Docket #0627 Date Filed: 08/10/2026

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

In re:	)	Chapter 11
ASCEND ELEMENTS, INC. *et al.*,[1]	)	Case No. 26-90440 (CML)
Debtors.	)	(Jointly Administered)

NOTICE OF FILING OF PLAN SUPPLEMENT FOR JOINT PLAN OF LIQUIDATION FOR ASCEND ELEMENTS, INC., ET AL

PLEASE TAKE NOTICE THAT on July 14, 2026, the Debtors filed the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.* (as may be amended, supplemented, or otherwise modified from time to time, the "Plan").[2] The United States Bankruptcy Court for the Southern District of Texas (the "Court") has entered an order (the "Solicitation Procedures Order") that conditionally approved the Disclosure Statement embodied in the Plan for solicitation purposes only, authorized the Debtors to solicit votes to accept or reject the Plan, and scheduled the Confirmation Hearing.

PLEASE TAKE FURTHER NOTICE THAT as contemplated by the Plan and the Solicitation Procedures Order, the Debtors are filing the following documents (or forms of documents), schedules, and exhibits (the "Plan Supplement"):

- Exhibit A—GUC Trust Agreement;
- Exhibit B—Schedule of Assumed Contracts; and
- Exhibit C—Schedule of Retained Causes of Action**.**

PLEASE TAKE FURTHER NOTICE THAT the documents, or portions thereof, contained in the Plan Supplement may be not be final and remain subject to ongoing review by the Debtors, the Committee, and other interested parties. The Debtors retain the right to amend, supplement, or modify the Plan Supplement through the Effective Date in accordance with the Plan, the Bankruptcy Code, and the Bankruptcy Rules.

PLEASE TAKE FURTHER NOTICE THAT a hearing to consider final approval of the Disclosure Statement and confirmation of the Plan (the "Confirmation Hearing") is scheduled for **August 17, 2026, at 1:00 p.m. (prevailing Central Time),** in Courtroom 402, United States Courthouse, 515 Rusk Street, Houston, Texas 77002, subject to the Court's availability. The Confirmation Hearing may be adjourned or continued from time to time by announcement in open court without further notice.

PLEASE TAKE FURTHER NOTICE THAT the deadline for filing objections to final approval of the Disclosure Statement or confirmation of the Plan is **August 14, 2026, at**

[1] The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Ascend Elements, Inc. (2893) and Ascend Elements US, LLC (8309). The location of the Debtors' service address is: 133 Flanders Road, Westborough, MA 01581.

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

4:00 p.m. (prevailing Central Time) (the "Confirmation Objection Deadline"). Any objection must be in writing, conform to the Bankruptcy Rules, the Local Rules, and orders of the Court, state with particularity the basis and nature of the objection and, if practicable, a proposed modification to the Plan or related materials, and be filed with the Court and served upon the required notice parties so as to be actually received no later than the Confirmation Objection Deadline. Please refer to the Solicitation Procedures Order for further procedures.

PLEASE TAKE FURTHER NOTICE THAT additional copies of the Combined Disclosure Statement and Joint Plan of Liquidation, the Plan Supplement, and other solicitation materials (except ballots) are available free of charge on the Debtors' case website at https://www.veritaglobal.net/ascend. Verita Global, the Debtors' claims, noticing, and solicitation agent, is authorized to answer questions about and provide additional copies of solicitation materials, but may not advise whether you should vote to accept or reject the Plan.

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Dated: August 10, 2026

Respectfully submitted,

NORTON ROSE FULBRIGHT US LLP

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Counsel to the Debtors and Debtors in Possession

EXHIBIT A

GUC TRUST AGREEMENT

GUC TRUST AGREEMENT

This GUC Trust Agreement (this "Agreement"), dated as of the Effective Date, is entered into by and among the Debtors and [•]("[•]") as the GUC Trustee of the GUC Trust created pursuant to this Agreement, the Plan, and the Confirmation Order. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.* [Docket No. 570] (as amended, restated, or modified from time to time, the "Plan").

RECITALS

WHEREAS, on the Petition Date, the Debtors filed voluntary petitions in the Bankruptcy Court for relief under the Bankruptcy Code;

WHEREAS, on July 8, 2026, the Debtors filed the *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.* [Docket No. 550];

WHEREAS, on July 14, 2026, the Debtors filed an amended *Combined Disclosure Statement and Joint Plan of Liquidation for Ascend Elements, Inc., et al.* [Docket No. 570];

WHEREAS, on July 15, 2026, the Bankruptcy Court entered the *Order (I) Conditionally Approving the Adequacy of the Disclosure Statement; (II) Approving the Solicitation and Notice Procedures; (III) Approving the Form of Ballot and Notices; (IV) Approving Certain Dates and Deadlines in Connection with the Solicitation and Confirmation of the Plan; and (V) Scheduling a Combined Hearing on (A) Final Approval of the Disclosure Statement and (B) Confirmation of the Plan* [Docket No. 575];

WHEREAS, pursuant to the [*Order Confirming the Amended Joint Chapter 11 Plan of Liquidation*] [Docket No. [·] (the "Confirmation Order"), dated August [17], 2026, the Bankruptcy Court confirmed the Plan attached thereto as [Exhibit A];

WHEREAS, the purpose of the GUC Trust is to (a) liquidate the GUC Trust Assets; (b) reconcile, settle, compromise, and object to General Unsecured Claims, as provided for in the Plan; and (c) make distributions to the Holders of Allowed General Unsecured Claims in accordance with United States Treasury Regulations (the "Treasury Regulations") Section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating trust purpose of the GUC Trust;

WHEREAS, the GUC Trust is to be administered by the GUC Trustee;

WHEREAS, [•] is hereby appointed GUC Trustee;

WHEREAS, the GUC Trustee has accepted such appointment and has agreed to serve in such capacity under the terms and conditions set forth in the Plan, the Confirmation Order, and herein;

WHEREAS, the GUC Trust shall be established pursuant to the GUC Trust Agreement for the purpose of maximizing the value of the GUC Trust Assets and effectuating distributions to the GUC Trust Beneficiaries consistent with the Plan. The GUC Trust is intended to qualify as a liquidating trust pursuant to Treasury Regulations section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidation purpose of the GUC Trust;

WHEREAS, the GUC Trust shall not be deemed a successor-in-interest of the Debtors for any purpose other than as specifically set forth in this Agreement or the Plan;

NOW THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the Debtors and the GUC Trustee agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 *Certain Terms Defined*. As used herein, the following terms have the respective meanings specified below:

"Available Cash" shall mean all Cash held by the GUC Trust from time to time on and after the Effective Date.

