General and Administrative Expenses

General and administrative expenses are composed of general corporate overhead expenses, including personnel costs, property costs, legal and professional fees, and other general administrative expenses. Personnel costs include, among other things, salaries, pension costs, fringe benefits, travel costs and health insurance.

These costs also include post-Assumed Effective Date general corporate costs and costs related to the final administration and closing of the Chapter 11 Cases in accordance with the Plan.

8. Post-Assumed Effective Date Debt Structure

Solely for the purpose of the analysis set forth herein, Batuta has assumed that the debt structure of Reorganized Holdings will consist of one or more secured credit facilities (collectively, the "Secured Debt") collateralized by the 4 MR class product tankers. The assumed interest rate on the credit facility(ies) is assumed to be 7.5% per year.

SME Consolidated Projections ($mm USD)	*6 mths* 2024	2025	2026	2027	2028	2029
Voyage Revenue	$19.5	$38.9	$32.9	$31.2	$31.6	$32.1
YoY Growth			*-15.4%*	*-5.3%*	*1.5%*	*1.5%*
Vessel Operating Expenses (including management fees)	$6.2	$12.8	$13.1	$13.3	$13.6	$13.9
YoY Growth			*2.0%*	*2.0%*	*2.0%*	*2.0%*
General & Administrative	$2.2	$4.4	$4.5	$4.6	$4.7	$4.8
YoY Growth			*2.0%*	*2.0%*	*2.0%*	*2.0%*
Ongoing Expenses from Chapter 11 proceedings	$1.5	$1.2	$0.0	$0.0	$0.0	$0.0
EBITDA	$9.6	$20.5	$15.4	$13.3	$13.4	$13.5
YoY Growth			*-25.1%*	*-13.6%*	*0.8%*	*0.8%*
Check						
Depreciation	$3.8	$7.7	$6.5	$6.5	$6.5	$6.5
Cash Interet/Amortization	$4.0	$3.9	$3.6	$3.6	$3.6	$3.6
Net Profit/Loss	$1.8	$8.9	$5.3	$3.2	$3.3	$3.4
EBITDA	$9.6	$20.5	$15.4	$13.3	$13.4	$13.5
Cash Interest/Financing Costs	($4.0)	($3.9)	($3.6)	($3.6)	($3.6)	($3.6)
Capex	($1.7)	($3.4)	($3.4)	($3.4)	($3.4)	($3.4)
FCF	$3.9	$13.2	$8.3	$6.2	$6.3	$6.4
Debt	$48.1	$48.1	$48.1	$48.1	$48.1	$48.1
Cash	$8.9	$22.1	$30.4	$36.7	$43.0	$49.5
Net Debt	$39.2	$26.0	$17.7	$11.4	$5.1	($1.4)
Debt/EBITDA	5.0x	2.3x	3.1x	3.6x	3.6x	3.6x
Net Debt/EBITDA	10.x	2.0x	2.1x	1.8x	.8x	-.2x

APPENDIX H

Valuation Analysis

VALUATION ANALYSIS

THE VALUATION INFORMATION CONTAINED HEREIN IS NOT A PREDICTION OR GUARANTEE OF THE ACTUAL MARKET VALUE THAT MAY BE REALIZED THROUGH THE SALE OF ANY SECURITIES TO BE ISSUED PURSUANT TO THE PLAN. THE VALUATION ANALYSIS IS PRESENTED SOLELY FOR THE PURPOSE OF PROVIDING ADEQUATE INFORMATION AS REQUIRED BY SECTION 1125 OF THE BANKRUPTCY CODE TO ENABLE THE HOLDERS OF CLAIMS OR INTERESTS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN TO MAKE AN INFORMED JUDGMENT ABOUT THE PLAN AND SHOULD NOT BE USED OR RELIED UPON FOR ANY OTHER PURPOSE, INCLUDING THE PURCHASE OR SALE OF CLAIMS AGAINST OR INTERESTS IN THE DEBTORS. **THE PLAN PROPONENTS[1] RESERVE THE RIGHT TO SUPPLEMENT OR MODIFY THE VALUATION ANALYSIS, INCLUDING BY CHANGING THE ASSUMPTIONS OR ANALYSIS SET FORTH HEREIN.**

Batuta Captial Advisors LLC ("Batuta"), at the direction of the Plan Proponents, performed a valuation analysis of Reorganized Holdings (the "Valuation Analysis").

Based upon and subject to the review and analysis described herein, and subject to the assumptions, limitations and qualifications described herein, Batuta's view, as of May 8, 2024, was that the estimated going concern enterprise value of Reorganized Holdings, as of an assumed Effective Date for purposes of the Valuation Analysis of July 31, 2024 (the "Assumed Effective Date"), would be in a range of between $103.9 million and $116.4 million. The midpoint of the enterprise valuation range is $110.2 million. Based upon our range of estimated going concern enterprise value of Reorganized Holdings of between $103.9 million and $116.4 million, assumed leases of $48.1 million (assuming net leases for the use of certain vessels owned by entities affiliated or associated with Oaktree Capital Management as of July 31, 2024), the Rights Offering in the amount of up to $43.5 million, and cash distributions to Holders of Administrative Claims, Priority Tax Claims, Other Priority Claims, Secured Claims, OCM Guaranty Claims, Subordinated Claims, Intercompany Claims, and Convenience Claims and General Unsecured Claims opting for a cash-out option of between $28.7 million and $37.2 million, the ascribed estimate of the range of equity value for Reorganized Holdings as of the Assumed Effective Date, is between approximately $55.8 million and $68.3 million, with a midpoint estimate of $62.1 million.

Batuta's views are based on economic, monetary, market, and other conditions in effect, and the information available to Batuta as of the date of the Valuation Analysis. It should be understood that, although subsequent developments may affect Batuta's views, Batuta does not have any obligation to update, revise, or reaffirm its estimate.

The Valuation Analysis is based on a number of assumptions, including, among other assumptions, that (i) the Debtors will be reorganized in accordance with the Plan Proponent's proposed Plan which will be consummated on the Assumed Effective Date,

[1] Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan or in the Disclosure Statement, to which the Valuation Analysis is attached as an appendix.

(ii) Reorganized Holdings will achieve the results set forth in in the accompanying Financial Projections prepared by Batuta (as per the Disclosure Statement and the Appendices thereto) for 2024 through 2029 (the "Projection Period") prepared by Batuta based on information available from the Debtors and publicly available sources, (iii) Reorganized Holdings' capitalization and available cash will be as set forth in the Plan and this Disclosure Statement, and (iv) Reorganized Holdings will be able to obtain all future financings, on the terms and at the times, necessary to achieve the results set forth in the Financial Projections. Batuta makes no representation as to the achievability or reasonableness of such assumptions. In addition, Batuta assumed that there will be no material change in economic, monetary, market, and other conditions as in effect on, and the information made available to Batuta, as of the Assumed Effective Date. Batuta assumed that the Financial Projections it prepared based on the limited data available from the Debtors and publicly available are reasonable on the basis that it currently reflects the best available estimates and judgments as to the future financial and operating performance of Reorganized Holdings. The future results of Reorganized Holdings are dependent upon various factors, many of which are beyond the control or knowledge of the Plan Proponents and their advisors, including Batuta, and consequently are inherently difficult to project. Reorganized Holdings' actual future results may differ materially (positively or negatively) from the Financial Projections and, as a result, the actual enterprise value of Reorganized Holdings may be materially higher or lower than the estimated range herein. Among other things, failure to consummate the Plan in a timely manner, including any delay in the Assumed Effective Date, may have a materially negative impact on the enterprise value of Reorganized Holdings.

The estimated enterprise value in the Valuation Analysis represents a hypothetical enterprise value of Reorganized Holdings as the continuing operators of the business and assets of the Debtors, after giving effect to the Plan, based on consideration of certain valuation methodologies as described below. The estimated enterprise value in this section does not purport to constitute an appraisal or necessarily reflect the actual market value that might be realized through a sale or liquidation of Reorganized Holdings, its securities or its assets, which may be materially higher or lower than the estimated enterprise value range herein.

The actual value of an operating business such as Reorganized Holdings' business is subject to uncertainties and contingencies that are difficult to predict and will fluctuate with changes in various factors affecting the financial condition and prospects of such a business. In conducting its analysis, Batuta, among other things: (i) reviewed certain publicly available business and financial information relating to Reorganized Holdings that Batuta deemed relevant; (ii) reviewed certain information relating to the business, earnings, cash flow, assets, liabilities, and prospects of Reorganized Holdings which are mostly dated, including the Financial Projections prepared by Batuta based on historical data and market information; (iii) reviewed publicly available financial and stock market data for certain selected publicly traded companies; (iv) reviewed publicly available financial data for certain selected precedent vessel transactions that Batuta deemed relevant; (v) reviewed a draft of the Amended Plan dated April 8, 2024 filed by the Debtors [Docket No. 570]; and (vi) conducted such other financial studies and analyses and took into account such other information as Batuta deemed appropriate. In connection with its review, Batuta did not assume any responsibility for independent

verification of any of the information supplied to, discussed with, or reviewed by Batuta and relied on such information being complete and accurate in all material respects. Batuta did not make any independent evaluation or appraisal of any of the assets or liabilities (contingent, derivative, off-balance- sheet, tax-related or otherwise) of Reorganized Holdings, nor was Batuta furnished with any such evaluation or appraisal.

THE ESTIMATED ENTERPRISE VALUE IN THE VALUATION ANALYSIS DOES NOT CONSTITUTE A RECOMMENDATION TO ANY HOLDER OF A CLAIM OR INTEREST AS TO HOW SUCH HOLDER OF A CLAIM OR INTEREST SHOULD VOTE OR OTHERWISE ACT WITH RESPECT TO THE PLAN. BATUTA HAS NOT BEEN ASKED TO AND DOES NOT EXPRESS ANY VIEW AS TO WHAT THE TRADING VALUE OF REORGANIZED HOLDINGS' SECURITIES WOULD BE WHEN ISSUED PURSUANT TO THE PLAN OR THE PRICES AT WHICH THEY MAY TRADE IN THE FUTURE. THE ESTIMATED ENTERPRISE VALUE SET FORTH HEREIN DOES NOT CONSTITUTE AN OPINION AS TO FAIRNESS FROM A FINANCIAL POINT OF VIEW TO ANY HOLDER OF A CLAIM OR INTEREST OF THE CONSIDERATION TO BE RECEIVED BY SUCH HOLDER OF A CLAIM OR INTEREST UNDER THE PLAN OR OF THE TERMS AND PROVISIONS OF THE PLAN. THE VALUATION ANALYSIS DOES NOT SHOW EXPENSES RELATED TO THE INVESTIGATION, COMMENCEMENT, OR PURSUIT OF POTENTIAL CLAIMS AND CAUSES OF ACTION OR ANY INCOME DERIVED THEREFROM ON ACCOUNT OF ANY PROCEEDS THEREOF (IF ANY).

I. Valuation Methodologies

In preparing the Valuation Analysis, Batuta performed a variety of financial analyses and considered a variety of factors. The following is a brief summary of the material financial analyses performed by Batuta, which consisted of (a) a selected publicly traded companies analysis, (b) a net asset value (NAV) analysis and (c) discounted cash flow analysis. This summary does not purport to be a complete description of the analyses performed and factors considered by Batuta. The preparation of a valuation analysis is a complex analytical process involving various judgmental determinations as to the most appropriate and relevant methods of financial analysis and the application of those methods to particular facts and circumstances, and such analyses and judgments are not readily susceptible to summary description. As such, the Valuation Analysis must be considered as a whole. Reliance on only one of the methodologies used, or portions of the analysis performed, could create a misleading or incomplete conclusion as to enterprise value.

A. Selected Publicly Traded Companies Analysis

The selected publicly traded companies analysis is based on the enterprise values of selected publicly traded shipping companies that have operating and financial characteristics comparable in certain respects to Reorganized Holdings. For example, such characteristics may include similar size and scale of operations, end-market exposure, product mix, operating margins, growth rates, and geographical exposure.

Under this methodology, certain financial multiples that measure financial performance and value are calculated for each selected company and then applied to Reorganized Holdings' financials to imply an enterprise value for Reorganized Holdings. Batuta used, among other measures, enterprise value (defined as market value of equity, plus book value of debt and book value of preferred stock and minority interests, less cash, subject to adjustments for underfunded pension and retirement obligations and other items where appropriate) for each selected company as a multiple of such company's publicly available consensus projected EV/EBITDA multiple for fiscal year 2025. Although the selected companies were used for comparison purposes, no selected publicly traded company is either identical or directly comparable to the business of Reorganized Holdings. Accordingly, Batuta's comparison of selected publicly traded companies to the business of Reorganized Holdings and analysis of the results of such comparisons was not purely mathematical, but instead involved considerations and judgments concerning differences in operating and financial characteristics and other factors that could affect the relative values of the selected publicly traded companies and Reorganized Holdings. The selection of appropriate companies for this analysis is a matter of judgment and subject to limitations due to sample size and the public availability of meaningful market-based information. Batuta also took into account a private discount to the public comparable values as per Damodaran[2] to take into account the private nature of the Debtors' business.

B. Net Asset Value (NAV) Analysis

The selected transactions analysis is based on the implied enterprise value of companies and assets involved in publicly disclosed and Vessels Value asset valuations (an independent, third party research widely used in the industry) for which the targets had operating and financial characteristics comparable in certain respects to Reorganized Holdings. Under this methodology, the asset value of each such target is determined by an analysis of the consideration paid net of debt encumbering the asset. Other factors not directly related to a company's business operations can affect a valuation in a transaction, including, among others factors, the following: (a) circumstances surrounding the specific age and condition of the vessel may introduce "diffusive quantitative results" into the analysis (*e.g.*, a buyer may pay an additional premium for reasons that are not solely related to competitive bidding); (b) the market environment is not identical for transactions occurring at different periods of time; (c) circumstances pertaining to the financial position of the company may have an impact on the resulting purchase price (*e.g.*, a company in financial distress may receive a lower price due to perceived weakness in its bargaining leverage); and (d) the ongoing tax environment at the time of the transaction.

C. Discounted Cash Flow Analysis

The discounted cash flow ("DCF") analysis is a valuation methodology that estimates the value of an asset or business by calculating the present value of expected future cash flows to be generated by that asset or business plus a present value of the estimated terminal value of that asset or business. The DCF analysis used the Financial Projections' estimated free cash flows through December 31, 2040. These cash flows

[2] Valuation, Damodaran, Aswath, 2016.

were then discounted at a range of estimated cost of equity ("Discount Rate") for Reorganized Holdings. Rate reflects the estimated rate of return that would be expected by equity investors to invest in Reorganized Holdings' business. The value was determined by estimating the weighted average cost of capital for such debt instruments and common equity as appropriate for Reorganized Holdings' capitalization. Batuta estimated the duration of cash flows by the average useful life of comparable assets. To determine the total enterprise value, assumed secured vessel debt was added to the derived equity value, and the estimated cash balance as of the Assumed Effective Date was added to the derived equity value.

To determine the Discount Rate, Batuta estimated the cost of equity for Reorganized Holdings based on (I) the capital asset pricing model, which assumes that the expected equity return is a function of the risk-free rate, equity market premium, and the correlation of the stock performance of the selected publicly traded companies to the return on the broader market and (II) an adjustment related to Reorganized Holdings' status as a private company.

II. Reorganized Holdings—Valuation Considerations

The estimated value in the Valuation Analysis is not necessarily indicative of actual value, which may be significantly higher or lower than the ranges set forth herein. Accordingly, neither Batuta nor any other person assumes responsibility for the accuracy of such estimated value. Depending on the actual financial results of the Debtors or changes in the economy and the financial markets, the value of Reorganized Holdings as of the Assumed Effective Date may differ from the estimated value set forth herein as of the Assumed Effective Date. In addition, the market prices, to the extent there is a market, of Reorganized Holdings' securities will depend upon, among other things, prevailing interest rates, conditions in the economy and the financial markets, the investment decisions of prepetition creditors receiving such securities under the Plan (some of whom may prefer to liquidate their investment rather than hold it on a long-term basis), and other factors that generally influence the prices of securities.

As noted in the Disclosure Statement included herewith, the Debtors and their non-Debtor subsidiaries will retain various claims and causes of action, including relating to Eletson Gas LLC, Levona Holdings, Ltd., and others. Given the costs and risks associated with such claims and causes of action, this Valuation Analysis does not provide an estimate of (i) the fees and expenses needed to bring those claims and causes of action, including, among others, issues associated with collectability and enforcement of any judgments, and (ii) the gross recovery resulting from those claims and causes of action (if any).

Exhibit 2

Further Revised PC Alternative Disclosure Statement (Incremental Redline)

THIS PROPOSED DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION WITHIN THE MEANING OF SECTION 1125(a) OF THE BANKRUPTCY CODE. THE PETITIONING CREDITORS RESERVE THE RIGHT TO AMEND OR SUPPLEMENT THIS PROPOSED DISCLOSURE STATEMENT.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
ELETSON HOLDINGS INC., et al.,	:	Case No. 23-10322 (JPM)
Debtors.[1]	:	(Jointly Administered)

DISCLOSURE STATEMENT IN SUPPORT OF PETITIONING CREDITORS' ALTERNATIVE CHAPTER 11 PLAN FOR ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS

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Counsel for the Petitioning Creditors[2]

Dated: June 17, 2024
New York, New York

[1] The Debtors in these cases are: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. The address of the Debtors' corporate headquarters is 118 Kolokotroni Street, GR 185 35 Piraeus, Greece. The Debtors' mailing address is c/o Eletson Maritime, Inc., 1 Landmark Square, Suite 424, Stamford, Connecticut 06901.

[2] The "Petitioning Creditors" are Pach Shemen LLC, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein ("Goldstein") and Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust ("Goldstein Trust", and together with Goldstein, "Mr. Goldstein"), Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike. While Togut, Segal & Segal LLP represents Mr. Goldstein as a "Petitioning Creditor," Mr. Goldstein is not a "Plan Proponent" for purposes of the Plan.

I. EXECUTIVE SUMMARY

A. Introduction

You are receiving this Disclosure Statement because you are a Holder of a Claim entitled to vote on the *Second Amended Joint Chapter 11 Plan of Reorganization of Debtors Under Chapter 11 of the United States Bankruptcy Code*, filed on June ~~6~~14, 2024 [Docket No. 786, Ex. A] (the "Debtors' Plan") filed by the debtors and debtors in possession (the "Debtors") in the above-captioned chapter 11 cases (these "Chapter 11 Cases") as well as the *Petitioning Creditors' Alternative Chapter 11 Plan for Eletson Holdings Inc. and its Affiliated Debtors*, a copy of which is attached hereto as **Appendix A** (as may be amended, supplemented, or otherwise modified from time to time, the "PC Alternative Plan").[3]

The purpose of this Disclosure Statement is to provide Holders of Claims entitled to vote on the PC Alternative Plan with adequate information to make an informed judgment as to whether to vote or accept the PC Alternative Plan. The Plan Proponents[4] are providing you with the information in this Disclosure Statement because you may be a creditor entitled to vote on the PC Alternative Plan. This Disclosure Statement is to be used solely in connection with evaluation of the PC Alternative Plan and not for any other purpose.

B. The PC Alternative Plan

The Petitioning Creditors[5] believe that the Debtors' Plan is not in the best interests of creditors and their estates and is not confirmable for many reasons. Among other things, the Debtors' Plan provides that the Debtors' out-of-the-money shareholders would receive 100% of the equity in the Reorganized Debtors while creditors would receive either interests in a litigation trust, containing only those claims and causes of action identified by the Debtors (or a mechanism for sharing the proceeds of some other claims), or minimal cash payments.

To protect the interests of the Debtors' creditors, the Petitioning Creditors proposed their own chapter 11 plan [Docket No. 740, Ex. 1] (the "PC Plan"). Under the PC Plan, most impaired creditors (a) will receive, at their election, either equity in the Reorganized Debtors or a cash out amount, and (b) have the ability to participate in a new money rights offering of up to $43.5 million to purchase additional equity at a discount. Creditors with allowed claims of less than $1,000,000 (or those that

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[3] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the PC Alternative Plan.

[4] "Plan Proponents" means the Petitioning Creditors other than Mr. Goldstein (each as defined below).

[5] "Petitioning Creditors" means, collectively, Pach Shemen, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein ("Goldstein"), Gene G. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust ("Goldstein Trust", and together with Goldstein, "Mr. Goldstein"), Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike.

voluntarily agree to reduce their claim to that amount) would receive a cash recovery equal to 15% of the allowed amount of their claim.[6] The PC Plan also preserves nearly all claims and causes of action belonging to the Debtors and their estates such that any net recoveries on account of such claims would benefit the Debtors' creditors that receive equity in the Reorganized Debtors.[7]

The Debtors have argued that creditors should get to choose whether they believe the Debtors' Plan or the PC Plan is in their best interests. While the Petitioning Creditors believe that the Debtors' Plan is not confirmable and fails as a matter of law, the Petitioning Creditors believe that any chapter 11 plans presented to creditors should provide creditors with the maximum return under each of their respective structures. Indeed, the Petitioning Creditors believe that the Debtors' failure to pursue alternatives to the Debtors' Plan that provide for greater recoveries to creditors is a breach of their fiduciary duties.

As such, the Petitioning Creditors have proposed a third, alternative chapter 11 plan in the form of the PC Alternative Plan, a copy of which is attached hereto as **Appendix A**, that makes improvements to the Debtors' Plan on the exact same structure as proposed by the Debtors. A redline showing the changes made to the Debtors' Plan is attached hereto as **Appendix B**. For ease of review, attached hereto as **Appendix C** is a term sheet for the PC Alternative Plan that shows the material differences and improvements made to the PC Alternative Plan from the Debtors' Plan.

In broad strokes, following the structure of the Debtors' Plan, the PC Alternative Plan provides for the following significant improvements to the Debtors' Plan:

- Higher New Money Investment: The PC Alternative Plan provides for a new money investment by one of the Petitioning Creditors, Pach Shemen LLC or its designee (in such capacity, the "Plan Sponsor"), of $~~33~~41 million (compared to the $30 million Shareholder New Value Contribution under the Debtors' Plan. The $~~33~~41 million amount will be used to pay administrative and priority claims, make distributions to creditors under the PC Alternative Plan, and fund the Litigation Trust.

[6] In the event that more than $16,666,667 in claims elect such treatment, then the holders of such claims would receive their pro rata share of $2,500,000.

[7] Such causes of action preserved under the PC Plan include, among others, (a) claims against Levona arising from the Arbitration or otherwise, (b) claims seeking to recover the Preferred Shares of Eletson Gas or the value thereof from the Nominees, and (c) claims related thereto such as breach of fiduciary duty against the officers, and directors that authorized the transfer of such shares. As of the date hereof, the Preferred Shares are estimated to have a total amount of outstanding obligations of approximately $333 million (including principal and accrued and unpaid dividends) and the causes of action against Levona was assessed pursuant to the Award in the amount of approximately $87 million (plus fees, costs, and interest).

- The Debtors have not provided any financial wherewithal that the Debtors' shareholders have sufficient readily available funds, in cash, to make the $30 million Shareholder New Value Contribution under the Debtors' Plan. The Plan Sponsor, however, has submitted the financial wherewithal to make the Plan Sponsor's $3341 million investment, a copy of which, along with a commitment letter, is attached hereto as **Appendix D**.

- Higher Returns to Exchange Note Claims: The PC Alternative Plan provides significantly improved recoveries to holders of Exchange Note Claims (Class 6) by transferring nearly all of the Debtors' claims and causes of action (including both known and unknown claims), such as the claims related to the transfer of the Preferred Shares, among others, to the Litigation Trust for the benefit of noteholder creditors that receive Litigation Trust Interests rather than just those claims and causes of action identified by the Debtors.

- The Litigation Trust will also receive a contingent value right (or CVR) from the Plan Sponsor equal to the amount that would otherwise be payable by Levona under the Debtors' Plan as the "Collections Contribution"; *provided*, *that*, to further improve creditors' recoveries, the CVR would be payable without deduction for the costs and risks of collection as the Collections Contribution would otherwise be paid under the Debtors' Plan.[8]

- In addition to all other payments to the Litigation Trust set forth in the Debtors' Plan, the PC Alternative Plan provides that the Litigation Trust will receive any excess in the professional fee escrow account set aside on the Effective Date to the extent there are savings due to reductions in allowed administrative expense claims for estate professionals.