"Beneficiaries" shall mean the Holders of Allowed General Unsecured Claims holding beneficial interests in the GUC Trust.

"Claim Objections" shall mean objections, motions, or adversary proceedings challenging the validity, priority, and amount of any Claims, including, without limitation, requests to recharacterize or subordinate Claims that have been filed or that may be filed with the Bankruptcy Court.

"Committee" shall mean the Official Committee of Unsecured Creditors appointed by the Office of the United States Trustee for the Southern District of Texas in the Debtors' Chapter 11 Cases on April 26, 2026 [Docket No. 139].

"Unsecured Claims Reconciliation Process" means the reconciliation process for General Unsecured Claims conducted by the GUC Trustee.

Section 1.2 *Interpretation*. When a reference is made in this Agreement to a section or article, such reference shall be to a section or article of this Agreement unless otherwise clearly indicated to the contrary.

(a) Whenever the words "include," "includes," or "including" are used in this Agreement they shall be deemed to be followed by the words "without limitation."

(b) The words "hereof," "herein," and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement, and article, section, paragraph, exhibit, and schedule references are

to the articles, sections, paragraphs, exhibits, and schedules of this Agreement unless otherwise specified.

(c) The meaning assigned to each term defined herein shall be equally applicable to both the singular and the plural forms of such term. Where a word or phrase is defined herein, each of its other grammatical forms shall have a corresponding meaning.

(d) A reference to any party to this Agreement or any other agreement or document shall include such party's successors and permitted assigns.

(e) A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto.

(f) When calculating the period of time before which, within which, or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(g) Any reference in this Agreement to "$" shall mean U.S. dollars.

ARTICLE II

CREATION/TERMINATION OF GUC TRUST

Section 2.1 *Creation of the GUC Trust*. The GUC Trust is hereby constituted and created, in accordance with Treasury Regulations Section 301.7701-4(d) and IRS Revenue Procedure 94-45, to hold the GUC Trust Assets and administer distributions to Holders of Allowed General Unsecured Claims pursuant to this Agreement and the terms set forth herein, the Plan, and the Confirmation Order.

(a) *Purpose of GUC Trust.* The GUC Trust is established for the primary purpose of administering and distributing the GUC Trust Assets or proceeds therefrom to the Beneficiaries, in accordance with Treasury Regulations Section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the GUC Trust. Accordingly, subject to the terms and conditions of this Agreement, the Plan, and the Confirmation Order, the GUC Trustee shall, in an expeditious but orderly manner, (i) liquidate and convert to Cash the GUC Trust Assets, including by, among other things, settling, compromising, abandoning, or otherwise assessing and, if possible, realizing the value of the GUC Trust Assets, (ii) make timely distributions to the Beneficiaries, and (iii) not unduly prolong the duration of the GUC Trust. The GUC Trustee shall be charged with distributing and liquidating the GUC Trust Assets in the most cost-effective manner possible in the shortest reasonable time and in all instances in accordance with the Plan and the Confirmation Order. In selling or otherwise converting the GUC Trust Assets to Cash, the GUC Trustee shall use commercially reasonable efforts to maximize the amount of net proceeds derived therefrom.

(b) This Agreement is intended to create a trust and a trust relationship and to be governed and construed in all respects as a trust. The GUC Trust is not intended to be, and shall not be deemed to be or treated as, a general partnership, limited partnership, joint venture, corporation, joint stock company, or association, nor shall the GUC Trustee or the Beneficiaries, or any of them, for any purpose be, or be deemed to be or be treated in any way whatsoever to be, liable or responsible hereunder as partners or joint venturers. The relationship of the Beneficiaries to the GUC Trustee shall be solely that of beneficiaries of a trust and shall not be deemed a principal or agency relationship, and their rights shall be limited to those conferred upon them by this Agreement. Notwithstanding the foregoing, in the event of a final determination under Section 1313(a) of the Internal Revenue Code (as amended, the "Tax Code") that the GUC Trust does not qualify as a grantor trust as described in Section 4.1 of this Agreement, the GUC Trust shall be treated as a partnership for United State federal income tax purposes and the GUC Trust will take all actions reasonably necessary to cause the GUC Trust to be treated as such.

(c) Under no circumstance shall the GUC Trust be authorized or contend it is authorized to incur liability on behalf of the Debtors' Estates, and any and all liability incurred by the GUC Trustee, whether for expenses or otherwise, shall be the exclusive liability of the GUC Trust and not the liability of the Debtors' Estates.

Section 2.2 *Appointment and Acceptance of the GUC Trustee*. Pursuant to the terms of the Plan, [•] has been appointed as the GUC Trustee, to act and serve as the trustee of the GUC Trust. [•] hereby accepts the appointment as the trustee of the GUC Trust, and, in such capacity, agrees to hold the GUC Trust Assets in trust in accordance with the terms of this Agreement, the Plan, and the Confirmation Order, and to administer the GUC Trust pursuant to the terms and conditions of this Agreement, the Plan, and the Confirmation Order.

Section 2.3 *Name of the GUC Trust*. The trust established through the Plan, the Confirmation Order, and pursuant to this Agreement shall bear the name "Ascend Elements GUC Trust." In connection with the exercise of the GUC Trustee's powers under this Agreement, the GUC Trustee may use this name or such variation thereof as the GUC Trustee, in the GUC Trustee's discretion, may determine.

Section 2.4 *Transfer of Assets to the Trust*. Pursuant to the Plan and the Confirmation Order, on the Effective Date, the GUC Trust Assets shall vest automatically in the GUC Trust. The transfer of the GUC Trust Assets to the GUC Trust shall be made for the benefit and on behalf of the GUC Trust Beneficiaries. The Transfer of the GUC Trust Assets shall be free and clear of all encumbrances, Liens, and Claims of any Person or Entity in accordance with Section 1141 of the Bankruptcy Code, but subject to the provisions of this Agreement, the Plan, and the Confirmation Order. The act of transferring the GUC Trust Assets, as authorized by the Plan, shall not be construed to destroy or limit any such assets or rights or as a waiver of any right, and such rights may be asserted by the GUC Trust as if the asset or right was still held by the applicable Debtor. The GUC Trust hereby accepts all such GUC Trust Assets free and clear of all encumbrances, Liens, Claims, and Interests, except as provided in this Agreement, the Plan, and the Confirmation Order, and agrees to hold and administer the GUC Trust Assets and the remainder of the GUC Trust for the benefit of the Beneficiaries, subject to the payment of the GUC Trust Expenses and the terms and conditions of this Agreement, the Plan, and the Confirmation Order. The assets comprising the GUC Trust Assets will be treated for tax purposes as being transferred

by the Debtors to the GUC Trust Beneficiaries pursuant to the Plan in exchange for their Allowed Claims and then by the GUC Trust Beneficiaries to the GUC Trust in exchange for the GUC Trust Interests in the GUC Trust. The GUC Trust Beneficiaries shall be treated as the grantors and owners of the GUC Trust. Upon the transfer of the GUC Trust Assets, the GUC Trust shall succeed to all of the Debtors' rights, title and interest in the GUC Trust Assets, and the Debtors will have no further interest in or with respect to the GUC Trust Assets.

Section 2.5 *Funding and Payment of GUC Trust Expenses*. The GUC Trust Expenses shall be paid exclusively from the GUC Trust Assets, subject to payment in full of all Allowed Administrative Claims. The GUC Trust shall, in the ordinary course of business and without the necessity of any approval by the Bankruptcy Court, pay the GUC Trust Expenses, including but not limited to reasonable fees and expenses of the GUC Trustee and the fees and expenses of any professionals retained by the GUC Trust, as well as any additional amount determined necessary by the GUC Trustee to adequately reserve for the operating expenses of the GUC Trust.

Section 2.6 *Maintenance of Cash and Proceeds*. Funds in the GUC Trust may only be invested in demand and time deposits in banks or other savings institutions, or in other temporary, liquid investments, such as Treasury bills, consistent with the liquidity needs of the GUC Trust as determined by the GUC Trustee; *provided* that such investments shall be limited to such investments permitted to be made by a "liquidating trust" within the meaning of Treasury Regulations Section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities.

Section 2.7 *Fiscal Year*. The fiscal year of the GUC Trust shall be the calendar year.

Section 2.8 *Termination of GUC Trust*. The GUC Trustee shall be discharged and the GUC Trust shall be terminated, at such time as: (i) (A) all of the GUC Trust Assets have been liquidated, resolved, or abandoned, or the Allowed Claims of the GUC Trust Beneficiaries have been satisfied, (B) all duties and obligations of the GUC Trustee under this Agreement, the Plan, and the Confirmation Order have been fulfilled, and (C) all Distributions required to be made by the GUC Trustee under this Agreement and the Plan have been made; or (ii) the GUC Trustee determines in the GUC Trustee's reasonable judgment that the GUC Trust lacks sufficient assets and financial resources, after reasonable collection efforts, to complete the duties and powers assigned to the GUC Trustee under this Agreement and the Plan. If it is in the GUC Trustee's reasonable judgment that any GUC Trust Assets cannot be liquidated in a commercially reasonable manner, or the GUC Trustee believes, in good faith, such assets have no value, the GUC Trustee shall have the right to abandon or otherwise dispose of such assets, including by donation of such assets to a charity qualifying under section 501(c)(3) of the Tax Code designated by the GUC Trustee. Except in the case of fraud, willful misconduct, gross negligence, or bad faith, no party in interest shall have a cause of action against the GUC Trustee or any director, officer, employee, consultant, or professional of the GUC Trustee arising from or related to the disposition of the GUC Trust Assets in accordance with this Section 2.8.

Section 2.9 *Disputed Claims Reserve*. The GUC Trust Assets reserved for Holders of Disputed Claims shall be treated as one or more Disputed Claims Reserves. The GUC Trustee shall treat each Disputed Claims Reserve as a "disputed ownership fund" governed by Treasury Regulation § 1.468B-9 (and make any appropriate elections consistent with such tax treatment).

The GUC Trustee shall be the administrator of the Disputed Claims Reserves within the meaning of Treasury Regulation § 1.468B-9(b)(2) and shall be responsible for all Tax reporting and withholding required by the Disputed Claims Reserves. No Holder of a Claim will be treated as the grantor or deemed owner of any asset reserved for Disputed Claims until such Holder receives or is allocated an interest in such asset.

ARTICLE III

GUC TRUST INTERESTS

Section 3.1 *GUC Trust Interests*. The Beneficiaries shall have undivided beneficial interests in the GUC Trust Assets (the "GUC Trust Interests"). The ownership of a beneficial interest in any GUC Trust Assets hereunder shall not entitle any Beneficiary to (a) any title in or to the GUC Trust Assets, (b) any right to call for a partition or division of GUC Trust Assets, (c) require an accounting, or (d) any management of or control of the GUC Trust or the GUC Trust Assets.

Section 3.2 *No Suits by Beneficiaries*. No Beneficiary shall have any right by virtue of any provision of this Agreement to institute any action or proceeding, at law or in equity, against any Person, including the GUC Trustee, with respect to the GUC Trust Assets, any cause of action, or objections to any Claim or Interest; *provided*, *however*, that a Beneficiary shall be permitted to institute in the Bankruptcy Court an action or proceeding, in law or in equity, against the GUC Trustee with respect to this Agreement, the Plan, the Confirmation Order, or the GUC Trust Assets for acts or omissions arising from the GUC Trustee's gross negligence, actual fraud, willful misconduct, or bad faith.

Section 3.3 *Issuance of GUC Trust Interests*. All of the GUC Trust Interests issued pursuant to this Agreement and the Plan shall be duly authorized, validly issued, fully paid, and non-assessable. On the Effective Date, the GUC Trust shall issue the GUC Trust Interests for distribution pursuant to the provisions of this Agreement and the Plan. All GUC Trust Interests shall be deemed issued as of the Effective Date, regardless of the date on which they are actually distributed.