- Higher Returns to Noteholder Creditors: The PC Alternative Plan increases the funds set aside to pay Noteholder Election Recovery Claims (Class 5) from up to $70,000 to up to $100,000 per claim and

[8] The CVRs will be secured by a pledge of 100% of the Plan Sponsor's equity in the Reorganized Debtors.

certain of the Consenting Noteholders told the Debtors in January 2020 that the Second RSA was "dead."[12]

Despite entering into the First RSA and the Second RSA, the Debtors never actually attempted to restructure the Exchange Notes or the Old Notes in connection therewith (or after). Instead, the Debtors did nothing and allowed the Old Notes and the Exchange Notes to mature without repayment on January 15, 2022, resulting in approximately $100 million in additional interest accruing on the Exchange Notes between the execution of the Second RSA in October 2019 and the filing of the Involuntary Petitions in March 2023.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors dispute all of the allegations and assertions in this section. First, the Debtors asset that the Debtors made payments of PIK interest and undertook a tender offer which reduced the outstanding obligations under the Exchange Notes by approximately $8 million. Second, the Debtors assert that the Petitioning Creditors fail to state that as a result of the strict foreclosure agreement, the Exchange Note Indenture was amended to release all remaining Collateral that served as security under the Exchange Note Indenture. In the Debtors' view, the assertions regarding the Debtors' intent are meritless."

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "In the Debtors' view, the Petitioning Creditors' descriptions of the Second RSA are wholly deficient and omit material information regarding the terms and provisions of the Second RSA as well as its relationship to the Involuntary Petitions. As set forth in greater detail in the Debtors' Motion to Dismiss (as defined ~~beow~~below), pursuant to the Second RSA, signatories were restricted from selling, transferring, or assigning any interest they had in the Exchange Notes unless the transfer was to another holder of the Exchange Notes or the recipient joined the Second RSA. The Debtors further assert that in June 2020, well after the Second RSA was executed, the Debtors, more than seventy percent (70%) of the 2022 Noteholders, and others entered into a certain Stipulation Waiver and Release (the "OCM Financing Stipulation"), wherein a majority of the 2022 Noteholders acknowledged that they "[were] parties to that certain [Second RSA] . . . ." *OCM Financing Stipulation* at p. 1. The Debtors state that like the Second RSA, the OCM Financing Stipulation included a restriction on the transfer of the Exchange Notes. In the Debtors' view, any transfers of the Exchange Notes made in violation of the terms of these documents are void ab initio. In the Debtors' view, notwithstanding these transfer restrictions, the Initial Petitioning Creditors, in particular Pach Shemen, purport to be the beneficial holders of Exchange Notes in an amount that is mathematically impossible absent a transfer of Exchange Notes that were subject to restrictions on transfer. As the Second RSA was never terminated, the Debtors believe that Pach Shemen is not a valid 2022 Noteholder. The Debtors believe that had these bankruptcy proceedings not been initiated, the

[12] *Declaration of Joshua Nemser In Support of (A) Involuntary Petitions and (B) Petitioning Creditors' Objection to the Debtors' Motion to Dismiss* [Docket No. 128] filed on July 18, 2023 ¶ 14.

- Increasing the recovery percentage for Holders of Allowed Convenience Claims from 10% to 15%;

- Giving all General Unsecured Claimholders the option to become Backstop Parties; and

- Establishing the composition of the New Board and certain governance matters relating thereto.

~~The key terms of the Plan, including creditors' estimated recoveries are summarized below.~~

At the May 15 Hearing, the Bankruptcy Court approved the Petitioning Creditors' Solicitation Motion and the Rights Offering Procedures Motion (as defined below), but declined to enter the orders approving the respective motions until the Debtors addressed the various issues raised at the May 15 Hearing on the Debtors' Second Amended Plan and the Debtors' Second Amended Disclosure Statement.

At the May 31 Status Conference, the parties discussed the Debtors' Revised Second Amended Plan and the Debtors' Revised Second Amended Disclosure Statement and the Bankruptcy Court continued the hearing on the Debtors' Revised Second Amended Disclosure Statement to June 7, 2024. *See* Docket No. 736. The Bankruptcy Court also directed the parties to submit a joint status report to the Bankruptcy Court on June 6, 2024. *Id.*

On June 6, 2024, the Plan Proponents filed further amended versions of the PC Initial Plan and PC Initial Disclosure Statement [Docket Nos. 740, 741].

E. The Petitioning Creditors' "Alternative Plan"

At the May 15 Hearing, the Petitioning Creditors expressed their desire to submit an alternative offer based on the structure of the Debtors' Amended Plan. After the May 15 Hearing, the Petitioning Creditors continued to express interest in submitting an alternative offer, but the Debtors did not engage and could not identify who at the Debtors would receive and evaluate such bid. *See* Docket Nos. 712, 718 & 720. In order to progress these cases, on June 5, 2024, the Petitioning Creditors provided an alternative bid term sheet (the "PC Alternative Term Sheet ") to counsel for the Debtors and the Creditors' Committee and the next day filed the PC Alternative Term Sheet on the docket. *See* Docket No. 745. The PC Alternative Term Sheet sets forth the terms of a comprehensive restructuring of the existing debt and other obligations of the Debtors that is based on the Debtors' Amended Plan but provides significant improvements for creditors. *Id.*

On June 11, 2024, the Petitioning Creditors filed the PC Alternative Plan and the related disclosure statement [Docket No. 763] (the "PC Alternative DS"). A motion to consider approval of the PC Alternative DS [Docket No. 764] (the "PC Alternative Solicitation Motion") is scheduled for the June 18 Hearing consistent with the Court's direction at a hearing held on June 7, 2024. On June 14, 2024, the Petitioning Creditors filed financial wherewithal information related to the PC Alternative Plan.

See Docket No. 781. On June 14, 2024, the Debtors filed an objection to the PC Alternative Solicitation Motion and the Creditors' Committee filed an objection and reservation of rights to the PC Alternative Solicitation Motion. *See* Docket Nos. 783 and 784.

IV. SUMMARY OF ~~The~~THE PC ~~Alternative Plan~~ALTERNATIVE PLAN

The following table summarizes the classification and treatment of all claims against and interests in the Debtors under both the Debtors' Plan and the PC Alternative Plan. Please note that the description in the column titled "Debtors' Plan" is taken verbatim from the Debtors' Disclosure Statement and the redline changes in the column titled "PC Alternative Plan Treatment and Estimated Recovery" indicates the changes made to the PC Alternative Plan from the Debtors' Plan.

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC Alternative Plan Treatment and Estimated Recovery
OCM Guaranty Claims (Class 1) **Approx. $49,100,000**	Except to the extent that a Holder of an Allowed OCM Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each OCM Guaranty Claim, each of the OCM Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, Reorganized Debtor or the OCM Entities, provided however, that the Reorganized Debtor shall be obligated to guaranty fifty percent (50%) of the obligations of the SMEs subject to the OCM Guarantees. Holders of OCM Guaranty Claims will receive no cash distributions under the Plan on account of their OCM Guaranty Claims. Debtors' Estimated Recovery: Impaired (50%) Class 1 is Impaired and Holders of Class 1 Claims are entitled to vote to accept or reject the Debtors' Plan.	Except to the extent that a Holder of an Allowed OCM Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each OCM Guaranty Claim, each of the OCM Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, ~~Reorganized Debtor or OCM Entities, provided, however, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the obligations of the SMEs subject to the OCM Guarantees~~ the Reorganized Debtor or the OCM Entities. PC Alternative Estimated Recovery: Unimpaired (100%) Class 1 is Unimpaired and Holders of Class 1 Claims are deemed to accept the PC Alternative Plan.
Corp Guaranty Claims (Class 2) **Approx. $27,768,000**	The Corp Guaranty Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Corp Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for, each Corp Guaranty Claim, (i) each Holder of an Allowed Corp Guaranty Claim shall receive its pro rata distribution of the Eletson Corporation Guaranty	Except to the extent that a Holder of an Allowed Corp Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each Corp Guaranty Claim, ~~(i)~~ each holder of an Allowed Corp Guaranty Claim shall receive, at its ~~pro rata distribution of the Eletson Corporation~~ election:

APPENDIX C

PC Alternative Term Sheet

In re Eletson Holdings Inc., et al.,
Case No. 23-10322 (JPM)

Plan Term Sheet

June ~~11~~17, 2024

This term sheet (the "Term Sheet") sets forth the principal terms of a comprehensive restructuring (the "Restructuring") of the existing debt and other obligations of Eletson Holdings Inc. ("Eletson Holdings" and, as reorganized in accordance with this Term Sheet, "Reorganized Holdings"), Eletson Finance (US) LLC ("Eletson Finance"), and Agathonissos Finance, LLC ("Eletson MI" and, together with Eletson Holdings and Eletson Finance, the "Debtors" and, together with their non-Debtor subsidiaries, the "Company').

The Restructuring will be consummated pursuant to a chapter 11 plan of reorganization for the Debtors (the "Plan") in their currently pending above-captioned cases under chapter 11 (the "Chapter 11 Cases") under title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") proposed and filed by the Debtors. The Plan shall consist of the restructuring transactions and distributions to creditors set forth in the *Second Amended Joint Plan of Reorganization of Debtors Under Chapter 11 of the United States Bankruptcy Code* [Docket No. ~~725~~786, Ex. A] (the "Shareholders' Plan") with the modifications described herein.

THIS TERM SHEET DOES NOT CONSTITUTE (NOR SHALL IT BE CONSTRUED AS) AN OFFER WITH RESPECT TO ANY SECURITIES OR A SOLICITATION OF ACCEPTANCES OR REJECTIONS AS TO ANY PLAN, IT BEING UNDERSTOOD THAT SUCH A SOLICITATION, IF ANY, ONLY WILL BE MADE IN COMPLIANCE WITH APPLICABLE PROVISIONS OF SECURITIES, BANKRUPTCY AND/OR OTHER APPLIACBLE LAW.

THE TRANSACTIONS DESCRIBED HEREIN WILL BE SUBJECT TO THE NEGOTIATION AND COMPLETION OF DEFINITIVE DOCUMENTATION INCORPORATING THE TERMS SET FORTH HEREIN AND THE CLOSING OF ANY TRANSACTION SHALL BE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN SUCH AGREED DEFINTIVE DOCUMENTS.

Term	Shareholders' Plan	Proposal
Overview		
Plan Proponent (Preamble)	The Debtors.	The Debtors; *provided* that if the Debtors do not propose the Plan, the Petitioning Creditors intend to do so.
Sponsor (Art. IV.A.1)	Certain holders of the common shares in Eletson Holdings (the "Eletson Holdings Members").	Pach Shemen LLC or one or more of its affiliate(s) or designee(s) (the "Plan Sponsor").
New Value Contribution – Cash Contribution	$30 million in cash and cash equivalents (the "Shareholder New Value Contribution").	$~~33~~41 million in cash (the "Equity Investment") utilized pursuant to the same waterfall, subject to the adjustments for the

(Art. IV.A.1-2)	The cash portion of the Shareholder New Value Consideration shall be utilized as follows (each, as defined herein): *First*, for payment of Administrative Claims (including Professional Fee Claims, DIP Claims (if any), and Committee Professional Fee Claims), including the funding of any reserves on account of the Professional Fee Claims required under the Plan; *Second*, to fund the Administrative Fund; *Third*, to fund the Azure Guaranty Recovery; *Fourth*, to fund the Eletson Corporation Guaranty Recovery; *Fifth*, to fund the Trade Creditor Claim Reserves; *Sixth,* to fund the Noteholder Election Recovery Reserve; and *Seventh*, any remaining cash amounts shall become Distributable Cash, which shall be transferred to the Litigation Trust.	amounts therein set forth below.
New Value Contribution – Collections Contribution (Art. I. B.30; Art. IV.A.1)	In addition, the Shareholder New Value Contribution shall include the Gas Ownership Defendants'[1] contribution of the following amounts collected as a result of the final arbitration award (the "Final Award") in the JAMS Arbitration initiated by Eletson Holdings and Eletson Corporation against Levona Holdings, Ltd. (the "Arbitration") (collectively, the "Collections Contribution"): - 90% of the net cash recoveries less than or equal to $21 million under the Final Award; - 50% of the net cash recoveries greater than $21 million, but less than $41 million; and - 75% of the net cash recoveries greater than $41 million; *provided*, "net cash recoveries" means net of costs of collection incurred by Eletson Corporation and/or Gas Ownership Defendants following the date of the Final Award (i.e., September 29, 2023) and net of	The Litigation Trust shall receive contingent value rights (the "CVRs") equal to the same dollar amount that would be received pursuant to the Collections Contribution (***before deducting costs***) and payable in cash by the Plan Sponsor. The CVRs shall be secured by the Plan Sponsor's equity in Reorganized Holdings.

[1] As used in the Shareholders' Plan, the term "Gas Ownership Defendants" means, collectively, Eletson Gas LLC ("Eletson Gas"), Desimuso Trading Company, Apargo Limited, Fentalon Limited and/or any officers or directors of the same.

Noteholder Election Recovery Claims (Class 5) **Impaired / Entitled to Vote** (Art. II.C.5)	The lesser of (a) the face amount of such holder's claim, (b) such holder's pro rata share of $7 million, or (c) $70,0000. A reserve in the amount of $7 million shall be created to fund recoveries for Noteholder Election Recovery Claims (the "Noteholder Election Recovery Reserve"). Holders of Allowed Claims in Class 6A and Class 6B may elect to have their claims treated as a Noteholder Election Recovery Claim.	Same, except clause (b) shall be $8 million and clause (c) shall be $100,000. The Noteholder Election Recovery Reserve shall be in the amount of $8 million. The Plan shall provide that, to the extent that the Court does not approve the Noteholder Election Recovery, the Plan shall be amended to provide for pro rata treatment for all claims in Class 5 (Noteholder Election Recovery Claims).

Non-Petitioning Creditor Exchange Note Claims (Class 6A)
Impaired / Entitled to Vote
(Art. II.C.6)
	Pro rata share of the following (collectively, the "Litigation Trust Distributable Proceeds"):
	• proceeds of Litigation Trust Causes of Action (as defined below), net of:
	  ○ repayment of any funding for the Litigation Trust;
	  ○ repayment of all reasonable fees, costs, and expenses of and incurred by the Litigation Trust (including professional fees) ("Litigation Trust Expenses"); and
	  ○ as otherwise provided in accordance with the Litigation Trust Agreement;
	• Remaining Distributable Cash[6] after satisfaction of the Litigation Trust Expenses;
	• Collections Contribution;
	• Retained Cases of Action Contributions; and
	• Excess SME Proceeds.
	Holders may elect to have such claims treated as Noteholder Election Recovery Claims (Class 5).
		Same, except:
		(a) Distributable Cash is subject to the adjustments set forth herein and will also include the Excess Professional Fee Reserve;
		(b) the Collections Contribution shall be replaced with the CVRs, and
		(c) the Litigation Trust Causes of Action and the proceeds thereof shall be replaced with the Revised Litigation Trust Causes of Action and the proceeds thereof, subject to the same netting.

[6] As used in the Shareholders' Plan, the term "Distributable Cash" includes all remaining cash or cash equivalents comprising the Shareholder New Value Contribution after (i) payment of the Allowed Administrative Claims (including Professional Fee Claims and Committee Fee Claims), (ii) funding the Administrative Fund, (iii) funding of the Azure Guaranty Recovery, (iv) funding of the Eletson Corporation Guaranty Recovery, (v) funding of the Trade Creditor Claim Reserve, and (vi) funding of the Noteholder Recovery Election Reserve; *provided*, Distributable Cash shall also include (i) any excess amounts remaining in the Trade Creditor Claim Reserve and Noteholder Election Recovery Reserve, if any, after final distributions on account of Allowed Trade Creditor Claims and Noteholder Election Recovery Claims, (ii) any excess amounts remaining in the Administrative Fund, and (ii) the SME Revenue~~.~~, in each case, shall be Distributable Cash.

Petitioning Creditor Exchange Note Claims (Class 6B) **Impaired / Entitled to Vote** (Art. II.C.7)	Claims are equitably subordinated pursuant to section 510(c) of the Bankruptcy Code. If the claims in Class 6A are satisfied in full, then holders will receive their pro rata portion of the Litigation Trust Distributable Proceeds. In the alternative, if the claims are not equitably subordinated by the Bankruptcy Court, then the claims will be treated as Class 6A. Holders may elect to have such claims treated as Noteholder Election Recovery Claims (Class 5).	Same, except: (a) the Litigation Trust Distributable Proceeds shall be subject to the adjustments set forth herein, and (b) claims are equitably subordinated solely to the extent determined by the Court.
Interests (Class 7) **Impaired / Entitled to Vote** (Art. II.C.8)	All interests shall be discharged, cancelled, released, and extinguished. Holders shall receive their pro rata share of equity in Reorganized Holdings equal to their portion of the Shareholder New Value Contribution made.	Same; *provided*, no equity shall be distributed to existing Eletson Holdings Members.
Miscellaneous		
Equity of Reorganized Debtor (Art. II.C.8)	Issued and distributed to the Holders of Class 7 (Interests) on a pro rata basis in proportion to each holder's contribution to the Shareholder New Value Contribution.	Distributed to the Plan Sponsor.
Litigation Trust (Art. IV.A.4; Art. IV.H; Art. V.A)	A trust that will be created to pursue the Litigation Trust Causes of Action and effect distributions to applicable holders of Litigation Trust Interests in accordance with the Litigation Trust Agreement (the "Litigation Trust"). On the Effective Date, the Litigation Trust Assets shall vest in the Litigation Trust for distribution of the Litigation Trust Distributable Proceeds to holders of Classes 6A and 6B.	Same, except (a) the Litigation Trust Causes of Action shall be replaced with the Revised Litigation Trust Causes of Action, and (b) the Litigation Trust Assets and Litigation Trust Distributable Proceeds shall be subject to the adjustments set forth herein.
Litigation Trust Governance (Art. IV.K, M, P, Q)	Litigation Trust Trustee: selected by the Committee to administer to the Litigation Trust. Litigation Trust Oversight Committee: a committee of up to 5 members composed of members selected by the Committee to advise the Litigation Trust Trustee.	Same.
Litigation Trust Funding	Initial funding of $~~100~~200,000 on the Effective Date (the "Administrative Fund"). Additional funding may be augmented with Litigation Trust Assets by the Litigation Trust	Same, except: (a) Distributable Cash is subject to the adjustments set forth herein and will

Exhibit 3

Further Revised PC Alternative Disclosure Statement (Cumulative Redline)

THIS PROPOSED DISCLOSURE STATEMENT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION WITHIN THE MEANING OF SECTION 1125(a) OF THE BANKRUPTCY CODE. THE PETITIONING CREDITORS RESERVE THE RIGHT TO AMEND OR SUPPLEMENT THIS PROPOSED DISCLOSURE STATEMENT.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
ELETSON HOLDINGS INC., et al.,	:	Case No. 23-10322 (JPM)
Debtors.[1]	:	(Jointly Administered)

DISCLOSURE STATEMENT IN SUPPORT OF PETITIONING CREDITORS' ~~OVERBID~~ALTERNATIVE CHAPTER 11 PLAN FOR ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS

TOGUT, SEGAL & SEGAL LLP
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New York, New York 10119
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Martha E. Martir
Amanda C. Glaubach

Counsel for the Petitioning Creditors[2]

Dated: June ~~11~~17, 2024
New York, New York

[1] The Debtors in these cases are: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. The address of the Debtors' corporate headquarters is 118 Kolokotroni Street, GR 185 35 Piraeus, Greece. The Debtors' mailing address is c/o Eletson Maritime, Inc., 1 Landmark Square, Suite 424, Stamford, Connecticut 06901.

[2] The "Petitioning Creditors" are Pach Shemen LLC, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein ("Goldstein") and Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust ("Goldstein Trust", and together with Goldstein, "Mr. Goldstein"), Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike. While Togut, Segal & Segal LLP represents Mr. Goldstein as a "Petitioning Creditor," Mr. Goldstein is not a "Plan Proponent" for purposes of the Plan.

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Exhibits

THE PLAN PROPONENTS ARE PROVIDING THE INFORMATION IN THIS DISCLOSURE STATEMENT TO HOLDERS OF CLAIMS IN THE VOTING CLASSES FOR PURPOSES OF SOLICITING VOTES TO ACCEPT OR REJECT THE PETITIONING CREDITORS' ~~OVERBID~~ALTERNATIVE CHAPTER 11 PLAN FOR ELETSON HOLDINGS INC. AND ITS AFFILIATED DEBTORS (THE "PC ~~OVERBID~~ALTERNATIVE PLAN"). NOTHING IN THIS DISCLOSURE STATEMENT MAY BE RELIED UPON OR USED BY ANY ENTITY FOR ANY OTHER PURPOSE. BEFORE DECIDING WHETHER TO VOTE FOR OR AGAINST THE PC ~~OVERBID~~ALTERNATIVE PLAN, EACH HOLDER ENTITLED TO VOTE SHOULD CAREFULLY CONSIDER ALL OF THE INFORMATION IN THIS DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS DESCRIBED HEREIN.

ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PC ~~OVERBID~~ALTERNATIVE PLAN ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT (INCLUDING EXHIBITS) AND THE PC ~~OVERBID~~ALTERNATIVE PLAN IN THEIR ENTIRETY AND ARE ADVISED TO CONSULT WITH ITS OWN ADVISORS WITH RESPECT TO ANY LEGAL, FINANCIAL, SECURITIES, TAX, OR BUSINESS ADVICE IN REVIEWING THIS DISCLOSURE STATEMENT, THE PC ~~OVERBID~~ALTERNATIVE PLAN, AND THE TRANSACTIONS CONTEMPLATED THEREBY. FURTHER, THE BANKRUPTCY COURT'S APPROVAL OF THE ADEQUACY OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL OF THE PC ~~OVERBID~~ALTERNATIVE PLAN.

FACTUAL INFORMATION CONTAINED IN THIS SPECIFIC DISCLOSURE STATEMENT IS SOURCED FROM PUBLIC FILINGS MADE IN THE CHAPTER 11 CASES (AND ELSEWHERE), EXCEPT WHERE OTHERWISE NOTED. IN PARTICULAR, SOME INFORMATION IN THIS DISCLOSURE STATEMENT WAS OBTAINED FROM THE DEBTORS' PLEADINGS, SUCH AS THE DEBTORS' DISCLOSURE STATEMENT, SCHEDULES OF ASSETS AND LIABILITIES AND STATEMENTS OF FINANCIAL AFFAIRS, AND MONTHLY OPERATING REPORTS AND MAY NOT BE RELIED UPON AS ACCURATE. THE PC ~~OVERBID~~ALTERNATIVE PLAN PROPONENTS MAKE NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY OF THE INFORMATION, INCLUDING FINANCIAL INFORMATION, CONTAINED HEREIN OR ATTACHED HERETO. THE PLAN PROPONENTS EXPRESSLY CAUTION READERS NOT TO PLACE UNDUE RELIANCE ON ANY FINANCIAL OR FORWARD-LOOKING STATEMENTS CONTAINED HEREIN.

NO INDEPENDENT AUDITOR OR INDEPENDENT ACCOUNTANT HAS REVIEWED OR APPROVED THE LIQUIDATION ANALYSIS OR FINANCIAL INFORMATION PROVIDED OR REFERENCED HEREIN. THE PLAN PROPONENTS HAVE NOT AUTHORIZED ANY PERSON TO GIVE ANY INFORMATION OR ADVICE, OR TO MAKE ANY REPRESENTATION, IN CONNECTION WITH THE PC ~~OVERBID~~ALTERNATIVE PLAN OR THIS DISCLOSURE STATEMENT.

SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT WITH RESPECT TO THE PC ~~OVERBID~~ALTERNATIVE PLAN ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PC

~~OVERBID~~ALTERNATIVE PLAN, THE EXHIBITS ATTACHED TO THE PC ~~OVERBID~~ALTERNATIVE PLAN, AND ANY PLAN SUPPLEMENT(S). IN THE EVENT OF ANY INCONSISTENCY OR DISCREPANCY BETWEEN A DESCRIPTION IN THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PC ~~OVERBID~~ALTERNATIVE PLAN OR THE OTHER DOCUMENTS AND FINANCIAL INFORMATION INCORPORATED IN THIS DISCLOSURE STATEMENT BY REFERENCE, THE PC ~~OVERBID~~ALTERNATIVE PLAN OR THE OTHER DOCUMENTS AND FINANCIAL INFORMATION, AS THE CASE MAY BE, SHALL GOVERN FOR ALL PURPOSES.

THE STATEMENTS AND FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAVE BEEN MADE AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFICALLY NOTED, AND THERE IS NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER SUCH DATE. HOLDERS OF CLAIMS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT ASSUME AT THE TIME OF SUCH REVIEW THAT THERE HAVE BEEN NO CHANGES IN THE FACTS SET FORTH IN THIS DISCLOSURE STATEMENT SINCE THE DATE OF THIS DISCLOSURE STATEMENT. THE PLAN PROPONENTS RESERVE THE RIGHT TO FILE AN AMENDED OR MODIFIED PLAN AND RELATED DISCLOSURE STATEMENT FROM TIME TO TIME, SUBJECT TO THE TERMS OF THE PC ~~OVERBID~~ALTERNATIVE PLAN.

THIS DISCLOSURE STATEMENT WILL NOT CONSTITUTE NOR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT WILL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING, NOR WILL IT BE CONSTRUED AS TO CONSTITUTE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PC ~~OVERBID~~ALTERNATIVE PLAN AS IT RELATES TO HOLDERS OF CLAIMS AGAINST, OR INTERESTS IN, THE DEBTORS.