Section 3.4 *Non-Transferability of Interests in GUC Trust Assets*. Ownership of a GUC Trust Interest will not be evidenced by any certificate, security, or receipt or in any other form or manner whatsoever, except the book entry system. The GUC Trustee shall maintain at all times a register of the names, addresses, and amounts of Allowed Claims of the Beneficiaries. The GUC Trustee shall not be liable for relying on the accuracy of the Register, provided that the GUC Trustee has properly maintained the Register in accordance with this Agreement and the Plan, including making all changes based upon notification proper under this Agreement having been submitted to the GUC Trustee. Interests in the GUC Trust Assets shall not be transferable, assignable, pledged, sold, or hypothecated, in whole or in part, except with respect to a transfer to any entity that is an affiliate of a Beneficiary, by operation of law, by will or under the laws of descent and distribution. Any such transfer, however, will not be effective until and unless the GUC Trustee receives written notice of and approves such transfer as satisfying the limited exceptions to transfer in the preceding sentence. Other than with respect to transfers to affiliated entities, by operation of law, will or under the laws of descent and distribution, neither the GUC

Trustee nor any Persons affiliated with the GUC Trust or the Debtors will take any action to cause, facilitate, or encourage any trading in or transfer of interests in the GUC Trust Assets or support or take any action to support the establishment of an active trading market for such interests.

Section 3.5 *Single Satisfaction of Allowed Claims From GUC Trust*. Notwithstanding anything to the contrary herein, in no event shall holders of GUC Trust Interests recover more than the full amount of their Allowed Claims from the GUC Trust.

Section 3.6 *Notice of Change of Address; Undeliverable Property*. Each Beneficiary shall be responsible for providing the GUC Trustee with written notice of any change in address. The GUC Trustee is not obligated to make any effort to determine the correct address of a Beneficiary.

(a) Subject to Bankruptcy Rule 9010, the Plan, and the Confirmation Order, all Distributions under the Plan and this Agreement shall be made to the Holder of an Allowed Claim at the address set forth in the Debtors' Schedules or in a Proof of Claim timely filed by such Holder (if a Proof of Claim has been Filed), or at the last known address of such Holder if no Proof of Claim has been Filed; *provided*, *however*, that if the GUC Trustee has been notified in writing of a change of address, the Distribution shall be made to the address set forth in such notice.

(b) If any Distribution is returned as undeliverable, the GUC Trustee may, in its sole discretion, make such efforts to determine the current address of the Holder of the applicable Allowed Claim as the GUC Trustee deems appropriate, provided the GUC Trustee shall be entitled to rely on the books and records provided by the Debtors. No further Distribution shall be made to such Holder unless and until the GUC Trustee has determined the then-current address of such Holder, at which time, or as soon as reasonably practicable thereafter, such Distribution shall be made to the Holder without interest. Undeliverable Distributions shall remain in the possession of the GUC Trust until such Distribution is claimed or is deemed to be Unclaimed Property under section 347(b) of the Bankruptcy Code. In the event any Distribution becomes Unclaimed Property, such Distribution shall revert to and become an asset of the GUC Trust for distribution in accordance with the Plan and this Agreement.

(c) Checks issued by the GUC Trust to Holders of Allowed Claims shall be null and void if not negotiated within one hundred twenty (120) days after the date of issuance. Requests for the reissuance of any check that becomes null and void pursuant to this Section shall be made directly to the GUC Trustee by the Holder to whom such check was originally issued. Any request for reissuance shall be made in writing on or before the later of (i) the first anniversary of the Effective Date and (ii) the first anniversary of the date on which the applicable Claim became an Allowed Claim. After such date, all rights with respect to such Distribution shall be discharged and forever barred, and the proceeds of such voided check shall vest in and become property of the GUC Trust as Unclaimed Property for distribution in accordance with the Plan and this Agreement.

Section 3.7 *Notices*. The GUC Trustee shall distribute such notices to the Beneficiaries as the GUC Trustee determines are necessary or desirable.

ARTICLE IV

TAX AND SECURITIES MATTERS

Section 4.1 *Income Tax Status*. The GUC Trust is established for the sole purpose of liquidating, administering, and distributing the GUC Trust Assets, and any proceeds therefrom, in accordance with Treasury Regulations Section 301.7701-4(d) and IRS Revenue Procedure 94-45, with no objective to continue or engage in the conduct of a trade or business. Except with respect to any GUC Trust Assets allocable to the Disputed Claims Reserve, it is intended that the GUC Trust qualify as a liquidating trust under Treasury Regulations Section 301.7701-4(d) and a grantor trust pursuant to Sections 671-677 of the Tax Code, or any successor provisions thereof. Except with respect to the GUC Trust Assets allocable to the Disputed Claims Reserve, (i) the Beneficiaries will be treated as the grantors, deemed owners and beneficiaries of the GUC Trust Assets, and (ii) any items of income, gain, loss, deduction and credit of the GUC Trust Assets shall be allocated for United States federal income tax purposes to the Beneficiaries. This Agreement shall be construed so as to satisfy the requirements for liquidating trust status, including the guidelines set forth in Revenue Procedure 94-45. The GUC Trust shall at all times be administered so as to constitute a domestic trust for United States federal income tax purposes. To the extent the GUC Trustee establishes the Disputed Claims Reserve, any GUC Trust Assets in respect of the Disputed Claims Reserve shall be treated as held by a "disputed ownership fund" of which the GUC Trustee is the "Administrator" under Treasury Regulations Section 1.468B-9.

Section 4.2 *Treatment of GUC Trust Assets Transfer.* The transfer of the GUC Trust Assets, including any amounts or other assets subsequently transferred to the GUC Trust (but, in each case, only at such time as actually transferred), will be treated by all the parties hereto for United States federal, state, and local income tax purposes as a transfer (other than amounts set aside as Disputed Claims Reserve) to the Beneficiaries, followed by a deemed transfer from such Beneficiaries to the GUC Trust in exchange for the GUC Trust Interests. Accordingly, the Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the GUC Trust Assets. The GUC Trust shall treat the transfer of the GUC Trust Assets to the GUC Trust as a "closed transaction" for U.S. federal (and applicable state and local) income tax purposes. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes. Subject to Article XI of the Plan, all items of income, gain, loss, deduction and credit of the GUC Trust Assets (other than to the extent allocable to the Disputed Claims Reserve) will be included in the income of the Beneficiaries as if such items had been recognized directly by the Beneficiaries in the proportions in which they own the GUC Trust Interests.