CERTAIN OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, BY THEIR NATURE, ARE FORWARD-LOOKING AND CONTAIN ESTIMATES AND ASSUMPTIONS. SUCH STATEMENTS CONSIST OF ANY STATEMENT OTHER THAN A RECITATION OF HISTORICAL FACT AND CAN BE IDENTIFIED BY THE USE OF FORWARD-LOOKING TERMINOLOGY SUCH AS "MAY," "EXPECT," "ANTICIPATE," "ESTIMATE," OR "CONTINUE," OR THE NEGATIVE THEREOF, OTHER VARIATIONS THEREON, OR COMPARABLE TERMINOLOGY AND INCLUDE THE LIQUIDATION ANALYSIS, FINANCIAL PROJECTIONS, AND VALUATION OF REORGANIZED HOLDINGS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL BE REFLECTIVE OF ACTUAL OUTCOMES. FORWARD-LOOKING STATEMENTS ARE PROVIDED IN THIS DISCLOSURE STATEMENT PURSUANT TO THE SAFE HARBOR ESTABLISHED UNDER THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995 AND SHOULD BE EVALUATED IN THE CONTEXT OF THE ESTIMATES, ASSUMPTIONS, UNCERTAINTIES, AND RISKS DESCRIBED HEREIN.

FURTHER, THE READER IS CAUTIONED THAT ALL FORWARD-LOOKING STATEMENTS ARE NECESSARILY SPECULATIVE AND THAT THERE ARE CERTAIN RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL EVENTS OR RESULTS TO DIFFER MATERIALLY FROM THOSE PRESENTED IN SUCH FORWARD-LOOKING STATEMENTS. DUE TO THESE UNCERTAINTIES, READERS CANNOT BE ASSURED THAT ANY FORWARD-LOOKING STATEMENTS WILL PROVE TO BE CORRECT. THE LIQUIDATION ANALYSIS, FINANCIAL PROJECTIONS, AND OTHER INFORMATION CONTAINED HEREIN AND ATTACHED HERETO ARE ESTIMATES ONLY, AND THE VALUE OF THE PROPERTY DISTRIBUTED TO HOLDERS OF ALLOWED CLAIMS OR EQUITY INTERESTS MAY BE AFFECTED BY MANY FACTORS THAT CANNOT BE PREDICTED. THEREFORE, ANY ANALYSES, ESTIMATES, OR RECOVERY PROJECTIONS MAY OR MAY NOT TURN OUT TO BE ACCURATE. THE PLAN PROPONENTS ARE UNDER NO OBLIGATION TO (AND EXPRESSLY DISCLAIM ANY OBLIGATION TO) UPDATE OR ALTER ANY FORWARD-LOOKING STATEMENTS WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS, OR OTHERWISE, EXCEPT AS REQUIRED BY APPLICABLE LAW. ALL HOLDERS OF IMPAIRED CLAIMS SHOULD CAREFULLY READ AND CONSIDER THIS DISCLOSURE STATEMENT AND THE PC ~~OVERBID~~ALTERNATIVE PLAN IN THEIR ENTIRETY, INCLUDING "RISK FACTORS TO BE CONSIDERED" BEFORE VOTING TO ACCEPT OR REJECT THE PC ~~OVERBID~~ALTERNATIVE PLAN.

NEITHER THE SOLICITATION NOR THIS DISCLOSURE STATEMENT CONSTITUTES AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY SECURITIES IN ANY STATE OR JURISDICTION IN WHICH SUCH OFFER OR SOLICITATION IS NOT AUTHORIZED.

I. EXECUTIVE SUMMARY

A. Introduction

You are receiving this Disclosure Statement because you are a Holder of a Claim entitled to vote on the *Second Amended Joint Chapter 11 Plan of Reorganization of Debtors Under Chapter 11 of the United States Bankruptcy Code*, filed on June ~~6~~14, 2024 [Docket No. ~~744~~786, Ex. A] (the "Debtors' Plan") filed by the debtors and debtors in possession (the "Debtors") in the above-captioned chapter 11 cases (these "Chapter 11 Cases") as well as the *Petitioning Creditors' ~~Overbid~~Alternative Chapter 11 Plan for Eletson Holdings Inc. and its Affiliated Debtors*, a copy of which is attached hereto as **Appendix A** (as may be amended, supplemented, or otherwise modified from time to time, the "PC ~~Overbid~~Alternative Plan").[3]

The purpose of this Disclosure Statement is to provide Holders of Claims entitled to vote on the PC ~~Overbid~~Alternative Plan with adequate information to make an informed judgment as to whether to vote or accept the PC ~~Overbid~~Alternative Plan. The Plan Proponents[4] are providing you with the information in this Disclosure Statement because you may be a creditor entitled to vote on the PC ~~Overbid~~Alternative Plan. This Disclosure Statement is to be used solely in connection with evaluation of the PC ~~Overbid~~Alternative Plan and not for any other purpose.

~~For a background of the Debtors and these Chapter 11 Cases, you should review Article III of the *Amended Disclosure Statement in Support of Petitioning Creditors' Amended Joint Chapter 11 Plan of Reorganization of Eletson Holdings Inc. and its Affiliated Debtors*, filed on June 6, 2024 [Docket No. 741, Ex. 1] (the "PC Disclosure Statement"), which is incorporated herein by reference.~~

B. The PC ~~Overbid~~Alternative Plan

The Petitioning Creditors[5] believe that the Debtors' Plan is not in the best interests of creditors and their estates and is not confirmable for many reasons. Among other things, the Debtors' Plan provides that the Debtors' out-of-the-money shareholders would receive 100% of the equity in the Reorganized Debtors while creditors would receive either interests in a litigation trust, containing only those claims and causes of action identified by the Debtors (or a mechanism for sharing the proceeds of some other claims), or minimal cash payments.

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[3] Capitalized terms used but not otherwise defined herein have the meanings ascribed to such terms in the PC ~~Overbid~~Alternative Plan.

[4] "Plan Proponents" means the Petitioning Creditors other than Mr. Goldstein (each as defined below).

[5] "Petitioning Creditors" means, collectively, Pach Shemen, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein, ("Goldstein"), Gene G. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust ~~(~~("Goldstein Trust", and together with Goldstein, "Mr. Goldstein"), Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, and Ron Pike.

To protect the interests of the Debtors' creditors, the Petitioning Creditors proposed their own chapter 11 plan [Docket No. 740, Ex. 1] (the "PC Plan"). Under the PC Plan, most impaired creditors (a) will receive, at their election, either equity in the Reorganized Debtors or a cash out amount, and (b) have the ability to participate in a new money rights offering of up to $43.5 million to purchase additional equity at a discount. Creditors with allowed claims of less than $1,000,000 (or those that voluntarily agree to reduce their claim to that amount) would receive a cash recovery equal to 15% of the allowed amount of their claim.[6] The PC Plan also preserves nearly all claims and causes of action belonging to the Debtors and their estates such that any net recoveries on account of such claims would benefit the Debtors' creditors that receive equity in the Reorganized Debtors.[7]

The Debtors have argued that creditors should get to choose whether they believe the Debtors' Plan or the PC Plan is in their best interests. While the Petitioning Creditors believe that the Debtors' Plan is not confirmable and fails as a matter of law, the Petitioning Creditors believe that any chapter 11 plans presented to creditors should provide creditors with the maximum return under each of their respective structures. Indeed, the Petitioning Creditors believe that the Debtors' failure to pursue alternatives to the Debtors' Plan that provide for greater recoveries to creditors is a breach of their fiduciary duties.

As such, the Petitioning Creditors have proposed a third, alternative chapter 11 plan in the form of the PC ~~Overbid~~Alternative Plan, a copy of which is attached hereto as **Appendix A**, that makes improvements to the Debtors' Plan on the exact same structure as proposed by the Debtors. A redline showing the changes made to the Debtors' Plan is attached hereto as **Appendix B**. For ease of review, attached hereto as **Appendix C** is a term sheet for the PC ~~Overbid~~Alternative Plan that shows the material differences and improvements made to the PC ~~Overbid~~Alternative Plan from the Debtors' Plan.

In broad strokes, following the structure of the Debtors' Plan, the PC ~~Overbid~~Alternative Plan provides for the following significant improvements to the Debtors' Plan:

- Higher New Money Investment: The PC ~~Overbid~~Alternative Plan provides for a new money investment by one of the Petitioning Creditors, Pach Shemen LLC or its designee (in such capacity, the "Plan Sponsor"), of $~~33~~41 million (compared to the $30 million

[6] In the event that more than $16,666,667 in claims elect such treatment, then the holders of such claims would receive their pro rata share of $2,500,000.

[7] Such causes of action preserved under the PC Plan include, among others, (a) claims against Levona arising from the Arbitration or otherwise, (b) claims seeking to recover the Preferred Shares of Eletson Gas or the value thereof from the Nominees, and (c) claims related thereto such as breach of fiduciary duty against the officers, and directors that authorized the transfer of such shares. As of the date hereof, the Preferred Shares are estimated to have a total amount of outstanding obligations of approximately $333 million (including principal and accrued and unpaid dividends) and the causes of action against Levona was assessed pursuant to the Award in the amount of approximately $87 million (plus fees, costs, and interest).

Shareholder New Value Contribution under the Debtors' Plan. The $3341 million amount will be used to pay administrative and priority claims, make distributions to creditors under the PC OverbidAlternative Plan, and fund the Litigation Trust.

- The Debtors have not provided any financial wherewithal that the Debtors' shareholders have sufficient readily available funds, in cash, to make the $30 million Shareholder New Value Contribution under the Debtors' Plan. The Plan Sponsor, however, has submitted the financial wherewithal to make the Plan Sponsor's $3341 million investment, a copy of which, along with a commitment letter, is attached hereto as **Appendix D**.

- Higher Returns to Exchange Note Claims: The PC OverbidAlternative Plan provides significantly improved recoveries to holders of Exchange Note Claims (Class 6) by transferring nearly all of the Debtors' claims and causes of action (including both known and unknown claims), such as the claims related to the transfer of the Preferred Shares, among others, to the Litigation Trust for the benefit of noteholder creditors that receive Litigation Trust Interests rather than just those claims and causes of action identified by the Debtors.

- The Litigation Trust will also receive a contingent value right (or CVR) from the Plan Sponsor equal to the amount that would otherwise be payable by Levona under the Debtors' Plan as the "Collections Contribution,"" ; *provided, that*, to further improve creditors' recoveries, the CVR would be payable without deduction for the costs and risks of collection as the Collections Contribution would otherwise be paid under the Debtors' Plan.[8]

- In addition to all other payments to the Litigation Trust set forth in the Debtors' Plan, the PC OverbidAlternative Plan provides that the Litigation Trust will receive any excess in the professional fee escrow account set aside on the Effective Date to the extent there are savings due to reductions in allowed administrative expense claims for estate professionals.

- Higher Returns to Noteholder Creditors: The PC OverbidAlternative Plan increases the funds set aside to pay Noteholder Election Recovery Claims (Class 5) from up to $70,000

[8] The CVRs will be secured by a pledge of 100% of the Plan Sponsor's equity in the Reorganized Debtors.

to up to $100,000 per claim and increases the Noteholder Election Recovery Reserve from $7 million to $8 million.[9]

- Higher Returns to Guaranty Creditors: The PC ~~Overbid~~Alternative Plan unimpairs the OCM Guaranty Claims (Class 1), whereas the Debtors' Plan impairs such claims at 50%, and the PC ~~Overbid~~Alternative Plan increases the cash pool for the Eletson Corporation Guaranty Recovery from $1 million to $1.25 million (and maintains the same 50% impairment of such Claims) but also provides such holders with an option, at their election to receive their pro rata share of $3 million in lieu of having a continued guaranty claim.

The Petitioning Creditors believe that these changes and the others described in the PC ~~Overbid~~Alternative Plan make the PC ~~Overbid~~Alternative Plan better for every class of impaired claims entitled to vote on the Debtors' Plan.

II. OVERVIEW OF THE DEBTORS

A. Summary of the ~~PC Overbid~~Eletson Business

1. *Corporate Organization*

The Debtors are Eletson Holdings and its wholly owned subsidiaries Eletson Finance, and Eletson MI. The Debtors are part of a collection of companies that operate under the name "Eletson." The Debtors' corporate organization chart as of the Petition Date is attached hereto as **Appendix E**, which also depicts certain direct and indirect non-Debtor subsidiaries described below.

Eletson has historically been a family-owned international seaborne transportation company focused on the transport of refined petroleum products, liquified petroleum gas and ammonia. Eletson owns and operates a fleet of medium-range double hull product tankers, which are capable of carrying a wide range of refined petroleum products, such as fuel oil and vacuum gas oil and gas oil, gasoline, jet fuel, kerosene and naphtha, as well as crude oil. The Debtors are headquartered in Piraeus, Greece and maintain offices all over the world, including Stamford, Connecticut, and London.

Eletson Holdings is the ultimate parent of the Eletson entities. Eletson operates its fleet through wholly-owned direct or indirect non-Debtor subsidiaries of Eletson Holdings who either (i) own title to the vessels comprising Eletson's fleet or

[9] The Petitioning Creditors believe that the treatment provided by Class 5 in the Debtors' Plan violates the Bankruptcy Code and will not be approved. In such a case, the PC ~~Overbid~~Alternative Plan provides that holders of Noteholder Election Recovery Claims will receive their pro rata share of a $8 million cash pool. The Debtors' Plan, on the other hand, provides that if the Court does not approve the Noteholder Election Recovery Claims treatment, such Claims will no longer receive cash and instead be moved to Class 6A/6B and be treated together with hundreds of millions of dollars of other noteholder claims in sharing in their pro rata share of the Litigation Trust Interests.

(ii) charter the vessels of Eletson's fleet. The Eletson fleet is managed by non-Debtor subsidiary Eletson Corporation ("Eletson Corp"), another wholly owned subsidiary of Eletson Holdings. Eletson Corp is subject to management agreements with the various entities in exchange for management fees. The Eletson fleet currently includes 16 vessels, 12 of which are owned by Eletson Gas LLC ("Eletson Gas") and four of which are operated by wholly owned subsidiaries of Eletson Holdings.[10] *See* Docket No. 394 ¶ 12; *see also* Docket No. 394 ¶¶ 12-14. In addition to Eletson Corp and the various entities that directly own or charter and operate the vessels in Eletson's fleet, there are several defunct corporate entities with no operations within the Eletson corporate structure. Eletson Holdings serves as the guarantor for a number of its subsidiaries' obligations as described in greater detail herein. Each of the Debtors are holding companies and do not maintain any ongoing operations or employ any employees outside of their officers and directors.

Eletson is closely held, controlled, and managed by three families: the Kertsikoff, Hadjieleftheriadis, and Karastamati families (the "Principal Families"). Each of those families beneficially hold approximately 30.7% of the equity in Eletson Holdings through separate Liberian trust companies. The remaining equity is beneficially held by two other families: the Zilakos and Andreoulakis families (the "Minority Families"). The three Principal Families and two Minority Families (collectively, the "Families") are all related. In addition to beneficially owning Eletson Holdings, members of the Families are also the directors and officers of Eletson Holdings and of its various subsidiaries, including Eletson Corp and Eletson Gas.

2. Eletson Gas and the Arbitration

Eletson Gas is a gas shipping company that was formed in 2013 as a joint venture between Eletson Holdings and funds managed by Blackstone Tactical Opportunities (collectively, "Blackstone"). Eletson Holdings holds 100% of the common shares of Eletson Gas. According to the Debtors, at the beginning of 2022, Eletson Gas directly or indirectly owned 14 liquefied petroleum gas carriers, collectively worth more than $400 million. Eletson Gas reported total revenues in 2022 of approximately $115 million.

Eletson Gas is organized as a limited liability company with common and preferred membership interests (the "Preferred Shares"). Holders of the Preferred Shares are entitled to distributions from the revenues of Eletson Gas before holders of the common shares of Eletson Gas (the "Common Shares"). Until November 2021, Blackstone held the Preferred Shares. Eletson Holdings held and still holds the Common Shares. In 2021, Blackstone sold its interest in Eletson Gas to Levona Holdings Ltd. ("Levona"), making Levona the holder of the Preferred Shares. Subsequently, on February 22, 2022, Levona entered into a "binding offer letter" with Eletson Gas (the "BOL"), which gave Eletson Gas the option, upon the satisfaction of certain conditions, for Eletson Gas or its nominee to purchase the Preferred Shares from Levona for specified consideration (the "Option").

[10] "Owned" for these purposes means through finance leases or bareboat charters.

A dispute arose as to whether Eletson Gas had exercised the Option, and accordingly, on July 29, 2022, Eletson Holdings and Eletson Corp commenced an arbitration proceeding against Levona seeking a ruling that Eletson Gas had exercised its Option as well as damages from Levona (the "Arbitration").

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the characterization of the preceding paragraph. In the Debtors' view, the "dispute" referenced above involved a number of claims asserted against Levona directly arising out of and relating to Levona's material breaches of the LLC Agreement of Eletson Gas, including actions taken by Levona against Eletson for the sole purpose of causing harm to Eletson. These actions include, fraud, bribing Eletson's CFO, improperly disclosing sensitive, non-public and confidential information, wrongfully interfering with Eletson Gas' relationships with financiers, and the illegal arrest of Eletson Gas' ships, among other harmful actions."

On March 13, 2023, after the Petition Date, the Debtors filed a motion for relief from the automatic stay [Docket Nos. 5, 6], seeking leave to proceed with the Arbitration (the "Stay Relief Motion"). On April 17, 2023, the Bankruptcy Court entered a stipulation and order modifying the automatic stay to permit Eletson Holdings and Eletson Corp to pursue the Arbitration, including to determine the ownership of Preferred Shares [Docket No. 48] (the "Stay Relief Order"). Notably, the Stay Relief Motion did not disclose that the Preferred Shares had purportedly already been transferred to the Cypriot nominees (the "Nominees") that are owned by the Principal Families. Indeed, the Stay Relief Motion provided that if the Debtors (or any other party) prevailed in the Arbitration the Preferred Shares would be "returned to [Eleston] Gas or its nominee." Docket No. 6, at 4.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraph. The Debtors state that as found in the Arbitration and subsequently confirmed by the District Court, the Preferred Shares were transferred to the Nominees pursuant to the BOL, effective as of March 11, 2022, well in advance of the filing of the Involuntary Petitions [Award at 96; District Court Order at 122-23]. Further, in the Debtors' view, the preceding paragraph fails to articulate that the Stay Relief Motion was necessary as the Involuntary Petitions were filed with the intention of staying the Arbitration and as a hedge against Levona's loss in the Arbitration."

On July 28, 2023, the arbitrator entered an interim award, which was superseded by a final award (the "Award") on September 29, 2023 issued in the arbitration proceeding titled *Eletson Holdings, Inc., et al. v. Levona Holdings Ltd.* before Justice Belen at JAMS Ref. No. 5425000511. The Award found that Eletson Gas had exercised the Option to acquire the Preferred Shares by, among other things, transferring shares in two vessels owned by Eletson Gas to Levona. The Award further found that the Preferred Shares were transferred to the Nominees on March 11, 2022. The Award also assessed almost $87 million in damages against Levona, plus fees, costs, and interest. None of those damages were awarded to Eletson Holdings. Instead, about half was awarded to the Nominees.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraph. In the Debtors' view, the Award assessed (i) $43,455,122.21 in compensatory damages to Eletson Gas and the Nominees, (ii) $23,777,378.50 in punitive damages to Eletson Gas, (iii) $19,677,743.71 in punitive damages to the Nominees, and (iv) attorneys fees and costs "to the entity or individuals who paid those costs and fees," i.e., Eletson Corp [Award at 67, 99-101]."

On August 18, 2023, Eletson Holdings and Eletson Corp filed a petition in the United States District Court for the Southern District of New York (the "District Court") to confirm the Award. Among the findings they asked the District Court to approve is that the Preferred Shares were transferred to the Nominees. They also asked the District Court to approve, among other things, the Award of compensatory and punitive damages in favor of Eletson Gas and the Nominees.

~~C.~~ On February 9, 2024, the District Court issued an opinion (the "District Court Opinion") that among other things, granted in part and denied in part Eletson Holdings' and Eletson Corp's petition to confirm the Award. The District Court confirmed the Award's finding that the Preferred Shares were transferred to the Nominees. However, the District Court Opinion provides that the Bankruptcy Court is the proper forum to "address the timing of the election by Eletson that the Preferred [Shares] should go to the Nominees and whether the Preferred [Shares] should be considered to be property of the estate or should be clawed back or avoided." District Court Opinion, at 89. The District Court Opinion vacated all awards for relief against the Pach Shemen (one of the Petitioning Creditors, a Plan Proponent, and the Initial Backstop Party, and is an affiliate of Levona), including compensatory and punitive damages based upon violations of the Status Quo Injunction (as defined in the District Court Opinion), all awards of attorneys' fees, costs, and expenses related to the Involuntary Petitions and the Bondholder Litigation (as defined in the District Court Opinion). *Id.* at 124-25. In accordance with the District Court Opinion, Eletson Holdings, Eletson Corp, and Levona each submitted proposed judgments on February 23, 2024. *See* District Court Docket Nos. 94 and 95.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraph. In the Debtors' view, the District Court substantially confirmed the award of compensatory and punitive damages against Levona, vacating only the following limited aspects of the Award: (i) the finding that Murchinson and Pach Shemen are alter egos of Levona; (ii) the finding that the Status Quo Injunction remains in effect until confirmation of the Award by the Arbitrator; (iii) the finding that Levona caused or directed affiliates to purchase Exchange Notes for the purpose of wrongfully commencing and then actually causing the commencement of the Bondholder Litigation and the filing of the Involuntary Petitions against the Debtors; (iv) the finding that Levona wrongfully declared a default under the loan provided by Levona; (v) the award of attorneys' fees, costs and expenses relating to the involuntary bankruptcy petition and Bondholder litigation in the amount of $3,007,266.20; and (vi) the award of relief based upon violations of the Status Quo Injunction."

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "In the Debtors' view, the District Court vacated relief against Pach Shemen because Pach Shemen was not a signatory to the Eletson Gas LLC Agreement or a party to the Arbitration. However, the District Court explicitly noted that "Eletson may yet have the opportunity to seek to hold Murchinson and Pach Shemen responsible for Levona's obligations under the Award." [District Court Order at 82]."

On April 19, 2024, the District Court issued a memorandum and order (the "Memorandum and Order") remanding the Award to the arbitrator to clarify his findings regarding punitive damages (the "Remand"). *See* District Court Docket No. 106. The Memorandum and Order also directs the Eletson Holdings, Eletson Corp, and Levona to submit a joint letter to the District Court within two weeks of any "substantive decision" of the arbitrator. *Id.*

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "In the Debtors' view, the District Court ordered the Arbitrator to address two questions. First, whether the arbitrator would not have awarded punitive damages, but for the finding of a violation of the Status Quo Injunction, and second, whether the arbitrator would have applied a different multiple of the compensatory damages in his calculation of the punitive damages award in the absence of the finding of a violation of the Status Quo Injunction."

On May 3, 2024, Levona filed a motion in the District Court seeking reconsideration of the Memorandum and Order and asking the District Court to vacate any punitive damages awarded (the "Motion for Reconsideration"). *See* District Court Docket Nos. 107 and 108. On May 8, 2024, Eletson Holdings and Eletson Corp filed a letter in the District Court that explained that while the arbitrator has set May 24, 2024 as the deadline for final letter briefs on the Remand, the arbitrator will not rule on the Remand until the District Court rules on the Motion for Reconsideration. *See* District Court Docket No. 109. On May 8, 2024, the District Court directed Eletson Holdings, Eletson Corp, and Levona to meet to confer on whether they agree to brief the Motion for Reconsideration on an expedited basis and to stay the Remand pending a decision on the Motion for Reconsideration. *See* District Court Docket No. 110. The District Court also directed the parties to provide an update on May 10, 2024. *See id.* On May 10, 2024, Eletson Holdings and Eletson Corp filed a letter in the District Court that provided, among other things, that the parties have not agreed to stay the Remand, "would oppose an indefinite stay", they intend to file their opposition to the Motion for Reconsideration on May 10, 2024, and the briefing schedule for the Remand. *See* District Court Docket No. 111. On May 10, 2024, Levona also filed a letter in the District Court that provided, among other things, that the parties have not agreed to stay the Remand and asked the District Court to stay the Remand pending resolution on the Motion for Reconsideration. *See* District Court Docket No. 112.

On May 10, 2024, Eletson Holdings and Eletson Corp filed its opposition to the Motion for Reconsideration in the District Court. *See* District Court Docket No. 113. On May 13, 2024, the District Court directed Levona to reply to Eletson Holdings' and Eletson Corp's opposition by May 15, 2024, and stayed the Remand pending resolution on the Motion for Reconsideration. *See* District Court Docket No.