Section 4.3 *Valuation.* Except to the extent definitive guidance from the Internal Revenue Service or a court of competent jurisdiction (including the issuance of applicable Treasury Regulations or the receipt by the GUC Trustee of a private letter ruling if the GUC Trustee so requests one) indicates that such valuation is not necessary to maintain the treatment of the GUC Trust as a liquidating trust for purposes of the Tax Code and applicable Treasury Regulations, as soon as reasonably practicable after the GUC Trust Assets are transferred to the GUC Trust, the GUC Trustee shall make a good faith valuation of the GUC Trust Assets. Such valuation shall be made available from time to time to all parties to this Agreement and to all Beneficiaries, to the extent relevant to such parties for tax purposes, and subject to any lawful

objection thereto, shall be used consistently by such parties for all United States federal income tax purposes, including for determining tax basis and gain or loss. For the avoidance of doubt, the GUC Trustee's final valuation shall not be binding on the Beneficiaries, the GUC Trust or the GUC Trustee for any purpose other than United States federal income tax purposes, and the valuation shall not impair or prejudice any rights, claims, powers, duties, authority, and privileges of the Beneficiaries, the GUC Trust or the GUC Trustee except with respect to United States federal income tax purposes. The GUC Trustee also shall file (or cause to be filed) any other statements, returns, or disclosure relating to the GUC Trust that are required by any Governmental Unit.

Section 4.4 *Tax Identification Numbers*. The GUC Trustee may require any Beneficiary to furnish to the GUC Trustee necessary information for tax and reporting purposes, including such Beneficiary's employer or taxpayer identification number as assigned by the IRS or the Social Security Administration, as the case may be, and to complete and provide any related documentation (including but not limited to a Form W-8 or Form W-9, as applicable), provided the GUC Trustee may also rely on such information provided to the GUC Trustee by the Debtors. The GUC Trustee may condition any distribution to any Beneficiary upon the receipt of such information and the receipt of such other documents as the GUC Trustee reasonably requests (including pursuant to Section 5.5). If after reasonable inquiry, any Beneficiary fails to provide such identification number to the GUC Trustee, the GUC Trustee shall deem such Beneficiary's Claim as Disallowed and no distribution shall be made on account of such Beneficiary's Claim.

Section 4.5 *Withholding Taxes*. Any United States federal, state, or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from distributions under the Plan or hereunder and treated as amounts distributed to such Beneficiary for all purposes under this Agreement, the Plan, and the Confirmation Order. All Beneficiaries shall be required to provide to the GUC Trustee any information necessary to effect and determine the proper amount for the withholding of such taxes. If the GUC Trustee fails to withhold in respect of amounts received or distributable with respect to any Beneficiary and the GUC Trustee is later held liable for the amount of such withholding, such Beneficiary shall reimburse the GUC Trustee for such liability (to the extent such amounts were actually distributed to such holder).

Section 4.6 *Tax Returns*. The GUC Trustee shall file tax returns for the GUC Trust as a grantor trust in accordance with Treasury Regulations Section 1.671-4(a) and report the GUC Trust's tax items of income, gain, loss, deduction and credit, other than such tax items allocable to the Disputed Claims Reserve (the "Reserve Tax Items"), to the Beneficiaries. Within a reasonable time following the end of the taxable year, the GUC Trust shall send to each Beneficiary a separate statement setting forth the Beneficiary's share of Reserve Tax Items and will instruct each such Beneficiary to report such items on its applicable income tax return. The GUC Trust may provide each Beneficiary with a copy of the Form 1041 for the GUC Trust (without attaching any other Beneficiary's Schedule K-1 or other applicable information form) along with such Beneficiary's Schedule K-1 or other applicable information form in order to satisfy the foregoing requirement. The GUC Trustee shall also file (or cause to be filed) any other statement, return or disclosure relating to the GUC Trust that is required by any Governmental Unit.

Section 4.7 *Tax Allocations*. Allocations of taxable income of the GUC Trust (other than taxable income allocable to the Disputed Claims Reserve) among the Beneficiaries will be

determined by reference to the manner in which an amount of Cash equal to such taxable income would be distributed (were such Cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the GUC Trust had distributed all of its assets (valued at their tax book value) to the holders of the beneficial interests in the GUC Trust, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the GUC Trust. Similarly, taxable loss of the GUC Trust will be allocated by reference to the manner in which an economic loss would be borne immediately after a hypothetical liquidation distribution of the remaining GUC Trust Assets. The tax book value of the GUC Trust Assets for purpose of this paragraph shall equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed in the Tax Code, the applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

Section 4.8 *Payment of Taxes*. The GUC Trustee shall be responsible for payment, out of the GUC Trust Assets, of any taxes imposed on the GUC Trust or its assets, including the Disputed Claims Reserve. Any taxes imposed on any Disputed Claims Reserve or its assets will be paid out of the Disputed Claims Reserve (including any GUC Trust Assets allocable to Disputed Claims) and netted against any subsequent distributions in respect of the allowance or disallowance of such Claims. In the event, and to the extent, any Cash in any Disputed Claims Reserve is insufficient to pay the portion of any taxes attributable to taxable income arising from assets of the Disputed Claims Reserve (including any income that may arise upon an actual or constructive distribution of the assets of the reserve in respect of the resolution of Disputed Claims), assets of the Disputed Claims Reserve (including those otherwise distributable) may be sold or monetized to pay such taxes.

Section 4.9 *Expedited Determination of Taxes*. The GUC Trustee may request an expedited determination of taxes of the GUC Trust under applicable law for all returns filed for, or on behalf of, the GUC Trust for all taxable periods through the dissolution of the GUC Trust.