114. On May 15, 2024, Levona filed its reply in support of the Motion for Reconsideration. *See* District Court Docket No. 115. On May 30, 2024, Eletson Holdings and Eletson Corp filed a letter that asked the District Court to lift the stay it imposed on the Remand on May 13, 2024. *See* District Court Docket No. 117. On June 3, 2024, Levona filed a letter in response requesting that the District Court to continue to stay the Remand. *See* District Court Docket No. 118.

B. The Debtors' Assets

On October 10, 2023, the Debtors filed their schedules of assets and liabilities and statements of financial affairs [Docket Nos. 216-221] (together, the "Original Schedules"). The Original Schedules disclosed that the Debtors have no cash and the Debtors' only assets are equity interests in various subsidiaries and certain Litigation Claims (as defined below). The Original Schedules listed the value of the equity in each of the Debtors' subsidiaries as "$0."

On December 29, 2023, the Debtors filed an amended schedule A/B for Eletson Holdings [Docket Nos. 340] (the "Amended Schedules" and together, with the Original Schedules, the "Schedules"), disclosing an aggregate equity value of the Debtors' subsidiaries of $52.5 million. The Amended Schedules state that the $52.5 million valuation is based on "market value." At the section 341 meeting of the Debtors and their creditors held on January 5, 2024, however, the Debtors' Vice President stated that the $52.5 million number in the Amended Schedules was "book value" and that the actual value remains "unknown."

The Debtors' Schedules also identify certain Litigation Claims belonging to the Debtors' Estates, though the Schedules fail to identify these actions with specificity. Indeed, the Schedules merely state that the Debtors have "Claims against Wilmington Savings Fund Society, FSB", "Claims against Petitioning Creditors for Bad Faith Conduct," "potential Claims against various parties related to or arising from the Arbitration Award", and lastly, claims against Murchinson Ltd., Nomis Bay Ltd., and BPY Limited in these Bankruptcy Cases (collectively, the "Litigation Claims"). Further, the Debtors' Schedules do not state the nature of the Debtors' interest in the Litigation Claims.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraphs and believe that the assertions above are misleading and mischaracterize the Debtors' reporting. The Debtors believe that the Schedules are a fair and accurate reporting of the Debtors' assets."

C. The Debtors' Liabilities

The Debtors' liabilities, based on the Debtors' books and records are set forth in their Schedules and the Debtors' Plan (as defined below). The Debtors' liabilities based on their prepetition capital structure can generally be summarized as (1) the Old Notes, (2) the Exchange Notes, (3) the OCM Guarantees, (4) the Azure Guarantees, (5) the Eletson Corp Guarantees, (6) the Initial Petitioning Creditors'

Claims, and (7) Other Claims and Liabilities (each of which is defined and explained in greater detail below).

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the following paragraphs. The Debtors assert that the summaries below provided by the Petitioning Creditors are misleading and omit material details. The Debtors encourage creditors to review the Debtors' Plan and related Disclosure Statement for a more accurate description of the Debtors' liabilities. Further the Debtors have filed a number of objections to the asserted liabilities listed below."

1. *The Old Notes*

In December 2013, Debtors Eletson Holdings and Eletson Finance co-issued First Preferred Ship Mortgage Notes (the "Old Notes" and the holders thereof, the "Old Noteholders") under an indenture dated December 19, 2013, in the aggregate principal amount of $300 million (the "Old Indenture"). Deutsche Bank Trust Company Americas (the "Old Notes Trustee") serves as the trustee for the Old Notes. The Old Notes had a maturity date of January 15, 2022.

In May 2018, Eletson Finance and Eletson Holdings initiated an exchange offer process for the Old Notes (the "2018 Note Exchange"), which closed in July 2018. Pursuant to the 2018 Note Exchange, approximately 98% of the Old Noteholders exchanged their Old Notes for the Exchange Notes (as defined below); approximately 2% of the Old Noteholders did not participate in the 2018 Note Exchange and retained their Old Notes.

The Debtors' Schedules list the Old Notes Trustee as having a disputed unsecured Claim against Eletson Finance for approximately $24,000. *See* Docket No. 220. However, the Old Notes Trustee filed a Proof of Claim against Eletson Holdings pursuant to the Old Notes for $5,953,704.07 for the unpaid principal amount of $300 million plus applicable interest, fees, and other charges (the "Old Notes Claims"). *See* Proof of Claim No. 2-1 against Eletson Holdings.

2. *The Exchange Notes*

On July 2, 2018, the Debtors entered into an indenture (the "Exchange Note Indenture") pursuant to which the substantial majority of the Old Notes were exchanged for new First Preferred Ship Mortgage Notes due on January 15, 2022 (the "Exchange Notes" and the holders thereof, the "Exchange Noteholders"). The Exchange Notes were issued in an original face value amount of $314,068,360. Under the Exchange Note Indenture, Wilmington Savings Fund Society, FSB (the "Exchange Notes Trustee") serves as trustee and collateral agent for the Exchange Notes. The Exchange Notes were secured by certain assets pledged as collateral (collectively, the "Collateral"), including, among other things: (i) all outstanding common shares or membership interests in Eletson Finance and certain guarantors under the Exchange Note Indenture; (ii) thirteen shipping vessels owned by guarantors under the Exchange Note Indenture (the "Note Vessels"); (iii) the earnings arising from freights, hires and other earnings from the operation and use of or relating to the Note Vessels, and (iv) all

other cash and various accounts of Eletson MI and the guarantors set forth in the Exchange Note Indenture.

The Debtors concede that they breached their obligations under the Exchange Note Indenture long ago and, in fact, have "made no direct payments" under that contract, at any time. *See* Docket No. 41 ¶¶ 17, 64.

On June 24, 2019, in connection with their various breaches under the Exchange Note Indenture, the Debtors entered into a Restructuring Support Agreement (the "First RSA") with certain noteholders (the "Consenting Noteholders"), including VR Global Partners, L.P. As part of the First RSA and a consensual strict foreclosure executed in connection therewith, the Debtors transferred their interests in the 13 vessels that served as part of the Collateral for the Exchange Notes to a new entity called New Agathonissos Finance LLC ("NAF") for the benefit of the 2022 Noteholders in partial satisfaction of amounts owed under the Exchange Note Indenture and the Exchange Notes in the amount of $130 million. On August 9, 2019, the Consenting Noteholders terminated the First RSA.

On October 29, 2019, after the termination of the First RSA, the Debtors and the Consenting Noteholders entered into a second Restructuring Support Agreement (the "Second RSA").[11] The purpose of the Second RSA was to accomplish an alternative restructuring of the Old Notes and the Exchange Notes on the terms and conditions set forth therein and in a restructuring term sheet attached as an Exhibit to the Second RSA. That restructuring was to be effectuated through an out-of-court consent solicitation and exchange offer or through a joint prepackaged plan of reorganization in chapter 11 cases to be filed by the Debtors in the United States.

Under the Second RSA, the Debtors agreed to implement the restructuring contemplated therein on a timeline with milestones set forth in Exhibit C to the Second RSA. The timeline included twelve (12) separate milestones, starting with the entry into a memorandum of agreement, in form and substance acceptable to Eletson and the Consenting Noteholders, with respect to the sale of Eletson's interest in a particular vessel—the Salamina—as soon as reasonably practicable but in no event later than October 31, 2019. The Debtors also agreed under the Second RSA that any proceeds from the sale of the Salamina after payment of applicable professional fees would be paid pro rata to the Old Noteholders, the 2022 Noteholders, and claims arising under certain "Working Capital Facility Agreements" outstanding at the time.

As the Debtors have acknowledged themselves, they never satisfied a single milestone under the Second RSA, in material breach of the Second RSA's requirement (and fundamental purpose) that the Debtors would effectuate the contemplated restructuring within several months. As the Debtors acknowledged in discovery during the pendency of the Involuntary Petitions, the parties to the Second RSA decided to go in a different path and abandoned the milestones. In addition,

[11] The Debtors did not inform the Exchange Notes Trustee of their entry into the Second RSA despite their contractual obligation under the Exchange Note Indenture to do so.

certain of the Consenting Noteholders told the Debtors in January 2020 that the Second RSA was "dead."[12]

Despite entering into the First RSA and the Second RSA, the Debtors never actually attempted to restructure the Exchange Notes or the Old Notes in connection therewith (or after). Instead, the Debtors did nothing and allowed the Old Notes and the Exchange Notes to mature without repayment on January 15, 2022, resulting in approximately $100 million in additional interest accruing on the Exchange Notes between the execution of the Second RSA in October 2019 and the filing of the Involuntary Petitions in March 2023.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors dispute all of the allegations and assertions in this section. First, the Debtors asset that the Debtors made payments of PIK interest and undertook a tender offer which reduced the outstanding obligations under the Exchange Notes by approximately $8 million. Second, the Debtors assert that the Petitioning Creditors fail to state that as a result of the strict foreclosure agreement, the Exchange Note Indenture was amended to release all remaining Collateral that served as security under the Exchange Note Indenture. In the Debtors' view, the assertions regarding the Debtors' intent are meritless."

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "In the Debtors' view, the Petitioning Creditors' descriptions of the Second RSA are wholly deficient and omit material information regarding the terms and provisions of the Second RSA as well as its relationship to the Involuntary Petitions. As set forth in greater detail in the Debtors' Motion to Dismiss (as defined below), pursuant to the Second RSA, signatories were restricted from selling, transferring, or assigning any interest they had in the Exchange Notes unless the transfer was to another holder of the Exchange Notes or the recipient joined the Second RSA. The Debtors further assert that in June 2020, well after the Second RSA was executed, the Debtors, more than seventy percent (70%) of the 2022 Noteholders, and others entered into a certain Stipulation Waiver and Release (the "OCM Financing Stipulation"), wherein a majority of the 2022 Noteholders acknowledged that they "[were] parties to that certain [Second RSA] . . . ." *OCM Financing Stipulation* at p. 1. The Debtors state that like the Second RSA, the OCM Financing Stipulation included a restriction on the transfer of the Exchange Notes. In the Debtors' view, any transfers of the Exchange Notes made in violation of the terms of these documents are void ab initio. In the Debtors' view, notwithstanding these transfer restrictions, the Initial Petitioning Creditors, in particular Pach Shemen, purport to be the beneficial holders of Exchange Notes in an amount that is mathematically impossible absent a transfer of Exchange Notes that were subject to restrictions on transfer. As the Second RSA was never terminated, the Debtors believe that Pach Shemen is not a valid 2022 Noteholder. The Debtors believe that had these bankruptcy proceedings not been initiated, the

[12] *Declaration of Joshua Nemser In Support of (A) Involuntary Petitions and (B) Petitioning Creditors' Objection to the Debtors' Motion to Dismiss* [Docket No. 128] filed on July 18, 2023 ¶ 14.

Debtors would have successfully refinanced their obligations in accordance with the terms of the relevant prepetition documents."

Each of the Debtors' Schedules list the Exchange Notes Trustee as having a disputed unsecured Claim against each of the Debtors for approximately $320,195,000. *See* Docket Nos. 216, 218, 220. However, the Exchange Notes Trustee filed a Proof of Claim against each of the Debtors pursuant to the Exchange Note Indenture and the Exchange Notes for approximately $366,011,815 for the unpaid principal amount of $194,862,074 plus applicable interest, fees, and other charges (collectively, the "Exchange Notes Claims"). *See* Proof of Claim No. 14 against Eletson Holdings; Proof of Claim No. 2 against Eletson MI; and Proof of Claim No. 2-2 against Eletson Finance. The Exchange Notes Trustee also filed a Proof of Claim against each of the Debtors pursuant to the Exchange Note Indenture and the Exchange Notes for fees and expenses in the amount of $1,872,764.44. *See* Proof of Claim No. 20 against Eletson Holdings; Proof of Claim No. 3 against Eletson MI; and Proof of Claim No. 3 against Eletson Finance.

3. *The OCM Guarantees*

Four subsidiaries directly or indirectly owned by Eletson Holdings are each party to bareboat charter agreements regarding the use of certain vessels owned by entities affiliated or associated with Oaktree Capital Management. Each of these vessels are described in greater detail below. The Petitioning Creditors understand that the $0 to $52.5 million figures from the Debtors' Amended Schedules are largely on account of these four bareboat charter arrangements.

Kinaros Charter. On June 24, 2020, OCM Maritime Rhine LLC ("OCM Rhine") entered into a bareboat charter agreement ("Kinaros Charter") with non-Debtor Kinaros Special Maritime Enterprise for the use of a vessel owned by OCM Rhine named the Kinaros. Pursuant to the Kinaros Charter, Kinaros Special Maritime Enterprise was obligated to make payments to OCM Rhine related to the charter of the Kinaros. The obligations were guaranteed by Eletson Holdings pursuant to that certain guarantee executed by Eletson Holdings in favor of OCM Rhine dated June 24, 2020 (the "Kinaros Guaranty"). Pursuant to the Kinaros Guaranty, Eletson Holdings guaranteed the full payment for all amounts due under the Kinaros Charter. According to the Debtors' Schedules, OCM Rhine has a disputed unsecured Claim against Debtor Eletson Holdings for $11,750,000. *See* Docket No. 216. According to OCM Rhine's Proof of Claim, as of the Conversion Date, the principal balance outstanding under the Kinaros Charter is $11,750,000 with outstanding payment-in-kind interest obligations of $217,417. *See* Proof of Claim No. 5-1 ¶ 9. As of the Conversion Date, OCM Rhine has not declared any event of default under the Kinaros Charter, however, the Chapter 11 Cases constitute a default under the Kinaros Guaranty.

Kimolos Charter. On June 24, 2020, OCM Maritime Yukon LLC ("OCM Yukon") entered into a bareboat charter agreement ("Kimolos Charter") with non-Debtor Kimolos II Special Maritime Enterprise for the use of a vessel owned by OCM Thames named the Kimolos. Pursuant to the Kimolos Charter, Kimolos II Special Maritime Enterprise was obligated to make payments to OCM Yukon related to the charter of the Kimolos. The obligations were guaranteed by Eletson Holdings pursuant

to that certain guaranty executed by Eletson Holdings in favor of OCM Yukon dated June 24, 2020 (the "Kimolos Guaranty"). Pursuant to the Kimolos Guaranty, Eletson Holdings guaranteed the full payment for all amounts due under the Kimolos Charter. According to the Debtors' Schedules, OCM Yukon has a disputed unsecured Claim against Debtor Eletson Holdings for $12,450,000. *See* Docket No. 216. According to OCM Yukon's Proof of Claim, as of the Conversion Date, the principal balance outstanding under the Kimolos Charter is $12,450,000 with outstanding payment-in-kind interest obligations of $203,922. *See* Proof of Claim No. 6-1 ¶ 9. As of the Conversion Date, OCM Yukon has not declared any event of default under the Kimolos Charter, however, the Chapter 11 Cases constitute a default under the Kimolos Guaranty.

Fourni Charter. On June 24, 2020, OCM Maritime Autumn LLC ("OCM Autumn") entered into a bareboat charter agreement ("Fourni Charter") with non-Debtor Fourni Special Maritime Enterprise for the use of a vessel owned by OCM Autumn named the Fourni. Pursuant to the Fourni Charter, Fourni Special Maritime Enterprise was obligated to make payments to OCM Autumn related to the charter of the Fourni. The obligations were guaranteed by Eletson Holdings pursuant to that certain guaranty executed by Eletson Holdings in favor of OCM Autumn dated June 24, 2020 (the "Fourni Guaranty"). Pursuant to the Fourni Guaranty, Eletson Holdings guaranteed the full payment for all amounts due under the Fourni Charter. According to the Debtors' Schedules, OCM Autumn has a disputed unsecured Claim against Debtor Eletson Holdings for $12,450,000. *See* Docket No. 216. According to OCM Autumn's Proof of Claim, as of the Conversion Date, the principal balance outstanding under the Fourni Charter is $12,450,000 with outstanding payment-in-kind interest obligations of $229,239. *See* Proof of Claim No. 7-1 ¶ 9. As of the Conversion Date, OCM Autumn has not declared any event of default under the Fourni Charter, however, the Chapter 11 Cases constitute a default under the Fourni Guaranty.

Kastos Charter. On June 24, 2020, OCM Maritime Thames LLC ("OCM Thames") entered into a bareboat charter agreement ("Kastos Charter") with non-Debtor Kastos Special Maritime Enterprise for the use of a vessel owned by OCM Thames named the Kastos. Pursuant to the Kastos Charter, Kastos Special Maritime Enterprise was obligated to make payments to OCM Thames related to the charter of the Kastos. The obligations were guaranteed by Eletson Holdings pursuant to that certain guaranty executed by Eletson Holdings in favor of OCM Thames dated June 24, 2020 (the "Kastos Guaranty"). Pursuant to the Kastos Guaranty, Eletson Holdings guaranteed the full payment for all amounts due under the Kastos Charter. According to the Debtors' Schedules, OCM Thames has a disputed unsecured Claim against Debtor Eletson Holdings for $12,450,000. *See* Docket No. 216. According to OCM Thames' Proof of Claim, as of the Conversion Date, the principal balance outstanding under the Kastos Charter is $12,450,000 with outstanding payment-in-kind interest obligations of $229,239. *See* Proof of Claim No. 8-1 ¶ 9. As of the Conversion Date, OCM Thames has not declared any event of default under the Kastos Charter, however, the Chapter 11 Cases constitute a default under the Kastos Guaranty.

The Debtors' Schedules list OCM Autumn, OCM Yukon, and OCM Thames as each having a disputed unsecured Claim against Debtor Eletson Holdings for $12,450,000, and OCM Rhine as having a disputed unsecured Claim for $11,750,000

(collectively, the "OCM Guaranty Claimants"). *See* Docket No. 216. As described above, although the OCM Guaranty Claimants have not declared an event of default under their respective charter agreements, each of the OCM Guaranty Claimants filed protective Proofs of Claims against Eletson Holdings for amounts owed by Eletson Holdings arising from and in connection with the bareboat charter agreements explained above (collectively, the "OCM Guaranty Claims"). *See* Proof of Claim Nos. 5-8.

4. *The Azure Guarantees*

On August 24, 2017, Azure Nova Spring Co., Azure Nova Summer Co., Azure Nova Autumn Co., and Azure Nova Winter Co. (collectively, "Azure" or the "Azure Claimants") entered into bareboat charter agreements (collectively, the "Charters") with non-Debtors Antikeros Special Maritime Enterprise, Dhonoussa Special Maritime Enterprise, Polyaigos Special Maritime Enterprise and Strofades Special Maritime Enterprise (collectively, the "Azure Charterers") respectively, for the use and operation of vessels owned by Azure named the Antikeros, Dhonoussa, Polyaigos, and Strofades, respectively (collectively, the "Azure Vessels").

Pursuant to the Charters, the Azure Charterers were obligated to make payments to Azure related to the charter of the Azure Vessels. The obligations were guaranteed by Eletson Holdings and Eletson Corp pursuant to those certain guarantees executed by Eletson Holdings and Eletson Corp in favor of each Azure entity dated August 24, 2017 (collectively, the "Azure Guarantees"). Pursuant to the Azure Guarantees, Eletson Holdings guaranteed the full payment for all amounts due under the Charters. As security for Eletson Holdings' obligations under the Azure Guarantees, Eletson Holdings executed a share pledge agreement in favor of each Azure entity pursuant to which the equity of the respective Azure Charterer was placed as collateral to secure the obligations under the applicable Charter.

In March 2021, the Charters were terminated and the Azure Vessels were repossessed. As a result of this termination and repossession, two arbitrations were commenced by Azure, one against the Charterers seeking a determination of any amounts owed to Azure because of the termination of the Charters and repossession of the Azure Vessels and a second against Eletson Holdings for any obligations arising from the Azure Guarantees which are asserted by Azure to be in an amount of no less than $94,799,702. Eletson Holdings disputes that defaults have occurred, or that obligations exist under the respective Azure Guarantees.

The Debtors' Schedules list the Azure Claimants as each having disputed unsecured Claims against Eletson Holdings for $12,000,000. *See* Docket No. 216. Each of the Azure Claimants filed a separate Proof of Claim against Eletson Holdings, each asserting a Secured Claim. However, the full amount listed in each Proof of Claim is asserted as an unsecured deficiency claim against Eletson Holdings for $94,799,702.40 in

connection with the Charters (collectively, the "Azure Guaranty Claims"). *See* Proof of Claim Nos. 9-12.

5. *The Eletson Corp Guarantees*

Non-Debtor Eletson Corp is the operational and technical management entity for various Eletson entities (including various of Eletson Holdings' non-Debtor subsidiaries). As Eletson Corp's parent entity, Eletson Holdings guaranteed certain obligations of Eletson Corp on a number of its unsecured obligations owed towards various banking entities in Greece, including Aegean Baltic Bank S.A., Alpha Bank S.A., and Piraeus Bank A.E. (collectively, the "Corp Guaranty Claims").

The Debtors' Schedules list Aegean Baltic Bank S.A. as having a disputed unsecured Claim against Eletson Holdings for $4,000,019. *See* Docket No. 216. The Schedules list Piraeus Bank A.E. as having a disputed unsecured Claim against Eletson Holdings for $16,326,319. *See id*. Alpha Bank S.A. is also listed as having a disputed unsecured Claim against Eletson Holdings for $4,302,823. *See id.*

Aegean Baltic Bank S.A. filed a Proof of Claim against Eletson Holdings for $6,335,665.08 pursuant to a Eletson Corp guarantee for the unpaid principal of $5,555,514.40 plus applicable interest, fees, and other charges. *See* Proof of Claim No. 4. Hermes Acquisitions B DAC Serviced by Cepal Hellas also filed a Proof of Claim pursuant to a Eletson Corp guarantee for claims purchased from Alpha Bank S.A., totaling $4,302,198.44. *See* Proof of Claim No. 16. Lastly, Sunrise I NPL Finance DAC also filed a Proof of Claim against Eletson Holdings pursuant to a Eletson Corp guarantee for claims purchased from Piraeus Bank A.E., totaling $23,402,504.90. *See* Proof of Claim No. 22. The Sunrise I NPL Finance DAC Proof of Claim asserts a secured claim in the amount of $7,000,000 and an unsecured claim in the amount of $16,402,504.90. *See id.*[13]

6. *Initial Petitioning Creditors' Claims*

Each of the Initial Petitioning Creditors filed protective Proofs of Claims against each of the Debtors in the amounts of $2,234,807.36, $357,567.10, and $2,431.10, respectively, pursuant to the *Second Application of the Petitioning Creditors Pursuant to Section 503(b)(3)(A) and 503(b)(4) of the Bankruptcy Code, for Allowance of Professional Fees,* filed on December 18, 2023 [Docket No. 322]. *See* Proofs of Claims Nos. 17-19 against Eletson Holdings; Proofs of Claims Nos. 4-6 against Eletson MI; and Proofs of Claims Nos. 4-6 against Eletson Finance.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the

[13] Proof of Claim No. 22 is based on three facility agreements, one of which included a first priority "prenotation of mortgage under articles 1274 et seq. of the Greek Civil Code, over an office property…in the amount of up to seven million Euro…the property is estimated to be worth approximately that amount." Proof of Claim No. 22 at 5.

preceding paragraph and the purported validity of any Proof of Claim filed by the Initial Petitioning Creditors."

7. *Other Claims and Liabilities*

The Debtors have other outstanding Claims from amounts owed to creditors prior to the Petition Date. Such amounts include, among other things, prepetition Claims by certain individual Old Noteholders (the "Individual Old Noteholder Claims"), NAF (the "NAF Claims"), Levona (the "Levona Claim"), other miscellaneous scheduled claims (the "Miscellaneous Scheduled Claims"), and a prepetition tax Claim filed by the Internal Revenue Service (the "Tax Claim"). The Individual Old Noteholder Claims, NAF Claims, Levona Claim, and the Miscellaneous Scheduled Claims are explained in more detail below.

(a) The Individual Old Noteholder Claims

The Individual Old Noteholder Claims consist of the following and were not listed on the Schedules as Claims against any of the Debtors:

- Proof of Claim filed by Tracy Lee Gustafson against Eletson Holdings for bonds purchased in connection with the Old Notes totaling $117,978. *See* Proof of Claim No. 1;

- Proof of Claim filed by TR I/XII/W J. Fleishmnn/Dorette against Eletson Holdings for bonds purchased in connection with the Old Notes totaling $107,864.51. *See* Proof of Claim No. 3; and

- Proof of Claim filed by Middle East Shipping Agencies Overseas, Ltd. against Eletson Holdings for bonds purchased in connection with the Old Notes totaling $257,750 plus applicable interest, fees, and other charges. *See* Proof of Claim No. 15.

(b) NAF Claims

The NAF Claims consist of unsecured Claims against each of the Debtors for approximately $5,155,522. *See* Proof of Claim No. 13 against Eletson Holdings; Proof of Claim No. 1 against Eletson MI; and Proof of Claim No. 1 against Eletson Finance. The NAF Claims are based on amounts owed under the Old Notes and the Old Notes Trustee's fees and professional fees that the Old Notes Trustee had paid on behalf of the Debtors. *Id.* The Schedules for Eletson Holdings lists the NAF Claim as a disputed unsecured Claim for $5,155,522 and separately, as a disputed unsecured Claim for $24,000 on the Eletson Finance Schedule. *See* Docket Nos. 216, 220.