Section 4.10 *Tax Treatment of Disputed Claims Reserve*. The GUC Trustee may timely elect to (x) treat any portion of the GUC Trust allocable to Disputed General Unsecured Claims as a "disputed ownership fund" governed by Treasury Regulations Section 1.468B-9 (and make any appropriate elections (a "DOF Election")) unless, as of the date by which the GUC Trustee must, if necessary, make the DOF Election pursuant to Treasury Regulations Section 1.468B-9, either all of the GUC Trust Assets have been distributed to the holders of the GUC Trust Interests or the percentage of the GUC Trust Assets distributable to each holder of the GUC Trust Interests has become fixed and determinable, and (y) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. If a DOF Election is made, (i) the GUC Trustee shall treat as taxable income or loss of such fund with respect to each taxable year, the portion of the taxable income or loss and other tax items for such year that would have been allocated to Holders of the Disputed Claims had such Claims been allowed on the Effective Date (but only for the portion of the taxable year with respect to which such Claims are unresolved) and (ii) the GUC Trustee shall file tax returns for the Disputed Claims Reserve as a disputed ownership fund in accordance with Treasury Regulations Section 1.468B-9(c) and report the Disputed Claims Reserve's tax items of income, gain, loss, deduction, and credit. As to any assets allocable to, or retained on account of, Disputed General Unsecured Claims, all distributions shall be net of any expenses, including taxes, relating to the retention or disposition of such assets, and the GUC Trustee shall be responsible for payment, solely out of the assets of such retained assets,

of any taxes imposed on or in respect of such assets. All parties (including, without limitation, the Debtors, the GUC Trustee, and the Beneficiaries) will be required to report for United States federal, state, and local income tax purposes consistently with the foregoing.

Section 4.11 *Securities Laws*. It is the intention of the parties hereto that the rights of the Beneficiaries under this Agreement and the interests in the GUC Trust Assets do not constitute "restricted securities" under the Securities Act of 1933, as amended (the "Securities Act"), or any applicable state securities law, but none of the parties hereto represent or warrant that such rights shall not be "restricted securities" or shall be entitled to exemption from registration under applicable securities laws. If the rights of the Beneficiaries under this Agreement or the GUC Trust Interests do constitute "restricted securities," the parties hereto intend that the exemption from registration for the issuance and distribution of the interests in the GUC Trust Assets provided in Bankruptcy Code section 1145 shall apply. Subject to this Section 4.11, the GUC Trustee may amend this Agreement in accordance with Section 8.10 hereof to make such changes as are deemed necessary or appropriate, with the advice of counsel, to ensure that the GUC Trust is not subject to registration and/or reporting requirements of the Securities Act, the Securities Exchange Act of 1934, as amended, the Investment Company Act of 1940, as amended, or any applicable state securities law reporting requirements.

Section 4.12 *Stamp Taxes*. The transfer of the GUC Trust Assets to the GUC Trust shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use or other similar tax, pursuant to and to the maximum extent permitted by section 1146(a) of the Bankruptcy Code.

ARTICLE V

POWERS OF AND LIMITATIONS ON THE GUC TRUSTEE

Section 5.1 *Powers of the GUC Trustee*. In connection with the administration of the GUC Trust, and subject to the Plan, the Confirmation Order, and this Agreement, the GUC Trustee is authorized to perform any and all acts necessary and desirable to accomplish the purposes of the GUC Trust, including the potential pursuit of the GUC Trust Claims for the benefit of the GUC Trust and the GUC Trust Beneficiaries. In connection therewith, the GUC Trustee shall have the sole and exclusive right, standing, power, and authority to investigate, analyze, prosecute, commence, continue, litigate, settle, compromise, assign, monetize, abandon, or otherwise administer any and all Causes of Action, Retained Causes of Action, and GUC Trust Claims transferred to, vested in, or otherwise constituting GUC Trust Assets pursuant to the Plan, including, without limitation, all Avoidance Actions, commercial tort claims, and any other claims, rights, or causes of action preserved under the Plan. The GUC Trustee shall be the exclusive representative of the GUC Trust and the GUC Trust Beneficiaries with respect to such claims and shall succeed to all rights, powers, and authority previously held by the Debtors and their Estates with respect thereto. The GUC Trustee may exercise such authority in its sole discretion and in a manner that it determines is in the best interests of the GUC Trust Beneficiaries and consistent with the purposes of the GUC Trust, the Plan, the Sale Orders, and the Confirmation Order. Any recoveries from such Causes of Action shall constitute GUC Trust Assets for the benefit of the GUC Trust Beneficiaries. In administering the GUC Trust Assets, the GUC Trustee shall endeavor not to unduly prolong the GUC Trust's duration, with due regard that undue haste in the administration of the GUC Trust Assets may fail to maximize value for the GUC Trust

Beneficiaries and otherwise be imprudent and not in the best interests of the GUC Trust Beneficiaries. Without limiting the foregoing, but subject to the Plan, the Sale Order, the Confirmation Order, and this Agreement, the GUC Trustee shall be expressly authorized to:

(a) exercise all power and authority that may be or could have been exercised, commence all proceedings that may be or could have been commenced, and take all actions that may be or could have been taken with respect to the GUC Trust Assets, by any officer, director, member, manager, shareholder, or other party acting in the name of the Debtors or their Estates with like effect as if duly authorized, exercised, and taken by action of such officers, directors, members, managers, shareholders, or other party;

(b) open and maintain bank accounts on behalf of or in the name of the GUC Trust and designate additional authorized signers on bank accounts as may be necessary, calculate and make distributions, and take other actions consistent with the Sale Order, the Confirmation Order, and the implementation thereof, including the establishment, reevaluation, adjustment, and maintenance of appropriate reserves, in the name of the GUC Trust;

(c) receive, manage, invest, supervise, and protect the GUC Trust Assets;

(d) hold legal title to any and all GUC Trust Assets;

(e) collect and liquidate all GUC Trust Assets and make distributions consistent with the GUC Trust Agreement and the Plan;

(f) review and, where appropriate, object to Claims payable out of the GUC Trust Assets pursuant to the Plan or the Bankruptcy Code, and, subject to the terms thereof, supervise and administer the resolution, settlement and payment of claims payable out of the GUC Trust Assets pursuant to the Plan or the Bankruptcy Code, and the distribution to the GUC Trust Beneficiaries, in accordance with the GUC Trust Agreement and the Plan;

(g) act in the same fiduciary capacity as applicable to a board of managers and officers, subject to the provisions of the GUC Trust Agreement and the Plan;

(h) as applicable, (i) seek a determination of tax liability under Bankruptcy Code section 505; (ii) file if necessary, any and all tax and information returns required with respect to the GUC Trust; (iii) make tax elections for and on behalf of the GUC Trust; and (iv) pay taxes, if any, payable for and on behalf of the GUC Trust;

(i) pay all lawful expenses, debts, charges, taxes, and liabilities of the GUC Trust;