(c) Levona Claim

The Levona Claim consists of an unsecured Claim for damages in connection with the facts related to the Arbitration and these Chapter 11 Cases, totaling $262,500,000, filed against Eletson Holdings. *See* Proof of Claim No. 21.

(d) Miscellaneous Scheduled Claims

Eletson MI's Schedules list Regus Management Group LLC as having a Claim against Eletson MI for $"741,70" in connection with an office lease. *See* Docket No. 218. Eletson Finance's Schedules list Thompson Hine LLP as having a Claim against Eletson Finance for $8,225 in connection with the provision of services. *See* Docket No. 220.

(e) Tax Claim

The Tax Claim consists of priority Claim in the amount of $313.23 and a general unsecured Claim in the amount of $319.97, both filed against Eletson Holdings for estimated amounts of unpaid corporate taxes. *See* Proof of Claim No. 23-1 filed against Eletson Holdings.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the asserted validity of each of the purported claims filed against the Debtors discussed in this subsection, many of which are subject to objections."

III. THE BANKRUPTCY CASES

A. The Involuntary Petitions and Related Cases

On the Petition Date, the Initial Petitioning Creditors filed the Involuntary Petitions against each of the Debtors. They were later joined by 11 additional petitioning creditors, including the Exchange Notes Trustee.[14] *See* Docket No. 102.

On April 14, the Debtors moved to dismiss the Involuntary Petitions [Docket No. 40], which was later supplemented at various points in response to additional creditors that filed joinders to the Involuntary Petitions [Docket Nos. 70, 108, 121, 122] (as supplemented, the "Motion to Dismiss"). Over the next few months, the Debtors and their creditors engaged in months of litigation, including discovery and related motion practice, resulting in millions of dollars in administrative expenses by the Debtors and fees and expenses incurred by their creditors in pursuing their contractual rights to repayment from the Debtors.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the preceding paragraph. In the Debtors' view, Pach Shemen, the largest holder of

[14] The full list of creditors that filed the Involuntary Petitions and/or joined them are: Pach Shemen LLC, VR Global Partners, L.P., Alpine Partners (BVI), L.P., Gene B. Goldstein, Gene B. Goldstein, In His Capacity as Trustee of the Gene B. Goldstein and Francine T. Goldstein Family Trust, Mark Millet, In His Capacity as Trustee of the Mark E. Millet Living Trust, Mark Millet, In His Capacity as Trustee of the Millet 2016 Irrevocable Trust, Robert Latter, Tracy Lee Gustafson, Jason Chamness, Ron Pike, and NAF. Watson Farley & Williams LLP and Paleokrassas & Partners Law Firm (trading as Watson Farley & Williams Greece) (together, "WFW") former counsel to the Debtors, joined the Involuntary Petitions [Docket No. 61] but later withdrew after the Debtors paid WFW an undisclosed amount [Docket No. 101].

Exchange Notes of the Initial Petitioning Creditors, obtained its claims against the Debtors mere months before filing the Involuntary Petitions. The Debtors believe that these claims were obtained in violation of the terms of the Second RSA and OCM Financing Stipulation, and that the filing of the Involuntary Petitions was an improper action taken in bad faith as part of a coordinated effort to harm the Debtors and provide a litigation advantage to Levona in the Arbitration. The Debtors have reserved all rights regarding the impropriety of the Involuntary Petitions."

Prior to the hearing on the Motion to Dismiss, upon the request of the Debtors, the Petitioning Creditors and the Exchange Notes Trustee, the Bankruptcy Court entered the *Order Appointing Hon. Allan L. Gropper (Ret.) as Mediator* [Docket No. 148] directing the parties towards a non-binding mediation (the "Initial Mediation") to address the issues surrounding the Motion to Dismiss. The Initial Mediation did not lead to any resolution. Just one day prior to the hearing on the Motion to Dismiss, the Debtors, the Petitioning Creditors, and the Exchange Notes Trustee entered into a stipulation which was read into the record on September 6, 2023 (the "Conversion Stipulation"). Pursuant to the Conversion Stipulation, the Debtors agreed to withdraw their Motion to Dismiss and voluntarily convert the pending Chapter 7 cases to cases under Chapter 11, and the Petitioning Creditors agreed not to object to the voluntary conversion. In addition, pursuant to the Conversion Stipulation, the Debtors, the Exchange Notes Trustee, and the Petitioning Creditors agreed to, among other things, the following: (i) the Petitioning Creditors and the Exchange Notes Trustee would not file a motion to appoint an examiner, trustee, or limit exclusivity during the first 120 days of the Chapter 11 Cases; (ii) the Debtors agreed to withdraw adversary proceeding Case No. 23-1132 related to the filing of the Involuntary Petitions, without prejudice, and agreed not to reinitiate such a proceeding for the longer of four months or the end of the confirmation and vacatur proceedings concerning the Award; (iii) the Debtors' and Petitioning Creditors' professionals agreed not object to other professionals seeking retention as estate professionals; (iv) the Debtors' agreed not to object to a substantial contribution motion brought by the Petitioning Creditors seeking up to $1.5 million, with the express agreement that the Petitioning Creditors could seek additional amounts exceeding that sum; and (v) the Petitioning Creditors agreed not to object to or assert rights of recovery against the pre-petition fees sought by the Debtors' counsel of up to $2 million. *See* Sept. 6, Tr. at 9. Finally, the Conversion Stipulation was entered into without prejudice to all causes of action, claims, or defenses that the parties might thereafter assert, including, without limitation, the Debtors' rights to object to claims brought in the Chapter 11 Cases. *Id.*

On September 13, 2023, the Debtors filed a motion to convert the Chapter 7 cases [Docket No. 201], to which the Petitioning Creditors responded that a motion was unnecessary, and the cases should be converted immediately [Docket No. 203]. Following a hearing held on September 20, 2023, on September 25, 2023 the Bankruptcy Court entered an order converting the Chapter 7 cases to cases under Chapter 11 of the Bankruptcy Code [Docket No. 215] (the "Conversion Order").

B. Events in the Chapter 11 Cases

Since the entry of the Conversion Order, the Debtors did not file any first day motions. The limited filings made by the Debtors, as well as certain other material

events in these Chapter 11 Cases, are described in greater detail below.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the characterization of the Debtors' filings in the preceding paragraph. The Debtors assert that the Debtors are holding companies without any ongoing operations, employees or bank accounts, and as such had no need to file any typical first day motions. Further, the Debtors state that the background and history of the Debtors as well as information regarding the Debtors' corporate structure was heavily litigated and discussed in the filings made prior to entry of the Conversion Order."

1. *Appointment of Creditors' Committee*

On October 20, 2023, the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee") appointed an official committee of unsecured creditors [Docket No. 233] (the "Creditors' Committee"). The Creditors' Committee is comprised of the following creditors: (a) Gene B. Goldstein, (b) Aegean Baltic Bank S.A., and (c) the Exchange Notes Trustee. The Old Notes Trustee serves as an ex officio member.

2. *Estate Professionals*

Pursuant to orders of the Bankruptcy Court, the Debtors and the Creditors' Committee have retained certain professionals pursuant to sections 327 and 328 of the Bankruptcy Code (collectively, the "Estate Professionals"). The Debtors' only Estate Professional is Reed Smith LLP, as counsel [Docket Nos. 235 and 350]; the Creditors' Committee's Estate Professionals are (a) Dechert LLP, as counsel [Docket Nos. 273 and 351] and (b) FTI Consulting, Inc., as financial advisor [Docket Nos. 349 and 375].

By order dated February 7, 2024 [Docket No. 398] (the "Interim Comp Order"), the Bankruptcy Court established procedures for the Debtors' payment of certain of the fees and expenses of the Estate Professionals during the pendency of these Chapter 11 Cases, including pursuant to the filing of monthly fee statements and periodic interim fee applications. As of the date hereof, the following monthly fee statements have been filed:

- *First Monthly Fee Statement of Dechert LLP for the Period From October 25, 2023 Through November 30, 2023* [Docket No. 399] ("Dechert's First Fee Statement") seeking reimbursement of fees and expenses totaling $ 743,688.18;

- *Second Monthly Fee Statement of Dechert LLP for the Period From December 1, 2023 Through December 31, 2023* [Docket No. 400] ("Dechert's Second Fee Statement") seeking reimbursement of fees and expenses totaling $586,096.76;

- *Third Monthly Fee Statement of Dechert LLP for the Period From January 1, 2024 Through January 31, 2024* [Docket No. 433] ("Dechert's Third Fee

Statement") seeking reimbursement of fees and expenses totaling $628,770.91;

- *Fourth Monthly Fee Statement of Dechert LLP for the Period From February 1, 2024 Through February 29, 2024* [Docket No. 529] ("Dechert's Fourth Fee Statement") seeking reimbursement of fees and expenses totaling $776,042.06;

- *Fifth Monthly Fee Statement of Dechert LLP for the Period From March 1, 2024 Through March 31, 2024* [Docket No. 609] ("Dechert's Fifth Fee Statement") seeking reimbursement of fees and expenses totaling $1,010,965.52;

- *Sixth Monthly Fee Statement of Dechert LLP for the Period from April 1, 2024 Through April 30, 2024* [Docket No. 703] ("Dechert's Sixth Fee Statement" and together with Dechert's First Fee Statement, Dechert's Second Fee Statement, Dechert's Third Fee Statement, Dechert's Fourth Fee Statement, and Dechert's Fifth Fee Statement, the "Dechert Fee Statements") seeking reimbursement of fees and expenses totaling $1,083,448.33;

- *First Monthly Fee Statement of FTI Consulting, Inc. for the Period From December 8, 2023 Through December 31, 2023* [Docket No. 401] ("FTI's First Fee Statement") seeking reimbursement of fees and expenses totaling $233,115.77;

- *Second Monthly Fee Statement of FTI Consulting, Inc. for the Period From January 1, 2024 Through January 31, 2024* [Docket No. 434] ("FTI's Second Fee Statement") seeking reimbursement of fees and expenses totaling $600,417.73;

- *Third Monthly Fee Statement of FTI Consulting, Inc., for the Period From February 1, 2024 Through February 29, 2024* [Docket No. 530] ("FTI's Third Fee Statement") seeking reimbursement of fees and expenses totaling $334,953.94;

- *Fourth Monthly Fee Statement of FTI Consulting, Inc., for the Period From March 1, 2024 Through March 31, 2024* [Docket No. 610] ("FTI's Fourth Fee Statement") seeking reimbursement of fees and expenses totaling $407,858.63;

- *Fifth Monthly Fee Statement of FTI Consulting, Inc. for the Period From April 1, 2024 Through April 30, 2024* [Docket No. 704] ("FTI's Fifth Fee Statement" and together with FTI's First Fee Statement, FTI's Second Fee Statement, FTI's Third Fee Statement, and FTI's Fourth Fee Statement, the "FTI Fee Statements") seeking reimbursement of fees and expenses totaling $815,339.24;

- *First Monthly Fee Statement of Reed Smith LLP, for the Period From January 1, 2024 Through January 31, 2024* [Docket No. 537] ("Reed Smith's First Fee Statement") seeking reimbursement of fees and expenses totaling $957,875.36;

- *Second Monthly Fee Statement of Reed Smith LLP, for the Period From February 1, 2024 Through February 29, 2024* [Docket No. 541] ("Reed Smith's Second Fee Statement") seeking reimbursement of fees and expenses totaling $929,877.18;

- *Third Monthly Fee Statement of Reed Smith LLP, for the Period From March 1, 2024 Through March 31, 2024* [Docket No. 618] ("Reed Smith's Third Fee Statement") seeking reimbursement of fees and expenses totaling $2,004,475.75; and

- *Fourth Monthly Fee Statement of Reed Smith LLP, for the Period from April 1, 2024 Through April 30, 2024* [Docket No. 702] ("Reed Smith's Fourth Fee Statement" and together with Reed Smith's First Fee Statement, Reed Smith's Second Fee Statement, and Reed Smith's Third Fee Statement, the "Reed Smith Fee Statements") seeking reimbursement of fees and expenses totaling $2,177,149.39.

As of the date hereof, the Debtors filed objections to the Dechert Fee Statements and the FTI Fee Statements. *See* Docket Nos. 431, 432, 464, 465, 563, 564, 633 634, 737, and 738. The Petitioning Creditors filed objections to the Reed Smith Fee Statements. *See* Docket Nos. 578, 659, and 729. The Creditors' Committee also filed objections to the Reed Smith Fee Statements. *See* Docket Nos. 577, 588, 660, and 731.

Pursuant to the Interim Comp Order, as of the date hereof, the following interim fee applications have been filed:

- *First Interim Fee Application for Dechert LLP for the Period from October 25, 2023 Through December 31, 2023* [Docket No. 417] ("Dechert's First Interim Fee Application") seeking interim allowance of fees and expenses totaling $1,329,784.94;

- *First Interim Fee Application of FTI Consulting, Inc. for the Period From December 8, 2023 Through December 31, 2023* [Docket No. 418] ("FTI's First Interim Fee Application") seeking interim allowance of fees and expenses totaling $233,115.77;

- *First Interim Fee Application of Reed Smith LLP, Counsel to the Debtors for the Period From September 25, 2023 Through December 31, 2023* [Docket No. 444] ("Reed Smith's First Interim Fee Application") seeking interim allowance and payment of fees and expenses totaling $2,527,171.78; and

- *Second Interim Fee Application of Reed Smith LLP, Counsel to the Debtors and Debtors in Possession, for Compensation and Reimbursement of Expenses for the Period January 1, 2024 to April 30, 2024* [Docket No. 776] ("Reed Smith's Second Interim Fee Application") seeking interim allowance and payment of fees and expenses totaling $6,069,386.60.

- *Second Interim Fee Application of Dechert LLP for Compensation for Services Rendered and Reimbursement of Expenses as Counsel to the Official Committee of Unsecured Creditors for the Period From January 1, 2024 Through April 30, 2024* [Docket No. 788] ("Dechert's Second Interim Fee Application") seeking interim allowance and payment of fees and expenses totaling $3,471,835.00.

- *Second Interim Fee Application of FTI Consulting, Inc. for Allowance of Compensation and Reimbursement of Expenses as Financial Advisor to the Official Committee of Unsecured Creditors for the Period from January 1, 2024 through April 30, 2024* [Docket No. 789] ("FTI's Second Interim Fee Application") seeking interim allowance of fees and expenses totaling $1,939,040.00.

As of the date hereof, the Debtors objected to Dechert's First Interim Fee Application and to FTI's First Interim Fee Application. *See* Docket Nos. 485 and 486. On March 14, 2024, the Petitioning Creditors and the Creditors' Committee objected to Reed Smith's First Interim Fee Application. *See* Docket Nos. 484 and 487. On March 18, 2024, the U.S. Trustee objected to Dechert's First Interim Fee Application and to FTI's First Interim Fee Application. *See* Docket No. 492. On April 12, 2024, the Debtors filed an omnibus reply in support Reed Smith's First Interim Fee Application, and the Creditors' Committee filed replies in support of Dechert's First Interim Fee Application and FTI's First Interim Fee Application. *See* Docket Nos. 583, 585, 586.

Following a hearing held on May 8, 2024, on May 14, 2024, the Bankruptcy Court entered a first interim order granting 80% of the fees in Dechert's First Interim Fee Application, FTI's First Interim Fee Application, and the "bankruptcy" fees set forth in Reed Smith's First Interim Fee Application subject to a full reservation of rights for the final fee hearing. [Docket No. 676]. Also, on May 8, 2024, the Bankruptcy Court heard argument, and reserved decision, on Reed Smith's "arbitration" fees. On June 7, 2024, the Bankruptcy Court issued an oral decision approving Reed Smith's fees relating to the Arbitration, and on June 12, 2024, entered an order requiring that such fees be paid by non-Debtor Eletson Corp [Docket No. 769].

A hearing on Reed Smith's Second Interim Fee Application, Dechert's Second Interim Fee Application, and FTI's Second Interim Fee Application is scheduled

for July 31, 2024, and objections are due on July 24, 2024. *See* Docket Nos. 776, 789, 788.

3. *Issues with the Debtors' Reporting Obligations*

(a) Schedules and Statements

Although the Conversion Date occurred on September 25, 2023, the Debtors failed to make any filings until October 10, 2023, when the Debtors filed the Original Schedules. See Docket Nos. 216-221. The Original Schedules were bereft of any detail, listing, for example, 73 subsidiaries each valued at $0, as well as the unvalued Litigation Claims against certain of the Petitioning Creditors. See Docket Nos. 2016 at 10-11 and 217 at 1-4, 11-27. It was not until December 29, 2023, over two months later—after the U.S. Trustee, the Creditors' Committee, and the Petitioning Creditors questioned those disclosures—that the Debtors filed the Amended Schedules, reducing the number of their disclosed subsidiaries to 60, but increasing the aggregate equity value in such subsidiaries from $0 to $52.5 million. *See* Docket No. 340 at 9-11.

(b) 2015.3 Reports

The Debtors did not file any Rule 2015.3 Reports (the "2015.3 Reports") until November 20, 2023, which was weeks late, and did so for only ten of their subsidiaries. *See* Docket No. 271.[15] Further, the Debtors initially failed to disclose a 2015.3 Report for Eletson Gas and, only after the U.S. Trustee demanded the Debtors do so, the Debtors filed a 2015.3 Report for Eletson Gas on November 30, 2023. *See* Docket No. 284 at 3. The Debtors did not file 2015.3 Reports for the remaining dozens of other subsidiaries until December 29, 2023. *See* Docket No. 341.

On February 12, 2024, the Debtors filed their second set of 2015.3 Reports. *See* Docket No. 409.

(c) Monthly Operating Reports

The Debtors have filed their monthly operating reports for the periods ending 9/30/2023, 10/31/2023, 11/30/2023, 12/31/2023, 1/31/2024, 2/29/2024, 3/31/2024, and 4/30/2024. [Docket Nos. 268-270, 276-277, 280, 325-327, 427-429, 508-510, 603-605, and 706-708] (the "Monthly Operating Reports"). The Monthly Operating Reports fail to disclose intercompany balances. Certain of the Monthly Operating Reports also contain various inaccuracies, including stating that the Debtors

[15] Bankruptcy Rule 2015.3 requires, among other things, that the Debtors file "periodic financial reports of the value, operations, and profitability of each entity that is not a publicly traded corporation or a debtor in a case under title 11, and in which the estate holders a substantial or controlling interest." Bankruptcy Rule 2015.3(a).

had not retained counsel (which they had, *see supra* B.2) and that the Debtors had not filed a chapter 11 plan or disclosure statement (which they had at the time, *see infra* C.1).

The Debtors' Monthly Operating Reports also state that the Debtors are not in compliance with their obligations to pay quarterly U.S. Trustee fees pursuant to 28 U.S.C. § 1930.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the allegations and characterizations of the Debtors' reporting obligations in these Chapter 11 Cases. The Debtors assert that as a threshold matter, the Debtors are current on all reporting obligations as noted by the Bankruptcy Court, and these filing contain accurate information to the best of the Debtors' knowledge. As previously stated, the Debtors have never taken the position that the Debtors have no assets, and filed "$0" on the Debtors' Schedules as the Debtors' assets were illiquid and of an undetermined value. The Debtors assert that the Debtors have disclosed all information required under the Bankruptcy Code and have repeatedly supplemented filings upon the request of parties in interest."

4. *The Bar Date and Claims Process*

(a) Bar Date and Claims

By order dated November 9, 2023 [Docket No. 264] (the "Bar Date Order"), the Bankruptcy Court established December 18, 2023 at 4:00 p.m. (prevailing Eastern Time) as the general bar date (the "General Bar Date") and March 25, 2024 at 4:00 p.m. (prevailing Eastern Time) as the governmental bar date (the "Governmental Bar Date").

As of the date hereof, approximately thirty-seven (37) Proofs of Claims were filed against the Debtors. After adjustments for duplicative Claims and other adjustments, the Petitioning Creditors estimate that Allowed General Unsecured Claims in these Chapter 11 Cases may range from approximately $505 million in a low scenario to $768 million in a high scenario. The low scenario of $505 million assumes allowance of the asserted amounts of the proofs of claims filed by the Old Notes Trustee ($5,953,704.07) [*see* Proof of Claim No. 2-1], the Exchange Notes Trustee ($366,011,815) [*see* Proof of Claim No. 14], the Azure Claimants ($94,799,702.40) [*see* Proof of Claim Nos. 9-12], Aegean Baltic Bank S.A., Alpha Bank S.A., and Piraeus Bank A.E, as the Eletson Corp Guarantee Claimants ($6,353,665.08, $4,302,198.44, and $23,402,504.90) [*see* Proof of Claims Nos. 4, 16, and 22], and NAF ($5,155,522) [*see* Proof of Claim No. 13]) but does not include the Levona Claim ($262,500,000) [*see* Proof of Claim No. 21-1]. The high scenario assumes all of these claims are allowed as well as the Levona Claim for a total of approximately $768 million. The actual allowed amount of General Unsecured Claims in these Chapter 11 Cases may vary.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the assertions in the previous paragraph to the extent that the Petitioning Creditors assert that any of the Claims asserted against the Debtors, other than those undisputed non-contingent

Claims scheduled by the Debtors, are valid claims entitled to payment in any amount or are otherwise enforceable against the Debtors and/or their estates. The Debtors believe that the estimates provided by the Petitioning Creditors above are incorrect and the actual range of allowed claims against the Debtors and their estates will be significantly lower."

(b) Claims Objections

On January 28, 2024, the Debtors filed several objections and omnibus objections to Proofs of Claims. Specifically, the Debtors objected to the Proofs of Claims filed by the Initial Petitioning Creditors [Docket No. 377] (the "Initial Petitioning Creditors' Claim Objection"), Levona [Docket No. 378] (the "Levona Claim Objection"), NAF [Docket No. 379] (the "NAF Claim Objection"), and the Exchange Notes Trustee [Docket No. 380] (the "Exchange Notes Trustee Claim Objection"), as well as an omnibus objection to claims filed by the Individual Old Noteholders and the Old Notes Trustee, arguing that they are duplicative of the master Proofs of Claims filed by the Old Notes Trustee [Docket No. 376] (the "Omnibus Claim Objection" and collectively, with the Initial Petitioning Creditors' Claim Objection, the Levona Claim Objection, the NAF Claim Objection, and the Exchange Notes Trustee Claim Objection, the "Claims Objections").

At the Debtors' request, on February 12, 2024, the Bankruptcy Court approved an adjournment of all briefing and hearing dates and deadlines with respect to the Claims Objections pending further discussion at the February 27 Status Conference (as defined below). *See* Docket No. 405 (the "Adjournment Order"). A status conference on the Initial Petitioning Creditors' Claim Objection, the NAF Claim Objection, the Exchange Notes Trustee Claim Objection, and the Omnibus Claim Objection took place at a hearing on May 15, 2024 (the "May 15 Hearing"), along with the additional matters discussed herein. *See* Docket No. 635. A continued status conference on the Initial Petitioning Creditors' Claim Objection, the NAF Claim Objection, the Exchange Notes Trustee Claim Objection, and the Omnibus Claim Objection is scheduled for June 18, 2024 (the "June 18 Hearing"). *See* Docket No. 710. The Bankruptcy Court scheduled an evidentiary hearing on the Initial Petitioning Creditors' Claim Objection, the NAF Claim Objection, the Exchange Notes Trustee Claim Objection, and the Omnibus Claim Objection for July 23, 2024 and if necessary, July 24, 2024. *See* Docket No. 735.

The Objection Deadline on Omnibus Claim Objection, the Initial Petitioning Creditors' Claim Objection, the NAF Claim Objection, and the Exchange Notes Trustee Claim Objection was May 7, 2024 [Docket No. 635], and the following responses were filed: the Old Notes Trustee filed a response to the Omnibus Claim Objection [Docket No. 637], the Exchange Notes Trustee filed a response to the Exchange Notes Trustee Claim Objection [Docket No. 639], which was joined by the Petitioning Creditors [Docket No. 645], the Initial Petitioning Creditors filed a response to the Initial Petitioning Creditors' Claim Objection [Docket No. 643], and NAF filed a response to the NAF Claim Objection [Docket No. 644].

At the May 31 Status Conference, the Bankruptcy Court adjourned the Levona Claim Objection to a date to be determined.

5. *The Motions for Appointment of a Chapter 11 Trustee*

(a) The UCC Trustee Motion

On February 6, 2024, the Creditors' Committee filed a motion for the appointment of a chapter 11 trustee [Docket No. 394] (the "UCC Trustee Motion"), which was joined by: (i) the Old Notes Trustee on February 12, 2024 [Docket No. 404]; (ii) the Exchange Notes Trustee on February 15, 2024 [Docket No. 420]; and (iii) the Petitioning Creditors on March 12, 2024 [Docket No. 477]. On March 12, 2024, Intrum Hellas Societe Anonyme Management of Receivables from Loans and Credits as the servicing claims manager for SUNRISE I NPL FINANCE DAC, filed a statement in support of the UCC Trustee Motion [Docket No. 476].

Pursuant to the Adjournment Order, the Bankruptcy Court adjourned all briefing and hearing dates and deadlines with respect to the UCC Trustee Motion pending further discussion at the February 27 Status Conference. At the February 27 Status Conference, the Bankruptcy Court scheduled the UCC Trustee Motion, among others, for a three-day trial that occurred on April 9, 2024 through April 11, 2024 (the "April 9 Trial"), and directed the parties to submit a Scheduling Order (as defined below). On March 22, 2024, the Debtors filed an omnibus objection to the Petitioning Creditors' Trustee Motion (as defined below) and the UCC Trustee Motion [Docket No. 513] (the "Omnibus Objection"). On March 22, 2024, the Nominees also filed an omnibus objection to the UCC Trustee Motion, the UST Trustee Motion (as defined below), and the Petitioning Creditors' Trustee Motion [Docket No. 518] (the "Nominees' Omnibus Objection"). On April 2, 2024, the Creditors' Committee filed a reply in support of the UCC Trustee Motion. *See* Docket No. 549. On April 2, 2024, the Petitioning Creditors filed a reply in support of the Trustee Motions (as defined below). *See* Docket No. 547.

(b) The UST Trustee Motion

On February 16, 2024, the U.S. Trustee filed a second motion for the appointment of a chapter 11 trustee [Docket No. 424] (the "UST Trustee Motion"), which was joined by the Petitioning Creditors on March 12, 2024 [Docket No. 477].

At the February 27 Status Conference, the Bankruptcy Court scheduled the UST Trustee Motion for the April 9 Trial. In accordance with the Scheduling Order, on March 22, 2024, the Debtors filed an objection to the UST Trustee Motion and the Nominees filed the Nominees' Omnibus Objection. *See* Docket Nos. 512 and 518. On April 2, 2024, the U.S. Trustee filed a reply in support of the UST Trustee Motion. *See* Docket No. 544. On April 2, 2024, the Petitioning Creditors filed a reply in support of the Trustee Motions. *See* Docket No. 547.

(c) Petitioning Creditors' Emergency Trustee Motion

On March 11, 2024, the Petitioning Creditors filed the *Petitioning Creditors' Emergency Motion to Appoint a Trustee* [Docket No. 468] (the "Petitioning Creditors' Trustee Motion" and, together with the UCC Trustee Motion, and the UST Trustee Motion, the "Trustee Motions"), which was also heard at the April 9 Trial. *See* Docket Nos. 480 and 481. On March 22, 2024, the Debtors filed the Omnibus Objection and the

Nominees filed the Nominees' Omnibus Objection. *See* Docket Nos. 513 and 518. On April 2, 2024, the Petitioning Creditors filed a reply in support of the Trustee Motions. *See* Docket No. 547.

6. *April 9 Trial*

The April 9 Trial on the Trustee Motions began on April 9, 2024 and concluded on April 11, 2024. On April 18, 2024, the Debtors', the Nominees, the U.S. Trustee, the Creditors' Committee, and the Petitioning Creditors each filed post-trial briefs in further support of their respective positions. *See* Docket Nos. 594-598.

On May 29, 2024, the Bankruptcy Court issued a memorandum opinion and order [Docket No. 721] (the "Trustee Decision") denying the Trustee Motions and finding that the various movants had not met the high burden of demonstrating (i) that cause existed for the appointment of a trustee and (ii) that the appointment of a trustee was in the best interests of parties in interest.

On June 12, 2024, the Creditors' Committee appealed the Trustee Decision to the U.S. District Court for the Southern District of New York. *See* Docket No. 768.

7. *DIP Financing*

At the February 27 Status Conference, counsel to the Creditors' Committee raised the issue that the Debtors had not paid the undisputed portion of the Creditors' Committee's professionals' fees (the "Outstanding Fees"). After further discussion at the February 27 Status Conference, the Bankruptcy Court directed the parties to provide an update to the Bankruptcy Court by February 29, 2024. On February 29, 2024, the Debtors filed a letter [Docket No. 443] stating that the Debtors intended to pursue Bankruptcy Court approval for a debtor-in-possession financing loan with undisclosed terms as of that time from a non-Debtor subsidiary, Eletson Gas, to pay the Outstanding Fees.

At a status conference on March 6, 2024, the parties discussed the foregoing fee issues, among other things, and the Bankruptcy Court directed the Debtors to share their proposed debtor-in-possession financing term sheet with the parties, and update the Bankruptcy Court by end of day on Friday, March 8, 2024. On Thursday, March 7, 2024, counsel for the Debtors provided counsel for the Creditors' Committee (and not the Petitioning Creditors) with a copy of a proposed term sheet for the Original DIP Facility (as defined below) mere hours before it was filed on the docket.

On March 7, 2024, the Debtors filed the *Debtors' Motion for Entry of Interim and Final Orders (A) Authorizing the Debtors to Obtain Postpetition Financing (B) Granting Liens and Providing Superiority Administrative Expense Status (C) Modifying the Automatic Stay, (D) Scheduling a Final Hearing and (E) Granting Related Relief* [Docket No. 458] (the "DIP Motion") for approval of a senior secured, superpriority debtor-in-possession financing facility (the "Original DIP Facility") on the terms set forth in the Original DIP term sheet, attached to the DIP Motion as Exhibit C (the "Original DIP Term Sheet"). The proposed lender is "EMC Gas Corporation and such other of its affiliates that agree

to participate in the DIP Facility" (the "DIP Lender")—a subsidiary of Eletson Gas, which is itself a subsidiary of Eletson Holdings. Eletson Holdings owns 100% of the common stock of Eletson Gas and there is substantial overlap among their officers and directors.

On March 8, 2024, the Petitioning Creditors submitted a financing proposal to counsel for the Debtors that the Petitioning Creditors believed was significantly better for the Debtors and their estates (the "PC Proposal") than that set forth in the Original DIP Term Sheet.[16] Among other things, the PC Proposal is on an entirely *unsecured and administrative claims-only (not superpriority)* basis and provides substantially more liquidity ($10 million) for the Debtors than the grossly inadequate $4 million under the Original DIP Facility. The PC Proposal would also not result in a default if and when the Bankruptcy Court grants the pending Trustee Motions and, in the case of a default, would not permit the lender to foreclose on the Debtors' assets (as there is no collateral).

After the Petitioning Creditors delivered the PC Proposal to the Debtors, on March 15, 2024, the Debtors received a revised term sheet from the DIP Lender that was "economically identical" to the PC Proposal (the "Revised DIP Term Sheet"), which the Debtors "tentatively accepted." Docket No. 513, ¶ 45. As of the date hereof, the Revised DIP Term Sheet has not been filed with the Bankruptcy Court.

The Omnibus Objection provides that the Debtors' need for DIP financing was "resolved in the short term" and on March 17, 2024, the Debtors informed the Bankruptcy Court that they "were given consent by the financiers of the [special maritime entity subsidiaries ("SMEs")] to permit some portion of the funds held by the SMEs to be made available to [Eletson] Holdings as a dividend." *Id.* This "provided the Debtors with the requisite liquidity to immediately pay all outstanding and payable administrative expenses" including the Outstanding Fees. *Id.* The Omnibus Objection further provides that on March 18, 2024, counsel to the Creditors' Committee confirmed receipt of payment of the Outstanding Fees. *Id.*

On March 18, 2024, the Debtors adjourned the DIP Motion to the April 9 Trial. *See* Docket No. 494. The Omnibus Objection provides that the "Debtors are still evaluating whether they are still in need of the DIP Facility." Docket No. 513, ¶ 45. As of the date hereof, the U.S. Trustee objected to the DIP Motion.[17] *See* Docket No. 482. On March 28, 2024, the Debtors adjourned the DIP Motion to April 16, 2024. *See* Docket No. 539. On April 10, 2024, the Debtors adjourned the DIP Motion to May 8, 2024. *See* Docket No. 572. On April 26, 2024, the Debtors adjourned the DIP Motion to June 18, 2024. *See* Docket No. 619. On June 7, 2024, the Debtors withdrew the DIP Motion without prejudice. *See* Docket No. 758.

[16] The PC Proposal is attached to the Petitioning Creditors' Trustee Motion as Exhibit B.

[17] The Omnibus Objection provides that on "March 18, 2024 the [U.S. Trustee] stated that they had no objection to the DIP Facility and deferred to the Debtors' business judgment on the selection of unsecured postpetition facilities." Docket No. 513, ¶ 45.

8. *Vessel Arrest*

On May 2, 2024, the Creditors' Committee filed a letter (the "May 2 Letter"), informing the Bankruptcy Court that one of the vessels owned by the SMEs, which are wholly owned subsidiaries of Eletson Holdings may have been arrested (the "Vessel Arrest"). *See* Docket No. 630. The May 2 Letter provides that the Debtors did not inform the Creditors' Committee or the Bankruptcy Court of the Vessel Arrest until the Creditors' Committee and the Petitioning Creditors asked the Debtors. *See id.* ("[the Debtors confirmed that the vessel had been arrested in Freeport, Bahamas on April 25 and provided some information concerning the arrest.").

On May 3, 2024, the Debtors filed a response to the May 2 Letter (the "May 3 Letter"). *See* Docket No. 631. The May 3 Letter describes and attaches the information the Debtors provided to the Creditors' Committee regarding the Vessel Arrest, and states that the Debtors do not expect to suffer any damages as a result, among other things. *Id.* The May 3 Letter also provides that the claim that led to the Vessel Arrest was made by a former charterer, who is also the current charterer of two other SMEs. *Id.*

At a hearing held on other matters on May 8, 2024, the parties provided a further update on the Vessel Arrest and explained that the Vessel Arrest was only lifted after that former charterer paid into court its charter hire payments that it would otherwise have made for the two other SMEs. As a result of those payments, those two SMEs will not produce any earnings to Eletson Holdings for a month. The Debtors informed the Bankruptcy Court that they would continue to provide information about the impact of the Vessel Arrest.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the characterizations of the arrest and Debtors' communication with the Creditors' Committee. The Debtors assert that Counsel for Debtors was in contact with the Creditors' Committee regarding the vessel arrest on April 29, 2024, and provided updated and detailed reports from the officers of the Bareboat Charterer detailing the facts and circumstances concerning the arrest. The Debtors assert that the arrest did not relate to the performance of the vessel's voyage or carriage of cargo onboard. Instead, the Debtors assert that the arrest was brought by a previous charter of the vessel to obtain security for an old claim against the SME related to purported consequential delay damage related to the transit of the vessel through the Panama Canal in May 2023. The Debtors state that the arrest was dealt with swiftly and efficiently, without causing delay."

C. The Debtors' Plan and Related Negotiations

1. *The Debtors' Unconfirmable, Insider "New Value" Plan*

Per the Conversion Stipulation, the Petitioning Creditors agreed, among other things, not to oppose or seek to terminate the Debtors' exclusive right to file a

chapter 11 plan for the first 120 days after the Conversion Date.[18] In the Petitioning Creditors' opinion, during the 120 days post-conversion, the Debtors did nothing to progress these Chapter 11 Cases in good faith. The Debtors did not reach out to the Petitioning Creditors to discuss any form of consensual resolution of the Debtors' obligations, much less discuss a plan during the 120-day exclusivity period. The Petitioning Creditors understand that Debtors also refused to engage with the Creditors' Committee, even after instructed by the Bankruptcy Court to do so.

On January 23, 2024—the very last day of the Debtors' exclusivity period—the Debtors filed a proposed chapter 11 plan of reorganization [Docket No. 370] (the "Debtors' Initial Plan") and a related disclosure statement [Docket No. 371] (the "Debtors' Initial Disclosure Statement").

Under the Debtors' Initial Plan, creditors will receive almost no recoveries, while the Debtors' existing shareholders will retain their equity interests in Eletson Holdings despite the Debtors proposing to provide creditors almost no recoveries. The Debtors propose to fund their plan with an up to $10 million contribution by their existing shareholders in an undisclosed amount of cash and/or other assets (the "Initial Shareholder New Value Contribution"), which proposed funding was not subject to a market test or made available to any parties other than the Debtors' insiders.

On April 8, 2024—the eve of the April 9 Trial on the Trustee Motions, the Debtors filed an amended version of the Debtors' Initial Plan [Docket No. 570] (the "Debtors' Amended Plan").

The Petitioning Creditors' believe that neither the Debtors' Initial Plan nor the Debtors' Amended Plan was proposed in good faith. It is the Petitioning Creditors' view that the Debtors' Amended Plan is unconfirmable for at least four reasons. *First*, the Debtors' Amended Plan violates the absolute priority rule and bedrock bankruptcy principles and case law, including Supreme Court precedent, that shareholders cannot be given the exclusive right to invest new value in the debtor absent a market test. The Debtors' Amended Plan allows the Debtors' shareholders to retain their equity interests, unimpaired for a contribution of undisclosed cash and /or other assets with an aggregate value of $30 million (the "Amended Shareholder New Value Contribution" and together with the Initial Shareholder New Value Contribution, the "Shareholder New Value Contribution"). *Second*, the Debtors' Amended Plan violates the "best interests" of creditors test because nearly every single class of claims, if not all, would receive more in a hypothetical chapter 7 liquidation where 100% of the value of the Debtors would be available for creditors prior to shareholders receiving value on account of their interests. *Third*, the Debtors' Amended Plan impermissibly classifies general unsecured claims in a way that is designed to gerrymander an impaired accepting class of claims by separately classifying similar claims without a valid business purpose. *Fourth*, the Debtors' Amended Plan lacks any indicia of good faith,

[18] Section 1121(b) of the Bankruptcy Code provides that "[e]xcept as otherwise provided in this section, only the debtor may file a plan until after 120 days after the date of the order for relief under this chapter." 11 U.S.C. § 1121(b). The initial 120-day exclusivity period is subject to extension by the Bankruptcy Court for "cause." 11 U.S.C. § 1121(d).

including that it has not been discussed with the Petitioning Creditors or the Creditors' Committee prior to filing and impairs classes of claims despite having the ability to keep them unimpaired. Additionally, the Debtors' Amended Plan would provide the Debtors' directors and officers with broad releases for both prepetition and postpetition conduct, through various exculpation and injunction provisions, even though the Creditors' Committee (and others) has identified material claims against the directors and officers. Finally, the Debtors' Amended Plan improperly caps the fees incurred by counsel to the Creditors' Committee.

The Debtors' Amended Plan was not accompanied by an amended disclosure statement, and it was not until April 26, 2024 that the Debtors filed an amended version of the Debtors' Initial Disclosure Statement [Docket No. 621] (the "Debtors' Amended Disclosure Statement").

On May 13, 2024, the Debtors filed further amended versions of the Debtors' Amended Plan [Docket No. 671] (the "Debtors' Second Amended Plan") and the Debtors' Amended Disclosure Statement [Docket No. 672] (the "Debtors' Second Amended Disclosure Statement"). On May 14, 2024, the Debtors filed a valuation analysis [Docket No. 687] (the "Debtors' Valuation Analysis"). Just like the Debtors' prior filings, the Petitioning Creditors believe that the Debtors' Second Amended Plan was not proposed in good faith and the Debtors' Second Amended Disclosure Statement lacks adequate information for creditors to cast an informed vote. The Debtors' Second Amended Disclosure Statement still does not contain any financial projections. There are also conclusory explanations that the Petitioning Creditors believe are inconsistent with the facts about how the Debtors "marketed" financing opportunities for their plan and "negotiated" the Shareholder New Value Contribution with their shareholders and insiders. The Debtors' Second Amended Plan also appears to have materially reduced creditors' recoveries by providing for a "Gas Ownership Settlement" that expressly provides that the Debtors' contemplated litigation trust will not include any claims or causes of action against Levona and permits the Gas Ownership Defendants (defined as Eletson Gas, the Nominees, and/or any officers or directors of the same) to settle not only potentially valuable claims against Levona but also the claims and causes of action in connection with the transfer of the Gas Preferred Shares. These provisions are not explained in the Debtors' Second Amended Disclosure Statement, were made without any negotiation with the Debtors' creditors, and are further evidence of the Debtors' bad faith.

When the Debtors' filed the Debtors' Initial Plan and the Debtors' Initial Disclosure Statement, the Debtors also filed a motion for approval of the Debtors' Initial Disclosure Statement and procedures for the solicitation of votes with respect to the Debtors' Initial Plan [Docket No. 372] (the "Debtors' Solicitation Motion"). The Debtors' Solicitation Motion was scheduled to be heard at the May 15 Hearing. *See* Docket No. 635 and 655. On May 9, 2024, Levona and the Petitioning Creditors filed objections to the Debtors' Solicitation Motion, which the Debtors replied to on May 13, 2024. *See* Docket Nos. 648, 651, 668, and 670. Pursuant to the Debtors' request, the Bankruptcy Court extended the Creditors' Committee's objection deadline on the Debtors' Solicitation Motion to May 13, 2024 at 4:00 p.m. *See* Docket No. 650. On May 13, 2024, the Creditors' Committee filed an objection and reservation of rights to the Debtors' Solicitation Motion [Docket No. 669], which was joined by the Exchange Notes

Trustee [Docket No. 674], and which the Debtors' replied to May 14, 2024. *See* Docket No. 686.

On May 14, 2024, the Debtors' filed a revised proposed order approving the Debtors' Solicitation Motion. *See* Docket No. 690.

At the May 15 Hearing, the Bankruptcy Court considered the Debtors' Solicitation Motion, in addition to the other matters, and continued the May 15 Hearing to give the Debtors an opportunity to revise the Debtors' Second Amended Plan and the Debtors' Second Amended Disclosure Statement to address various issues raised at the May 15 Hearing.

On May 30, 2024, the Bankruptcy Court scheduled a status conference for May 31, 2024 [Docket No. 723] (the "May 31 Status Conference"). The morning of the May 31 Status Conference, the Debtors filed further amended versions of the Debtors' Second Amended Plan [Docket No. 725] (the "Debtors' Revised Second Amended Plan") and the Debtors' Second Amended Disclosure Statement [Docket No. 726] (the "Debtors' Revised Second Amended Disclosure Statement"). Just like the Debtors' prior filings, the Petitioning Creditors believe that the Debtors' Revised Second Amended Plan was not proposed in good faith and the Debtors' Revised Second Amended Disclosure Statement lacks adequate information for creditors to cast an informed vote. The Debtors' Revised Second Amended Disclosure Statement contains conclusory and misleading statements about how the Debtors negotiated the "Collections Contribution" and the Shareholder New Value Contribution, among other things. The Debtors' Revised Second Amended Disclosure Statement also does not clearly explain the Retained Causes of Action Contribution or the Excess SME Proceeds concept, which impacts creditors' recoveries under the Debtors' Revised Second Amended Plan.

On June 6, 2024, the Debtors filed further amended versions of the Debtors' Revised Second Amended Plan and the Debtors' Revised Second Amended Disclosure Statement. *See* Docket Nos. 744 and 746.

On June 12, 2024, the Petitioning Creditors and the Creditors' Committee (joined by the Exchange Notes Trustee) each filed supplemental objections to the Debtors' Solicitation Motion [Docket Nos. 771, 772 & 773] (the "Supplemental DS Objections"). In general, the Supplemental DS Objections argue that the Debtors' further revised disclosure statements continue to lack "adequate information" and describe a chapter 11 plan that is patently unconfirmable. As such, the Supplemental DS Objections request that the Court deny the Debtors' Solicitation Motion and reject the Debtors' request to solicit their plan. On June 14, 2024, the Debtors filed a reply to the Supplemental DS Objections. *See* Docket No. 785. On June 14, 2024, the Debtors filed further amended versions of the Debtors' Revised Second Amended Plan and the Debtors' Revised Second Amended Disclosure Statement. *See* Docket Nos. 786 and 787.

A hearing with respect to the Debtors' Solicitation Motion is currently scheduled for June 18, 2024.

The Debtors have requested the following text be included, which the Petitioning Creditors disagree with: "The Debtors disagree with the characterization of the various iterations of the Debtors' Plan and associated Disclosure Statements. The Debtors assert that as a threshold issue, the assertion that the Debtors' Plan is patently unconfirmable as an unmarketed new value plan is a conclusion of law that is without merit and contrary to the facts of these Chapter 11 Cases. As noted by the Bankruptcy Court, the Debtors made the affirmative decision to allow the exclusivity period to expire to market test the Debtors' Plan in accordance with settled case law. It is the Debtors' view that as both the Debtors and the Petitioning Creditors have made significant changes to their plans and increased the value provided to creditors, it is clear the Debtors' marketing process is working. In the Debtors' view, the assertion that the Debtors' Plan was not proposed in good faith is equally meritless. In the Debtors' view, the Debtors have engaged in good faith with parties in interest in these Chapter 11 Cases, including the Creditors' Committee, to materially improve the terms of the Debtors' Plan and increase the recovery for Creditors entitled to a recovery under the Debtors' Plan. The Debtors encourage all Creditors to review the terms of the Debtors' Plan and associated Disclosure Statement for an accurate description of the terms of the Debtors' Plan, a more fulsome and accurate description of the Debtors' plan process and an understanding of the recovery creditors would be entitled to under the Debtors' Plan."

2. *The Petitioning Creditors' Motion to Terminate Exclusivity*

On January 29, 2024, the Petitioning Creditors filed a motion to terminate the Debtors' exclusivity period [Docket No. 384] (the "Exclusivity Termination Motion"), which was joined by the Exchange Notes Trustee [Docket No. 419]. On March 12, 2024, the Creditors' Committee filed a statement in support of the Exclusivity Termination Motion [Docket No. 473]. The Exclusivity Termination Motion argues that the Debtors forfeited exclusivity by filing the Debtors' Initial Plan, which is an unconfirmable new value plan (*id.* at 18), and that even if the Debtors had not filed an unconfirmable new value plan, termination is warranted under the *Adelphia* factors (*id.* at 19-29). The Exclusivity Termination Motion also argues that the Debtors have repeatedly demonstrated that they have no intention of advancing these Chapter 11 Cases to a good faith resolution. *Id.* at 18, 22.

Pursuant to the Adjournment Order, the Bankruptcy Court adjourned all briefing and hearing dates and deadlines with respect to the Exclusivity Termination Motion pending further discussion at the February 27 Status Conference. At the February 27 Status Conference, the Bankruptcy Court scheduled the Exclusivity Termination Motion for the April 9 Trial.

On March 25, 2024, the Debtors' exclusivity periods expired under the Bankruptcy Code without the Debtors seeking any extension.

3. *Mediation*

On February 13, 2024, the Debtors filed a motion to compel mediation regarding the Debtors' Initial Plan and other issues affecting these Chapter 11 Cases [Docket No. 412] (the "Motion to Compel Mediation"). On February 14, 2024, the

Petitioning Creditors and the Creditors' Committee each filed letters in response to the Motion to Compel Mediation [Docket Nos. 414 and 415]. The Petitioning Creditors asserted that the Motion to Compel Mediation was unnecessary, intended to create additional delay and cost, and the timing of the filing was further indication of the Debtors' lack of good faith in participating in the mediation. Nevertheless, the Petitioning Creditors indicated that they were ready, willing, and able to participate in mediation as soon as possible. The Creditors' Committee agreed with the Petitioning Creditors, and further suggested that the parties use the time leading up to the February 27 Status Conference to explore "whether it would be feasible to reach a mediated resolution of these cases" and proposed that Judge Allan L. Gropper, (Ret.) who previously presided over the Initial Mediation of these parties in September 2023, serve as the mediator. *See* Docket No. 415 at 1.

On February 15, 2024, the Bankruptcy Court adjourned all briefing and hearing dates and deadlines with respect to the Motion to Compel Mediation pending further discussion at the February 27 Status Conference. At the February 27 Status Conference, the Bankruptcy Court directed the parties to participate in the Chapter 11 Mediation (as defined below).

4. *February 27 Status Conference*

In accordance with the Bankruptcy Court's Adjournment Order entered on February 12, 2024, the parties met and conferred regarding a joint status report setting forth their respective positions, which status report was filed on February 26, 2024 [Docket No. 435]. At the status conference held on February 27, 2024 (the "February 27 Status Conference"), the Bankruptcy Court directed the parties to mediate (the "Chapter 11 Mediation") before Judge Allan L. Gropper, (Ret.) (the "Mediator"). On March 13, 2024, the Bankruptcy Court entered the order re-appointing the Mediator [Docket No. 479] (the "Mediation Order"), which directed the Debtors, the Petitioning Creditors, the Creditors' Committee, the Nominees, Levona, the Exchange Notes Trustee, Eletson Corp, and Eletson Gas to mediate the Mediation Matters (as defined in the Mediation Order). The Chapter 11 Mediation began on March 27, 2024. The Chapter 11 Mediation continued thereafter. While the parties negotiated and engaged in the Chapter 11 Mediation in good faith, the parties were not able to reach settlement on the Mediation Matters.