(j) make distributions to the GUC Trust Beneficiaries as provided for, or contemplated by the GUC Trust Agreement and the Plan;

(k) withhold from the amount distributable to any person such amount as may be sufficient to pay any tax or other charge which the GUC Trustee has determined, in the GUC Trustee's sole discretion, may be required to be withheld therefrom under the income tax laws of the United States, any foreign country, or of any state, local, or political subdivision of any of the foregoing;

(l) enter into any agreement or execute any document or instrument required by or consistent with the GUC Trust Agreement and perform all obligations thereunder;

(m) if any of the GUC Trust Assets are situated in any state or other jurisdiction in which the GUC Trustee is not qualified to act as trustee, nominate and appoint a person duly qualified to act as trustee in such state or jurisdiction and require from each such trustee such security as may be designated by the GUC Trustee in the GUC Trustee's discretion; confer on such trustee all the rights, powers, privileges, and duties of the GUC Trustee under the GUC Trust Agreement, subject to the conditions and limitations of the GUC Trust Agreement, except as modified or limited by the GUC Trustee and except where the conditions and limitations may be modified by the laws of such state or other jurisdiction (in which case, the laws of the state or other jurisdiction in which such trustee is acting shall prevail to the extent necessary); require such trustee to be answerable to the GUC Trustee for all monies, assets, and other property that may be received in connection with the administration of all property; and, remove such trustee, with or without cause, and appoint a successor trustee at any time by the execution by the GUC Trustee of a written instrument declaring such trustee removed from office, and specifying the effective date and time of removal.

(n) purchase and carry all insurance policies and pay all insurance premiums and costs the GUC Trustee deems reasonably necessary or advisable;

(o) retain and compensate, without further order of the Bankruptcy Court, the services of employees, professionals, and consultants to advise and assist in the administration, prosecution and distribution of the GUC Trust Assets, to be paid solely from the funds held in trust for the GUC Trust Beneficiaries for which such costs, expenses, and obligations were incurred; provided, that for the avoidance of doubt and sake of efficiency, the GUC Trust may retain the same professionals and/or consultants as previously retained by the Debtors or the Committee, unless any actual conflicts arise that may not be waived with the consent of the GUC Trust and GUC Trustee;

(p) implement, enforce, or discharge all of the terms, conditions and all other provisions of, and all duties and obligations under, the GUC Trust Agreement relating to the GUC Trust, the GUC Trust Assets, or the GUC Trustee;

(q) invest in demand and time deposits in banks or savings institutions, or temporary investments such as short term certificates of deposit or Treasury bills or other investments that a "liquidating trust" within the meaning of Treasury Regulations section 301.7701-4(d) may be permitted to hold, pursuant to the Treasury Regulations or any modification in IRS guidelines, whether set forth in IRS rulings, revenue procedures, other IRS pronouncements or otherwise;

(r) investigate and prosecute any and all GUC Trust Claims and compromise or settle such GUC Trust Claims;

(s) take all other actions that the GUC Trustee deems reasonably necessary or desirable to administer the GUC Trust in accordance with the GUC Trust Agreement.

Section 5.2 *Limitations on GUC Trustee*. The GUC Trustee shall not at any time, on behalf of the GUC Trust or the Beneficiaries, (i) enter into or engage in any trade or business,

(ii) take any actions that are not related, directly or indirectly, to the purposes of this Agreement and the GUC Trust or the administration or implementation of the terms hereof, or that are contrary to the terms of the Plan or the Confirmation Order, (iii) be authorized to engage in any investments or activities inconsistent with the treatment of the GUC Trust as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d) and in accordance with Revenue Procedure 94-45, or (iv) take any action that would jeopardize treatment of the GUC Trust as a grantor trust for United States federal income tax purposes under Sections 671-677 of the Tax Code, or any successor provisions thereof, except such prohibition shall not apply with respect to the Disputed Claims Reserve.

In all circumstances, the GUC Trustee shall act in the best interests of all Beneficiaries and in furtherance of the purpose of the GUC Trust.

Section 5.3 *Non-Cash Trust Assets*. To the extent GUC Trust Assets consist of property other than Cash, the GUC Trustee shall reduce such GUC Trust Assets to Cash. The GUC Trustee shall determine the preferred timing of reducing such GUC Trust Assets to Cash.

Section 5.4 *Distributions*. After the Effective Date and the establishment and funding of any necessary reserves, subject to applicable limitations set forth in this Agreement, the GUC Trustee shall distribute from the GUC Trust the remaining GUC Trust Assets to Beneficiaries in accordance with the terms of the Plan and the Confirmation Order and subject to the payment of the GUC Trust Expenses. The timing, amount, and frequency of interim distributions shall be subject to the sole discretion of the GUC Trustee, and the GUC Trustee shall have no obligations to make any interim distributions prior to final resolution of all material disputed claims, anticipated litigation proceeds, or other contingencies. In the event that the GUC Trustee elects to make a distribution prior to the resolution of all Disputed Claims, the GUC Trustee shall hold in trust any distributions with respect to Disputed Claims of parties asserting an interest in the GUC Trust Assets until such Disputed Claims (i) become Allowed Claims that entitle the Holder of such Claim to be a Beneficiary, or (ii) become disallowed by Final Order of the Bankruptcy Court. Prior to making any distributions to the Beneficiaries required or permitted by this Agreement, the GUC Trustee may retain such amounts (x) as are reasonably necessary to meet contingent liabilities, fund required or appropriate reserves, and maintain the value of the GUC Trust Assets during the liquidation, (y) to pay the GUC Trust Expenses (including, but not limited to, any taxes imposed on the GUC Trust or in respect of the GUC Trust Assets), and (z) to satisfy other liabilities incurred by the GUC Trust in accordance with the Plan, the Confirmation Order, and this Agreement. The GUC Trustee shall have the authority, in its sole discretion and without court approval, to estimate the amount of Disputed Claims for purposes of establishing reserves or making distributions under the Plan. Upon termination of the GUC Trust, the GUC Trustee shall file with the Bankruptcy Court a final report summarizing the GUC Trustee's activities, distributions, and resolutions of material claims.

Section 5.5 *Request for Tax Identification Information*. As soon as practicable after the Effective Date, if not done prior, the GUC Trustee shall distribute to all Beneficiaries a form to be completed by each Beneficiary and returned to the GUC Trustee requesting tax identification information from such Beneficiary, provided that the GUC Trustee shall be entitled to rely on any such information provided to the GUC Trustee by the Debtors.