At the February 27 Status Conference, the Bankruptcy Court also scheduled the April 9 Trial on the UCC Trustee Motion, the UST Trustee Motion, and the Exclusivity Termination Motion. On March 8, 2024, the Bankruptcy Court entered the scheduling order on the UCC Trustee Motion, the UST Trustee Motion, and the Exclusivity Termination Motion [Docket No. 467] (the "Scheduling Order"), which set March 22, 2024 as the objection deadline and April 2, 2024 as the reply deadline on the UCC Trustee Motion, the UST Trustee Motion, and the Exclusivity Termination Motion.[19] *See* Docket No. 467.

[19] Subsequently, the Petitioning Creditors' Trustee Motion and the DIP Motion were scheduled to be heard at the April 9 Trial. *See* Docket Nos. 481 and 494.

5. *Expiration of Exclusivity*

On March 25, 2024, the Debtors' exclusivity periods expired under the Bankruptcy Code without the Debtors seeking any extension. Accordingly, on March 26, 2024, the Petitioning Creditors as Plan Proponents filed a prior version of the Plan and Disclosure Statement. *See* Docket Nos. 531 and 532.

On April 10, 2024, the Petitioning Creditors filed a motion for approval of the prior Disclosure Statement and procedures for the solicitation of votes with respect to a prior version of the Plan [Docket No. 574] (the "Petitioning Creditors' Solicitation Motion"). The Petitioning Creditors' Solicitation Motion was heard at the May 15 Hearing. *See* Docket No. 632 and 656. On May 9, 2024, the Debtors filed an objection to the Petitioning Creditors' Solicitation Motion, which the Petitioning Creditors replied to on May 13, 2024. *See* Docket Nos. 653 and 667. On May 14, 2024, the Creditors' Committee filed a statement in support of the Petitioning Creditors' Solicitation Motion. *See* Docket No. 689. No other parties filed any pleadings with respect to the Petitioning Creditors' Solicitation Motion.

D. The Petitioning Creditors' Plan and Related Negotiations

Following the expiration of the Debtors' exclusivity periods, on March 26, 2024, the Plan Proponents filed an initial version of the Plan [Docket No. 531] (the "PC Initial Plan") and related disclosure statement [Docket No. 532]. Following the filing of the PC Initial Plan, the Plan Proponents and their advisors engaged in substantial negotiations with various creditors and constituents in these Chapter 11 Cases, including the Creditors' Committee and their advisors, among others. Following these discussions, on May 10, 2024, the Plan Proponents filed a *Notice of Filing of (1) Anticipated Modifications to the Petitioning Creditors' Joint Chapter 11 Plan of Reorganization of Eletson Holdings Inc. and its Affiliated Debtors and (2) Certain Appendices Related to the Petitioning Creditors' Disclosure Statement Related Thereto* [Docket No. 658]. On May 13, 2024, the Plan Proponents filed an amended version of the Plan and an amended Disclosure Statement.

On May 14, 2024, the Plan Proponents filed further amended versions of the Plan and the amended Disclosure Statement [Docket Nos. 695 and 696]. Among other things, the Plan and Disclosure Statement contain a number of significant changes from that set forth in the PC Initial Plan, such as:

- Decreasing the Backstop Premium from 10% to 8%;
- Increasing the GUC Cash Pool from US$12,500,000 to US$13,500,000;
- Increasing the Convenience Claim Threshold Amount from US$200,000 to US$1,000,000;
- Increasing the Convenience Claim Cap from US$1,000,000 to US$2,500,000

- Increasing the recovery percentage for Holders of Allowed Convenience Claims from 10% to 15%;

- Giving all General Unsecured Claimholders the option to become Backstop Parties; and

- Establishing the composition of the New Board and certain governance matters relating thereto.

At the May 15 Hearing, the Bankruptcy Court approved the Petitioning Creditors' Solicitation Motion and the Rights Offering Procedures Motion (as defined below), but declined to enter the orders approving the respective motions until the Debtors addressed the various issues raised at the May 15 Hearing on the Debtors' Second Amended Plan and the Debtors' Second Amended Disclosure Statement.

At the May 31 Status Conference, the parties discussed the Debtors' Revised Second Amended Plan and the Debtors' Revised Second Amended Disclosure Statement and the Bankruptcy Court continued the hearing on the Debtors' Revised Second Amended Disclosure Statement to June 7, 2024. *See* Docket No. 736. The Bankruptcy Court also directed the parties to submit a joint status report to the Bankruptcy Court on June 6, 2024. *Id.*

On June 6, 2024, the Plan Proponents filed further amended versions of the PC Initial Plan and PC Initial Disclosure Statement [Docket Nos. 740, 741].

E. The Petitioning Creditors' "Alternative Plan"

At the May 15 Hearing, the Petitioning Creditors expressed their desire to submit an alternative offer based on the structure of the Debtors' Amended Plan. After the May 15 Hearing, the Petitioning Creditors continued to express interest in submitting an alternative offer, but the Debtors did not engage and could not identify who at the Debtors would receive and evaluate such bid. *See* Docket Nos. 712, 718 & 720. In order to progress these cases, on June 5, 2024, the Petitioning Creditors provided an alternative bid term sheet (the "PC Alternative Term Sheet ") to counsel for the Debtors and the Creditors' Committee and the next day filed the PC Alternative Term Sheet on the docket. *See* Docket No. 745. The PC Alternative Term Sheet sets forth the terms of a comprehensive restructuring of the existing debt and other obligations of the Debtors that is based on the Debtors' Amended Plan but provides significant improvements for creditors. *Id.*

On June 11, 2024, the Petitioning Creditors filed the PC Alternative Plan and the related disclosure statement [Docket No. 763] (the "PC Alternative DS"). A motion to consider approval of the PC Alternative DS [Docket No. 764] (the "PC Alternative Solicitation Motion") is scheduled for the June 18 Hearing consistent with the Court's direction at a hearing held on June 7, 2024. On June 14, 2024, the Petitioning Creditors filed financial wherewithal information related to the PC Alternative Plan. *See* Docket No. 781. On June 14, 2024, the Debtors filed an objection to the PC Alternative Solicitation Motion and the Creditors' Committee filed an objection and

reservation of rights to the PC Alternative Solicitation Motion. *See* Docket Nos. 783 and 784.

IV. SUMMARY OF THE PC ALTERNATIVE PLAN

The following table summarizes the classification and treatment of all claims against and interests in the Debtors under both the Debtors' Plan and the PC ~~Overbid~~Alternative Plan. Please note that the description in the column titled "Debtors' Plan" is taken verbatim from the Debtors' Disclosure Statement and the redline changes in the column titled "PC ~~Overbid~~Alternative Plan Treatment and Estimated Recovery" indicates the changes made to the PC ~~Overbid~~Alternative Plan from the Debtors' Plan.

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC ~~Overbid~~Alternative Plan Treatment and Estimated Recovery
OCM Guaranty Claims (Class 1) **Approx. $49,100,000**	Except to the extent that a Holder of an Allowed OCM Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each OCM Guaranty Claim, each of the OCM Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, Reorganized Debtor or the OCM Entities, provided however, that the Reorganized Debtor shall be obligated to guaranty fifty percent (50%) of the obligations of the SMEs subject to the OCM Guarantees. Holders of OCM Guaranty Claims will receive no cash distributions under the Plan on account of their OCM Guaranty Claims. Debtors' Estimated Recovery: Impaired (50%) Class 1 is Impaired and Holders of Class 1 Claims are entitled to vote to accept or reject the Debtors' Plan.	Except to the extent that a Holder of an Allowed OCM Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each OCM Guaranty Claim, each of the OCM Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, ~~Reorganized Debtor or OCM Entities, provided, however, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the obligations of the SMEs subject to the OCM Guarantees~~ the Reorganized Debtor or the OCM Entities. PC ~~Overbid~~Alternative Estimated Recovery: Unimpaired (100%) Class 1 is Unimpaired and Holders of Class 1 Claims are deemed to accept the PC ~~Overbid~~Alternative Plan.
Corp Guaranty Claims (Class 2) **Approx. $27,768,000**	The Corp Guaranty Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Corp Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for, each Corp Guaranty Claim, (i) each Holder of an Allowed Corp Guaranty Claim shall receive its pro rata distribution of the Eletson Corporation Guaranty	Except to the extent that a Holder of an Allowed Corp Guaranty Claim agrees to less favorable treatment, upon the occurrence of the Effective Date, in full settlement, release, and satisfaction of, and in exchange for each Corp Guaranty Claim, ~~(i)~~ each holder of an Allowed Corp Guaranty Claim shall receive, at its ~~pro rata distribution of the Eletson Corporation~~ election: (i) (A) its Pro Rata, share among Corp Guaranty ~~Recovery~~ Claims, of $1,250,000;

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC ~~Overbid~~Alternative Plan Treatment and Estimated Recovery
	Recovery[20] and (ii) each of the Corp Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, Reorganized Debtor or Corp Guaranty counterparties, provided however, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the obligations of Eletson Corporation subject to the Corp Guarantees. Debtors' Estimated Recovery: 53.6% Class 2 is Impaired and Holders of Class 1 Claims are entitled to vote to accept or reject the Debtors' Plan.	provided, for the avoidance of doubt, the Pro Rata share calculation in this subclause (A) shall be calculated based on the aggregate amount of all Allowed Corp Guaranty Claims whether or not Holders of such Claims receive the treatment in this subclause (A); and ~~(ii~~ (B) each of the Corp Guarantees shall be reinstated in full force and effect and made effective as to the Reorganized Debtor unmodified in their terms without further action of the Debtors, the Reorganized Debtor or Corp Guaranty counterparties,; provided, however, that the Reorganized Debtor shall only be obligated to guaranty fifty percent (50%) of the obligations of Eletson Corporation subject to the Corp Guarantees.; or (ii) its Pro Rata share, among Corp. Guaranty Claims, of $3,000,000; *provided*, for the avoidance of doubt, the Pro Rata share calculation in this subclause (ii) shall be calculated based on the aggregate amount of all Allowed Corp Guaranty Claims whether or not Holders of such Claims receive the treatment in this subclause (ii); *provided*, if a Holder of a Corp Guaranty Claim does not submit a Ballot or submits a Ballot but fails to affirmatively elect the treatment set forth in Article II.C.2(b)(i) of the Plan, such Holder shall be deemed to have elected the treatment specified in Article II.C.2(b)(ii) of the Plan with respect to its Allowed Corp Guaranty Claim. PC ~~Overbid~~Alternative Estimated Recovery: Up to 54.5% Class 2 is Impaired and Holders of Class 2 Claims are entitled to vote to accept or reject the PC ~~Overbid~~Alternative Plan.

[20] Under the Debtors' Plan, the "Eletson Corp Guaranty Claim Recovery" is defined as "$1,000,000.00 to be paid Pro Rata to Holders of Corp Guaranty Claims."

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC ~~Overbid~~Alternative Plan Treatment and Estimated Recovery
Azure Guaranty Claims (Class 3) **Approx. $94,799,000**	Except to the extent that a holder of an Allowed Azure Guaranty Claim agrees to less favorable treatment, if not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release, and satisfaction of the Azure Guaranty Claims, by wire transfer of immediately available funds, their Pro Rata portion of the Azure Guaranty Recovery.[21] Debtors' Estimated Recovery: .21% Class 3 is Impaired and Holders of Class 3 Claims are entitled to vote to accept or reject the Debtors' Plan.	Except to the extent that a holder of an Allowed Azure Guaranty Claim agrees to less favorable treatment, If not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Azure Guaranty Claims, the Disbursing Agent shall pay to the Holders of Azure Guaranty Claims, by wire transfer of immediately available funds, their Pro Rata portion of the Azure Guaranty Recovery. PC ~~Overbid~~Alternative Estimated Recovery: .21% Class 3 is Impaired and Holders of Class 3 Claims are entitled to vote to accept or reject the PC ~~Overbid~~Alternative Plan.
Trade Creditor Claims (Class 4) **Approx. $2,750,000**	The Trade Creditor Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Trade Creditor Claim agrees to less favorable treatment, if not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Trade Creditor Claims, each Holder of an Allowed Trade Creditor Claim shall receive, in exchange for such Allowed Trade Creditor Claim, Cash in an amount equal to 15% of the Face Amount of such Holder's Trade Creditor Claim from the Trade Creditor Reserve; *provided*, that in the event the aggregate distributions to Holders of Trade Creditor Claims exceeds the Trade Creditor Claim Cap, Holders of Trade Creditor Claims shall receive their Pro Rata Share of the Trade Creditor Claim Cap.[22] Debtors' Estimated Recovery: 15%	Except to the extent that a Holder of an Allowed Trade Creditor Claim agrees to less favorable treatment, if not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Trade Creditor Claims, each Holder of an Allowed Trade Creditor Claim shall receive, in exchange for such Allowed Trade Creditor Claim, Cash in an amount equal to 15% of the Face Amount of such Holder's Trade Creditor Claim from the Trade Creditor Claim Reserve; provided, that in the event the aggregate distributions to Holders of Trade Creditor Claims exceeds the Trade Creditor Claim Cap, Holders of Trade Creditor Claims shall receive their Pro Rata Share of the Trade Creditor Claim Cap.

[21] Under the Debtors' Plan, the "Eletson Corp Guaranty Claim Recovery" is defined as "the lesser of (i) $200,000 and (ii) such other amount as determined by the Debtors and Azure in full and complete settlement, release, and satisfaction of the Azure Guaranty Claims."

[22] Under the Debtors' Plan, (a) the "Trade Creditor Claim Reserve" is defined as "a reserve created in the amount of the Trade Creditor Claim Cap to fund recoveries for Trade Creditor Claims" and (b) the "Trade Creditor Claim Cap" is defined as "$1,000,000.00."

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC ~~Overbid~~Alternative Plan Treatment and Estimated Recovery
	Class 4 is Impaired and Holders of Class 4 Claims are entitled to vote to accept or reject the Debtors' Plan.	PC ~~Overbid~~Alternative Estimated Recovery: 15% Class 4 is Impaired and Holders of Class 4 Claims are entitled to vote to accept or reject the PC ~~Overbid~~Alternative Plan.
Noteholder Election Recovery Claims (Class 5) **Approx. [__]**[23]	The Noteholder Election Recovery Claims are Allowed Claims. Claims may only be treated as Noteholder Election Recovery Claims upon an affirmative and irrevocable election of a Holder of a Claim classified in Class 6A or 6B to have their Claim treated in Class 5. Except to the extent that a Holder of an Allowed Noteholder Election Recovery Claim agrees to less favorable treatment, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release, and satisfaction of the Noteholder Election Recovery Claims each Holder of an Allowed Noteholder Election Recovery Claim shall receive in full settlement, release, and satisfaction of such Noteholder Election Recovery Claim that is due and payable from the Noteholder Election Recovery Reserve, the lesser of (i) the Face Amount of such Holder's Noteholder Election Recovery Claim, (ii) such Holder's Pro Rata portion of the Noteholder Election Recovery Cap, or (iii) $70,000.[24] Debtors' Estimated Recovery: 1%-100% Class 5 is Impaired and Holders of Class 5 Claims are entitled to vote to accept or reject the Debtors' Plan.	The Noteholder Election Recovery Claims are Allowed Claims. Claims may only be treated as Noteholder Election Recovery Claims upon the affirmative and irrevocable election of a Holder of a Claim classified in Class 6A or 6B to have their Claim treated in Class 5. Except to the extent that a Holder of an Allowed Noteholder Election Recovery Claim agrees to less favorable treatment, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Litigation Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Noteholder Election Recovery Claims each Holder of an Allowed Noteholder Election Recovery Claim shall receive in full settlement, release, and satisfaction of such Noteholder Election Recovery Claim that is due and payable from the Noteholder Election Recovery Reserve, the lesser of (i) the Face Amount of such Holder's Noteholder Election Recovery Claim, (ii) such Holder's Pro Rata portion of the Noteholder Election Recovery Cap,[25] or (iii) ~~$70~~$100,000. Notwithstanding the foregoing, if the Bankruptcy Court determines that the ~~existence of Class 5 and/or the~~ Noteholder Election Recovery ~~Claims~~ violates any provisions of the Bankruptcy Code,

[23] The Debtors' disclosure statement [Docket No. 746, Ex. A] (the "Debtors' Disclosure Statement") states that "[t]he Noteholder Election Recovery Claims are only payable upon an affirmative election of certain Creditors to be treated in Class 5. Given the inherent uncertainty in which Creditors will elect Class 5 treatment, no estimate can be provided at this time."

[24] Under the Debtors' Plan, the "Noteholder Election Recovery Cap" is defined as $7,000,000.

[25] Under the PC ~~Overbid~~Alternative Plan, the "Noteholder Election Recovery Cap" is defined as $8,000,000.

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC ~~Overbid~~Alternative Plan Treatment and Estimated Recovery
		Holders of Class 5 Noteholder Election Recovery Claims ~~will be deemed to hold Claims under Class 6A or Class 6B in accordance with said Holder's original Claim classification.~~ shall receive such Holder's Pro Rata portion of the Noteholder Election Recovery Cap. PC ~~Overbid~~Alternative Estimated Recovery: 1%-100% Class 5 is Impaired and Holders of Class 5 Claims are entitled to vote to accept or reject the PC ~~Overbid~~Alternative Plan.
Non-Petitioning Creditor Exchange Note Claims (Class 6A) **Approx. $~~0-$337~~179,000-$380,000,000**	Except to the extent that a Holder of an Allowed Non-Petitioning Creditor Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6A Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6A Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of the Plan. Debtors' Estimated Recovery: 4.6-17% Class 6A is Impaired and Holders of Class 6A Claims are entitled to vote to accept or reject the Debtors' Plan.	The Non-Petitioning Creditor Note Claims are Allowed Claims. Except to the extent that a Holder of an Allowed Non-Petitioning Creditor Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6A Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6A Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan. [26] PC ~~Overbid~~Alternative Estimated Recovery: 4.6-17% *plus* additional value through the increase in distributions to the Litigation Trust Class 6A is Impaired and Holders of Class 6A Claims are entitled to vote to accept or reject the PC ~~Overbid~~Alternative Plan.
Petitioning Creditor Exchange Note Claims (Class 6B)	The Petitioning Creditor Exchange Note Claims are Disputed Claims and may only become Allowed by Final Order of the Bankruptcy Court. To the extent the Petitioning Creditor Exchange Note Claims are deemed Allowed Claims the Petitioning Creditor Exchange Note	~~The Petitioning Creditor Exchange Note Claims are Disputed Claims and may only become Allowed by Final Order of the~~ Only to the extent the Bankruptcy Court. ~~To the extent the~~ enters a Final Order equitably subordinating the Petitioning

[26] While the stated language of the treatment section of the Non-Petitioning Creditor Exchange Note Claims is the same under both the Debtors' Plan and the PC ~~Overbid~~Alternative Plan, as described herein, the PC ~~Overbid~~Alternative Plan provides for greater distributions to the Litigation Trust that will benefit holders of the Litigation Trust Interests in Classes 6A and 6B.

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC ~~Overbid~~Alternative Plan Treatment and Estimated Recovery
Approx. $0-$337,000,000	Claims are equitably subordinated pursuant to section 510(c) of the Bankruptcy Code and are only entitled to a recovery upon the satisfaction of all claims in Class 6A. In the event Petitioning Creditor Exchange Note Claims are found to be Allowed Claims and all Class 6A Non-Petitioning Creditor Exchange Note Claims are paid in full, and except to the extent that a Holder of an Allowed Petitioning Creditor Exchange Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6B Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6B Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of the Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of the Plan. Debtors' Estimated Recovery: 0-.1% Class 6B is Impaired and Holders of Class 6B Claims are entitled to vote to accept or reject the Debtors' Plan.	Creditor Exchange Note Claims ~~are deemed Allowed Claims the Petitioning Creditor Exchange Note Claims are equitably subordinated~~ pursuant to section 510(c) of the Bankruptcy Code ~~and~~, then such Holders are only entitled to a recovery upon the satisfaction of all Claims in Class 6A. In the event Petitioning Creditor Exchange Note Claims are found to be Allowed Claims (not equitably subordinated) and all Class 6A Non-Petitioning Creditor Exchange Note Claims are paid in full, and except to the extent that a Holder of an Allowed Petitioning Creditor Exchange Note Claim agrees to less favorable treatment, each Holder of an Allowed Class 6B Claim shall receive in full settlement, release, and satisfaction of such Allowed Class 6B Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, their Pro Rata portion of the Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan. Notwithstanding the foregoing, if the Bankruptcy Court determines it is unable to equitably subordinate the claims of Holders of Class 6B Claims through the Confirmation Order, Holders of Class 6B Claims will be deemed to hold claims under Class 6A and will be entitled to their Pro Rata portion of Litigation Trust Interests which shall be distributed to Holders of Class 6 Claims in accordance with the terms of this Plan. PC ~~Overbid~~Alternative Estimated Recovery: Same as Class 6A Class 6B is Impaired and Holders of Class 6B Claims are entitled to vote to accept or reject the PC ~~Overbid~~Alternative Plan.
Interests (Class 7)	On the Effective Date, all Interests shall be discharged, cancelled, released, and extinguished. In exchange for the Shareholder New Value Contribution, the Holders making such Shareholder New Value Contribution shall receive their pro rata share of equity of the Reorganized Debtor in a pro rata amount equal	On the Effective Date, all Interests shall be discharged, cancelled, released, and extinguished. ~~In exchange for~~, without any distributions to Holders. For the ~~Shareholder New Value Contribution,~~ avoidance of doubt, on the ~~Holders making such Shareholder New Value~~

Class and Estimated Amount	Debtors' Plan Treatment and Estimated Recovery	PC ~~Overbid~~Alternative Plan Treatment and Estimated Recovery
	to their portion of the Shareholder New Value Contribution made. Debtors' Estimated Recovery: 100% Class 7 is Impaired, and Holders of Interests are entitled to vote to accept or reject the Plan.	~~Contribution~~ Effective Date, the Plan Sponsor shall receive ~~their pro rata share~~ all of the equity ~~of~~ in the Reorganized Debtor ~~in a pro rata amount equal to their portion of the Shareholder New Value Contribution made.~~. PC ~~Overbid~~Alternative Estimated Recovery: 0% Class 7 is Impaired, and Holders of Interests are conclusively deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

~~D.~~A. Other Miscellaneous Plan Provisions

The PC ~~Overbid~~Alternative Plan contains various provisions relating to: (a) the means for implementing the Plan, and operations and governance of the Debtors after the Effective Date (*see* Article IV;), (b) procedures for making distributions from the Debtors and Reorganized Holdings and the rights and powers of any Disbursing Agent (*see* Article VII~~,~~.); (c) procedures for the reconciliation of Claims and Proofs of Claim and related matters, such as objections and estimation for any Disputed Claims (*see* Article VII.F,G~~,~~.); (d) the treatment of executory contracts and unexpired leases (*see* Article VI~~,~~.); (e) conditions precedent to consummation of the Plan (*see* Article VIII), (f) the effect of confirmation (including the injunction and exculpation provisions (as explained in greater detail below)) (*see* Article IX); and (g) miscellaneous other implementation and effectuating provisions, including the retention of the Bankruptcy Court's jurisdiction with respect to certain issues (*see* Articles X, XI).

B. Certain Matters Relating to the Exchange Notes and the Old Notes

The PC Alternative Plan contains certain provisions in Article VII.J of the PC Alternative Plan (titled "Cancellation of Instruments and Agreements") that impacts distributions to Holders of Old Notes Claims and Exchange Notes Claims. Among other things, Article VII.J of the PC Alternative Plan provides that:

> [T]he Exchange Note Indenture and the Old Notes Indenture shall remain in effect solely for the purposes of (a) allowing the applicable Holders of Claims to receive their respective distributions under this Plan as provided herein, (b) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to facilitate the distributions under this Plan to the applicable Holders of Claims as provided herein and otherwise comply with any obligations they may have under this Plan, including the cancellation of existing security interests, (c) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to preserve their respective rights to

payment of fees, expenses, and indemnification obligations as against any money or property distributable to the relevant Holder of Exchange Note Claims and Old Notes Claims, as applicable, under this Plan, and to deduct such fees and expenses from such distributions, including in respect of payment and the right to exercise their charging liens, if any, against such distributions, (d) permitting the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to perform any functions that are necessary to effectuate the foregoing, and (e) allowing the Exchange Notes Trustee and the Old Notes Trustee, as applicable, to assert any other right, privilege, benefit, or protection granted to either of them under the relevant documentation other than against the Reorganized Debtor and the Exculpated Parties; *provided*, *however*, that the foregoing shall not affect the discharge of the Debtors with respect to the Exchange Noteholder Claims and the Old Notes Claims as provided for herein, or result in any expenses or liability to the Reorganized Debtor, except to the extent set forth in or provided for under this Plan. Notwithstanding anything to the contrary herein, the terms and provisions of this Plan shall not alter, modify, or amend any existing contract or agreement between any of the Exchange Notes Trustee, the Old Notes Trustee and any current or former Exchange Noteholder or Old Noteholder, as applicable, and any such contract or agreement shall remain in full force and effect according to its terms following the Effective Date.

PC Alternative Plan, Art. VII.J.

In broad strokes, Article VII.J of the PC Alternative Plan affirms the ability of the Exchange Notes Trustee and the Old Notes Trustee to exercise their respective "charging lien" to recover from noteholders' distributions under the PC Alternative Plan amounts necessary to satisfy the Exchange Notes Trustee's and the Old Notes Trustee's fees and expenses related to their respective indentures. Such amounts will reduce noteholders' recoveries under the PC Alternative Plan on a pro rata basis and are expected to be approximately (a) in the case of the Exchange Notes Trustee, approximately $400,000, and (b) in the case of the Old Notes Trustee, between approximately $3,000,000 and $4,000,000. To the extent that any noteholders have paid the Exchange Notes Trustee's and/or Old Notes Trustee's fees and expenses prior to the Effective Date, such fees and expenses will be reimbursed in accordance with any agreements between such noteholder(s) and the Exchange Notes Trustee and/or Old Notes Trustee

E.C. Litigation Trust Causes of Action

The Debtors' Plan provides that only those certain claims and causes of action set forth on Exhibit 6 to the Debtors' Disclosure Statement will be transferred to the Litigation Trust and that any and all other claims and causes of action not expressly set forth therein will be retained by the Reorganized Debtor. *See* Debtors' Plan Art.V.B. For any such retained causes of action, the Debtors' Plan provides that 75% of the net cash recoveries on account of such retained causes of action will be contributed by the Reorganized Debtor to the Litigation Trust (including net of the costs of collection and net of any amounts setoff by the Reorganized Debtor for amounts owed to any

defendant under a retained cause of action). *See* Debtors' Plan Art.I.B.~~149~~150. The Debtors' Plan also provides that for any "Unknown Causes of Action" the Debtors and their Independent Committee (not the creditors, the Litigation Trust Trustee, or the Litigation Oversight Committee) will determine whether such Unknown Causes of Action will be contributed to the Litigation Trust. *See* Debtors' Plan Art.V.B.

On the other hand, the PC ~~Overbid~~Alternative Plan transfers to the Litigation Trust (a) all of the Debtors' claims and causes of action (not just those identified on any schedule) other than the ongoing Arbitration (which is subject to the same 75% / 25% sharing as under the Debtors' Plan) and (b) to the extent there are unknown causes of action discovered in the future, all such unknown causes of action will be contributed by the Reorganized Debtor to the Litigation Trust. *See* PC ~~Overbid~~Alternative Plan ~~At~~Art.I.B.~~103~~105. Thus, the PC ~~Overbid~~Alternative Plan provides for more claims and causes of action to be transferred to the Litigation Trust than the Debtors' Plan and, correspondingly, a higher return to creditors.

The PC ~~Overbid~~Alternative Plan does not provide for the release of any claims or causes of action belonging to the Debtors or their estates or any claims of any third parties against any non-debtors. The Debtors' Plan, however, contains certain injunction provisions that would prevent third party non-debtors (including the Debtors' creditors) from bringing direct claims against non-debtors, such as the Debtors' directors, officers, shareholders, and professionals. *See* Debtors' Plan Art.IX.A.

The PC ~~Overbid~~Alternative Plan contains certain usual and customary discharge and injunction provisions consistent with the Bankruptcy Code and as part of implementing the restructuring set forth in the PC ~~Overbid~~Alternative Plan. Each of the foregoing is described in greater detail in Articles IX.A – D of the PC ~~Overbid~~Alternative Plan.

V. LIQUIDATION ANALYSIS (BEST INTERESTS OF CREDITORS' TEST)

~~II. Liquidation Analysis (Best Interests of Creditors' Test)~~

In support of the Plan Proponents' belief that Holders of Claims in each impaired Class will receive more under the PC ~~Overbid~~Alternative Plan than if the Debtors' assets were liquidated under chapter 7 of the Bankruptcy Code, attached to this Disclosure Statement as **Appendix ~~E~~F** is a liquidation analysis (the "Liquidation Analysis") prepared by Batuta Capital Advisors LLC ("Batuta") at the direction of the Plan Proponents. The Liquidation Analysis assumes that the Chapter 11 Cases were converted to chapter 7 cases and that each Debtors' assets are liquidated under the direction of a chapter 7 trustee.

The assumptions used in developing the Liquidation Analysis are inherently subject to significant uncertainties and contingencies. Accordingly, there can be no assurances that the values assumed in the Liquidation Analysis would be realized if the Debtors were actually liquidated. In addition, any liquidation would take place in the future at which time circumstances may exist that cannot presently be predicted. A description of the procedures followed and the assumptions and qualifications made

by the Plan Proponents in connection with the Liquidation Analysis are set forth in the notes thereto.

THESE LIQUIDATION VALUES HAVE BEEN PREPARED SOLELY FOR USE IN THIS DISCLOSURE STATEMENT AND DO NOT REPRESENT VALUES THAT ARE APPROPRIATE FOR ANY OTHER PURPOSE. NOTHING CONTAINED IN THE LIQUIDATION ANALYSIS IS INTENDED TO BE OR CONSTITUTES A CONCESSION BY OR ADMISSION OF ANY DEBTOR FOR ANY PURPOSE.

VI. FINANCIAL PROJECTIONS (FEASIBILITY)

~~III. Financial Projections (Feasibility)~~

In connection with confirmation of the PC ~~Overbid~~Alternative Plan, the Bankruptcy Court must determine that the PC ~~Overbid~~Alternative Plan is feasible in accordance with section 1129(a)(11) of the Bankruptcy Code (which section requires that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors). To support the Plan Proponents' belief that the PC ~~Overbid~~Alternative Plan is feasible, Batuta has prepared the projections for Reorganized Holdings, as set forth in **Appendix ~~F~~G** (the "Financial Projections"). Accordingly, the Plan Proponents believe that all Plan obligations will be satisfied without the need for further reorganization of the Debtors.

~~IV. Valuation~~

VII. VALUATION

Batuta, at the direction of the Plan Proponents, has performed an analysis of the estimated value of Reorganized Holdings, which is set forth in the valuation analysis in **Appendix ~~G~~H** (the "Valuation Analysis"). The Valuation Analysis is based on commonly accepted valuation methodologies.

The Valuation Analysis is based upon a number of estimates and assumptions that are inherently subject to significant uncertainties and contingencies beyond the control of the Plan Proponents and Reorganized Holdings. Accordingly, there can be no assurance that the ranges reflected in the Valuation Analysis would be realized if the PC ~~Overbid~~Alternative Plan were to become effective, and actual results could vary.

THE VALUATION ANALYSIS REPRESENTS A HYPOTHETICAL VALUATION OF REORGANIZED HOLDINGS AND ITS ASSETS, WHICH ASSUMES THAT REORGANIZED HOLDINGS CONTINUES AS AN OPERATING BUSINESS. THE ESTIMATED VALUE SET FORTH IN THE VALUATION ANALYSIS DOES NOT PURPORT TO CONSTITUTE AN APPRAISAL OR NECESSARILY REFLECT THE ACTUAL MARKET VALUE THAT MIGHT BE REALIZED THROUGH A SALE OR LIQUIDATION OF REORGANIZED HOLDINGS, ITS SECURITIES OR ITS ASSETS, WHICH MAY BE MATERIALLY DIFFERENT THAN THE ESTIMATES SET FORTH IN THE VALUATION ANALYSIS.

~~V.~~VIII. SOLICITATION PROCEDURES AND DEADLINES

A. Solicitation Packages

The Plan Proponents are causing solicitation packages (the "Solicitation Packages") to be distributed to Holders of Claims entitled to vote on the PC ~~Overbid~~Alternative Plan. Such Solicitation Packages include:

- a cover sheet from the Plan Proponents describing the contents of such Solicitation Package;
- a notice of the hearing to confirm the PC ~~Overbid~~Alternative Plan (the "Confirmation Hearing Notice");
- this Disclosure Statement with the PC ~~Overbid~~Alternative Plan annexed thereto;
- the order of the Bankruptcy Court approving this Disclosure Statement and the solicitation of votes with respect to the PC ~~Overbid~~Alternative Plan [Docket No. [•]] (the "Solicitation Approval Order"), excluding the exhibits attached thereto,
- a ballot to cast a vote on the PC ~~Overbid~~Alternative Plan (each, a "Ballot"); and
- such other solicitation materials that the Bankruptcy Court may direct.[27]

Copies of this Disclosure Statement, the PC ~~Overbid~~Alternative Plan, all appendices and exhibits attached thereto and hereto, and all other pleadings filed and orders entered in these Chapter 11 Cases can be obtained by contacting the Voting Agent (a) in writing at Eletson Holdings Inc., et al., Ballot Processing Center c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, California 90245, (b) via email at https://www.kccllc.net/Eletson/inquiry, or (c) by telephone at 888-647-1737 (Domestic) or 310-751-2624 (International).

B. Voting Procedures and Voting Deadline

After carefully reviewing the PC ~~Overbid~~Alternative Plan, this Disclosure Statement, and the detailed instructions accompanying your Ballot, please indicate your acceptance or rejection of the PC ~~Overbid~~Alternative Plan by voting in favor of (*i.e.*, to accept) or against the Plan (*i.e.*, to reject) on the Ballot. To be counted, your Ballot must be duly completed, executed, and **actually received** by 5:00 p.m. (prevailing Eastern Time) on [_____] [__], 2024 (the "Voting Deadline"). Ballots may be delivered either via regular mail, courier, or delivery services to the Voting Agent at the at the following address: Eletson Holidngs Inc., *et al.*, Ballot Processing Center c/o KCC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, California 90245.

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[27] Instructions on how to vote are included with the Solicitation Package and are described below.

Where applicable, ballots can be submitted via the Voting Agent's e-ballot platform by visiting https://www.kccllc.net/Eletson, clicking on the "Submit E-Ballot" section of the website and following the directions to submit their electronic Ballot.

If you are a Beneficial Holder of Claims in Class 5A or Class 5B and received a Ballot for Beneficial Holders (a "Beneficial Holder Ballot"), you must complete and return the Beneficial Holder Ballot to your broker, commercial bank, transfer agent, trust company, dealer, or other intermediary or nominee, or their mailing agent (each a "Nominee") so that it is received by your Nominee in sufficient time for your Nominee to submit a master ballot prior to the Voting Deadline.

If you have any questions about how to vote, the Solicitation Package you receive, or the amount of your claim, or if you wish to receive additional copies of the Plan, this Disclosure Statement, or any exhibits or appendices thereto or hereto, please contact the Voting Agent at: 888-647-1737 (Domestic) or 310-751-2624 (International) or via email at https://www.kccllc.net/eletson/inquiry.

C. Confirmation Hearing and Deadline for Objections to Plan Confirmation

The Bankruptcy Court has scheduled a hearing to consider Confirmation of the Plan for **[•], 2024 at [•] a.m. / p.m. (prevailing Eastern Time) (the "Confirmation Hearing").** The Plan Proponents may adjourn the Confirmation Hearing by filing a notice on the docket of the Chapter 11 Cases or by announcing an adjournment on the record of a hearing or status conference held with the Bankruptcy Court.

Any objections to Confirmation of the PC ~~Overbid~~Alternative Plan must be filed with the Bankruptcy Court and served on the parties indicated in the boxes immediately below by no later than [•] **a.m. / p.m. (prevailing Eastern Time) on [•], 2024 (the "Objection Deadline").** Unless an objection to Confirmation is timely filed and served, such objection may not be considered by the Bankruptcy Court at the Confirmation Hearing. Such objection must be filed with the Bankruptcy Court and served so that it is **actually received** by the Bankruptcy Court and the following persons by no later than the Objection Deadline:

Counsel for Petitioning Creditors	Togut, Segal & Segal LLP One Penn Plaza, Suite 3335 New York, New York 10119 Attn: Kyle J. Ortiz, Esq. (kortiz@teamtogut.com) and Bryan M. Kotliar, Esq. (bkotliar@teamtogut.com)
Counsel for the Creditors' Committee	Dechert LLP 1095 Avenue of Americas New York, NY 10036 Attn: Stephen Zide, Esq. (stephen.zide@dechert.com) and

	David Herman, Esq. (david.herman@dechert.com)
The U.S. Trustee	Office of the United States Trustee – NYO Department of Justice Alexander Hamilton Custom House One Bowling Green New York, NY 10004 Attn: Daniel Rudewicz, Esq. (Daniel.Rudewicz@usdoj.gov)

~~VI.~~IX. RISK FACTORS TO BE CONSIDERED

A. Overview

The statements contained in this Disclosure Statement are made by the Plan Proponents as of the date hereof unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth herein since that date. The Plan Proponents have no duty to update this Disclosure Statement except as may be required by applicable law.

The Plan Proponents have relied upon information provided by the Debtors in connection with the preparation of this Disclosure Statement. Although the Plan Proponents have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not independently verified the information contained in this Disclosure Statement.

The contents of this Disclosure Statement should not be construed as legal, business, or tax advice, and nothing contained in the PC ~~Overbid~~Alternative Plan will constitute an admission of, or be deemed evidence of, the tax or other legal effects of the PC ~~Overbid~~Alternative Plan on the Plan Proponents or on Holders of Claims. Each Holder of a Claim should consult his, her, or its own legal counsel and accountant as to legal, tax, and other matters concerning his, her, or its Claim. This Disclosure Statement may not be relied upon for any purpose other than to determine whether to vote to accept the PC ~~Overbid~~Alternative Plan.

B. Certain Considerations

1. *Failure to Confirm the PC ~~Overbid~~Alternative Plan*

If the PC ~~Overbid~~Alternative Plan is not confirmed and consummated, there can be no assurance that the Chapter 11 Cases will continue rather than be converted to liquidation cases under chapter 7 of the Bankruptcy Code. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a plan and requires, among other things, that the value of distributions to dissenting creditors and shareholders not be less than the value of distributions such creditors and shareholders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. If the PC ~~Overbid~~Alternative Plan is not confirmed, the PC ~~Overbid~~Alternative Plan

may be withdrawn, amended, or modified.

2. *The PC ~~Overbid~~Alternative Plan May Not be Accepted by Sufficient Holders of Impaired Claims*

The PC ~~Overbid~~Alternative Plan is subject to a vote of Holders of Impaired Claims in voting Classes and to Confirmation by the Bankruptcy Court. Article VI hereof summarizes the numerous requirements for Confirmation of the PC ~~Overbid~~Alternative Plan, including that the PC ~~Overbid~~Alternative Plan must be accepted by at least one Class of Impaired Claims. The Plan Proponents represent the majority of the holders of the Notes Claims, and are expected to support and vote in favor of the PC ~~Overbid~~Alternative Plan. However, until all votes are collected, there can be no assurance that the requisite acceptances to confirm the PC ~~Overbid~~Alternative Plan will be obtained. Thus, while the Plan Proponents believe that the PC ~~Overbid~~Alternative Plan is confirmable under the standards set forth in section 1129 of the Bankruptcy Code, there is no guarantee that the PC ~~Overbid~~Alternative Plan will be accepted by the requisite Classes entitled to vote on the PC ~~Overbid~~Alternative Plan.

3. *Uncertainty of Extraterritorial Recognition of Plan Confirmation*

The Debtors are incorporated in Liberia and some of their interests are governed by the laws of foreign jurisdictions other than the United States. Although the Plan Proponents will make every effort to ensure that any Confirmation Order entered by the Bankruptcy Court and the steps taken pursuant to the Confirmation Order to implement the PC ~~Overbid~~Alternative Plan are recognized and are effective in all applicable jurisdictions, it is possible that if a creditor or stakeholder were to challenge the PC ~~Overbid~~Alternative Plan, a foreign court may refuse to recognize the effect of the Confirmation Order.

4. *No Assurance of Ultimate Recoveries*

There can be no assurances of the actual recoveries to the Debtors' claimholders. The Plan Proponents cannot assure the Debtors' claimholders that they will be able to resell any consideration received in respect of their claims at current values or at all.

5. *Classification and Treatment of Claims and Interests*

Section 1122 of the Bankruptcy Code requires that the PC ~~Overbid~~Alternative Plan classify Claims against the Debtors. The Bankruptcy Code also provides that, except for certain Claims classified for administrative convenience, the PC ~~Overbid~~Alternative Plan may place a Claim in a particular Class only if such Claim is substantially similar to the other Claims of such Class. The Plan Proponents believe that all Claims have been appropriately classified in the PC ~~Overbid~~Alternative Plan.

To the extent that the Bankruptcy Court finds that a different classification is required for the PC ~~Overbid~~Alternative Plan to be confirmed, the Plan Proponents may seek to (a) modify the PC ~~Overbid~~Alternative Plan to provide for whatever

classification might be required for confirmation, and (b) use the acceptances received from any creditor pursuant to the solicitation for the purpose of obtaining the approval of the Class or Classes of which such creditor ultimately is deemed to be a member. There can be no assurance that the Bankruptcy Court, after finding that a classification was inappropriate and requiring a reclassification, would approve the PC ~~Overbid~~Alternative Plan based upon such reclassification without requiring the Plan Proponents to resolicit votes.

6. *Nonconsensual Confirmation*

In the event any impaired class of claims entitled to vote on a plan of reorganization does not accept a plan of reorganization, a bankruptcy court may nevertheless confirm such plan at the proponent's request if at least one impaired class has accepted the plan (with such acceptance being determined without including the vote of any "insider" in such class), and as to each impaired class that has not accepted the plan, the bankruptcy court determines that the plan "does not discriminate unfairly" and is "fair and equitable" with respect to the dissenting impaired classes.

7. *Non-Occurrence of Effective Date*

Although the Plan Proponents believe that the Effective Date will occur reasonably soon after the Confirmation Date, there can be no assurance as to such timing or as to whether it will occur. Moreover, if the conditions precedent to the Effective Date of the PC ~~Overbid~~Alternative Plan are not met, the PC ~~Overbid~~Alternative Plan may be vacated by the Bankruptcy Court.

8. *Risks of Failure to Satisfy Conditions Precedent*

Article VIII of the PC ~~Overbid~~Alternative Plan provides for certain conditions that must be satisfied (or waived) prior to the Confirmation Date and for certain other conditions that must be satisfied (or waived) prior to the Effective Date. Some of the conditions are outside of the Plan Proponents' control. There can be no assurance that any or all of the conditions in the PC ~~Overbid~~Alternative Plan will be satisfied (or waived). Accordingly, even if the PC ~~Overbid~~Alternative Plan is confirmed by the Bankruptcy Court, there can be no assurance that the PC ~~Overbid~~Alternative Plan will be consummated. If the PC ~~Overbid~~Alternative Plan is not consummated, there can be no assurance that the Chapter 11 Cases would not be converted to chapter 7 liquidation cases or that any new chapter 11 plan would be as favorable to Holders of Claims as the current PC ~~Overbid~~Alternative Plan. Either outcome may materially reduce distributions to Holders of Claims.

9. *Distributions to Holders of Allowed Claims Under the PC ~~Overbid~~Alternative Plan*

Projected distributions are based upon good faith estimates of the total amount of Claims ultimately Allowed and the funds available for distribution. Both the actual amount of Allowed Claims in a particular Class and the funds available for distribution for such Class may differ from the Plan Proponents' estimates. If the total

amount of Allowed Claims in a Class is higher than the Plan Proponents' estimates or the funds available for distribution to such Class are lower than the Plan Proponents' estimates, the percentage recovery to holders of Allowed Claims in such Class will be less than projected.

10. *Funding Necessary for the Consummation of the PC ~~Overbid~~Alternative Plan*

The Plan Proponents contemplate that all Cash necessary for Reorganized Holdings to make payments required by the PC ~~Overbid~~Alternative Plan and for post-Confirmation operations shall be obtained from (a) existing Cash held by Reorganized Holdings on the Effective Date, (b) proceeds from the Rights Offering, and (c) the operations of Reorganized Holdings. To the extent the PC ~~Overbid~~Alternative Plan obligates any other Debtor entities to make any payments or Distributions or take any other action under the PC ~~Overbid~~Alternative Plan, the amount of such payments or Distributions or the cost of taking such actions shall be funded solely by Reorganized Holdings.

11. *Future Litigation*

Given the litigious history of these Chapter 11 Cases, there is a risk that new litigation claims may be asserted against Reorganized Holdings or the Backstop Parties. Future litigation could result in material judgement(s) against Reorganized Holdings. Such litigation, and any judgement in connection therewith, could have a material negative effect on Reorganized Holdings.

12. *Conversion to Chapter 7*

If the Bankruptcy Court finds that it would be in the best interests of the Holders of Claims, the Bankruptcy Court may convert the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be appointed or elected to liquidate the Debtors' assets for distribution in accordance with the priorities under the Bankruptcy Code. The Plan Proponents believe that liquidation under chapter 7 would result in significantly smaller distributions being made to creditors than those provided in a Chapter 11 plan because of (a) the likelihood that assets would have to be sold in a disorderly fashion over a short period of time, rather than reorganizing or selling the business as a going concern at a later time in a controlled manner, (b) additional administrative expenses involved in the appointment of a chapter 7 trustee, and (c) additional expenses and claims, including claims resulting from the rejection of certain executory contracts and unexpired leases in connection with the cessation of operations.

13. *Reorganized Holdings May Not Be Able to Achieve Their Anticipated Financial Results*

Actual financial results may differ materially from anticipated results. If Reorganized Holdings does not achieve projected revenue or cashflow levels, Reorganized Holdings may lack sufficient liquidity to continue operating their business consistent after the Effective Date.

14. *Projections are Subject to Inherent Uncertainty Due to the Numerous Assumptions Upon Which They Are Based*

Unanticipated events and circumstances occurring subsequent to the approval of this Disclosure Statement and/or Confirmation of the PC ~~Overbid~~Alternative Plan by the Bankruptcy Court may affect the actual financial results of Reorganized Holdings' operations. Actual results achieved may vary from anticipated results.

15. *Certain Information Herein Was Provided by the Debtors and Relied Upon by the Plan Proponents' Advisors*

Counsel to and other advisors retained by the Plan Proponents have relied upon information provided by the Debtors, as well as information obtained from discovery, in connection with the preparation of this Disclosure Statement and the PC ~~Overbid~~Alternative Plan. Although counsel to and other advisors retained by the Plan Proponents have attempted to verify the information contained herein, certain statements rely on documents and representations received from the Debtors. The Debtors' records are incomplete, and the Debtors and certain other parties did not fully comply with discovery requests. Although the Plan Proponents have undertaken great efforts to provide accurate and complete information in this Disclosure Statement, the Plan Proponents cannot warrant or represent that the information contained herein is complete and accurate.

The statements contained in this Disclosure Statement are made by the Plan Proponents as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has not been a change in the information set forth herein since that date. While the Plan Proponents have used their reasonably diligent efforts to ensure the accuracy of all of the information provided in this Disclosure Statement and in the PC ~~Overbid~~Alternative Plan, the Plan Proponents nonetheless cannot, and do not, confirm the current accuracy of all statements appearing in this Disclosure Statement.

The financial information contained in this Disclosure Statement has not been audited unless explicitly stated otherwise. In preparing this Disclosure Statement, the Plan Proponents have relied predominantly on financial data derived from the Debtors' books and records that was available at the time of such preparation, together with information gathered through discovery. While the Plan Proponents believe that the financial information received from the Debtors' and relied upon in preparing this Disclosure Statement fairly reflects the financial condition of the Debtors, the Plan Proponents are unable to warrant or represent that the financial information contained herein and attached hereto is without inaccuracies.

16. *No Admissions Are Made by this Disclosure Statement*

The information and statements contained in this Disclosure Statement will neither constitute an admission of any fact or liability by the Plan Proponents nor be deemed evidence of the tax or other legal effects of the PC ~~Overbid~~Alternative Plan on the Debtors, Holders of Allowed Claims or any other parties in interest. Except as

otherwise provided in the PC ~~Overbid~~Alternative Plan, the vote by a Holder of an Allowed Claim for or against the PC ~~Overbid~~Alternative Plan does not constitute a waiver or release of any Claims or rights of the Plan Proponents to object to that Holder's Claim, or recover any preferential, fraudulent or other voidable transfer or assets, regardless of whether any Claims or Causes of Action of the Debtors or their estates are specifically or generally identified herein.

In addition, no reliance should be placed on the fact that a particular litigation Claim or projected objection to a particular Claim is, or is not, identified in this Disclosure Statement. The Plan Proponents may seek to investigate, file, and prosecute objections to Claims and may object to Claims after the Confirmation or Effective Date of the PC ~~Overbid~~Alternative Plan irrespective of whether this Disclosure Statement identifies such Claims or objections to Claims.

~~VII.~~X. CONCLUSION AND RECOMMENDATION

The Plan Proponents believe that Confirmation and implementation of the Plan is preferable to the Debtors' Plan. The Plan Proponents urge all Holders of Claims entitled to vote to cast their Ballots to accept the Plan in accordance with the instructions provided herein and in the Solicitation Packages.

Dated: June ~~11~~17, 2024
New York, New York

Respectfully submitted,

TOGUT, SEGAL & SEGAL LLP

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