Section 5.6 *Books and Records*. The GUC Trustee shall maintain, in respect of the GUC Trust and the Beneficiaries, books and records relating to the assets and the income of the GUC Trust and the payment of expenses of the GUC Trust, in such detail and for such period of time as may be necessary to enable the GUC Trustee to make full and proper reports in respect thereof. Upon distribution of all the GUC Trust Assets, the GUC Trustee shall retain the books, records and files that shall have been created by the GUC Trustee for a period of twelve (12) months and thereafter may in its sole discretion, destroy all of such records and documents as the GUC Trustee deems appropriate (unless such records and documents are necessary to fulfill any of the GUC Trustee's residual obligations, if any, pursuant to this Agreement). The GUC Trustee may allocate and reserve (or pre-pay) sufficient funds to cover the costs of storage and destruction of such records. The GUC Trustee may, but is not required, to seek and obtain Bankruptcy Court approval to destroy records of the GUC Trustee and the Debtors at or about the time of dissolution or termination of the GUC Trust. Notwithstanding anything to the contrary contained herein and subject to any applicable law, no Beneficiary shall have any right to obtain, inspect, review, copy, audit, or otherwise access any books, records, files, or other documents of the GUC Trust except as expressly provided in this Agreement or as may be authorized by the GUC Trustee in its sole discretion.

Section 5.7 *Cash Payments*. Cash payments under the Plan shall be made, at the option, and in the sole discretion, of the GUC Trustee, by wire, check, or such other method as the GUC Trustee deems appropriate under the circumstances. Cash payments to foreign creditors may be made, at the option, and at the sole discretion, of the GUC Trustee, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction. For purposes of effectuating distributions under the Plan, any Claim denominated in foreign currency shall be converted to U.S. dollars pursuant to the applicable published exchange rate in effect on the Petition Date.

Section 5.8 *Set Off*. The GUC Trustee may, but shall not be required to, set off against, or recoup from, any Claim, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the GUC Trust may have against the Holder of such Claim; *provided*, *however*, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the GUC Trustee of any such claim that it may have against such Holder.

ARTICLE VI

PROVISIONS CONCERNING THE GUC TRUSTEE

Section 6.1 *Generally*. The GUC Trustee accepts and undertakes to discharge the GUC Trust created by this Agreement, the Plan, and the Confirmation Order upon the terms and conditions hereof and thereof. The GUC Trustee shall exercise the rights and powers vested in the GUC Trustee by this Agreement, the Plan, and the Confirmation Order and use the same degree of care and skill in the GUC Trustee's exercise as a prudent person would exercise or use under the circumstances in the conduct of GUC Trustee's own affairs. No provision of this Agreement shall be construed to relieve the GUC Trustee or the GUC Trustee's employees, affiliates, officers, directors, principals, attorneys, accountants, experts, and agents (collectively with the GUC Trustee, the "Trustee Parties") from liability for that Trustee Party's own gross negligence, actual fraud, willful misconduct, or bad faith, except that:

(a) the Trustee Parties shall not be liable for any action taken in good faith in reliance upon the advice of attorneys, accountants, and other professionals;

(b) the Trustee Parties undertake to perform such duties and only such duties as are specifically set forth in this Agreement, the Plan, and the Confirmation Order and to the fullest extent permitted by applicable law no implied covenants or obligations shall be read into this Agreement, the Plan, or the Confirmation Order against the Trustee Parties;

(c) the Trustee Parties shall not be liable for any error of judgment made in good faith; and

(d) the Trustee Parties shall not be liable with respect to any action taken, suffered, or omitted to be taken by the Trustee Parties in good faith.

Whether or not therein expressly so provided, every provision of this Agreement relating to the conduct or affecting the liability of or affording protection to the Trustee Parties shall be subject to the provisions of this Section 6.1.

Section 6.2 *Certain Rights of the GUC Trustee*. Except as otherwise provided in this Agreement:

(a) the GUC Trustee may rely and shall be protected in acting upon any resolution, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document reasonably believed by the GUC Trustee to be genuine and to have been signed or presented by the proper party or parties;

(b) the GUC Trustee may, at its sole expense, consult with counsel, and the advice or opinion of counsel shall be full and complete protection to the GUC Trustee in respect of any action taken, suffered, or omitted by the GUC Trustee in good faith and in reliance on, or in accordance with, such advice or opinion;

(c) except in the case of liability arising from the GUC Trustee's gross negligence, actual fraud, or willful misconduct, persons dealing with the GUC Trustee shall look only to the GUC Trust Assets to satisfy any liability incurred by the GUC Trustee to such person in carrying out the terms of this Agreement and the GUC Trustee shall have no personal or individual obligation to satisfy any such liability;

(d) whenever, in the administration of this Agreement, the GUC Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering, or omitting any action hereunder, the GUC Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on the part of the GUC Trustee, rely upon an opinion of counsel or certificate furnished to the GUC Trustee by or on behalf of the Beneficiaries;

(e) the GUC Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, or other paper or document, but the GUC Trustee, in the GUC Trustee's discretion, may make such further inquiry or investigation into such facts or matters as the GUC Trustee may see fit, and, if the GUC Trustee shall determine to make such further inquiry

or investigation, the GUC Trustee shall be entitled to examine the books, records, and premises of the relevant person or entity, personally or by agent or attorney; and

(f) the GUC Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the GUC Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by the GUC Trustee hereunder.

Section 6.3 *Limitation of Liability; Indemnification*. The GUC Trustee and all of its respective designees, employees, agents, representatives, or professionals shall not be liable for the act or omission of any other member, designees, agent, or representative of the GUC Trustee, nor shall they be liable for any act or omission taken or omitted to be taken in their respective capacities, other than acts or omission resulting from willful misconduct, gross negligence, or actual fraud. The GUC Trustee shall owe a fiduciary duty to the Beneficiaries and shall exercise its obligations and duties under this Agreement, the Plan, and the Confirmation Order in good faith and in the reasonable best interests of the GUC Trust. The GUC Trustee may, in connection with the performance of its functions, consult with attorneys, accountants, financial advisors, and agents, at its sole expense, which consultation may act as a defense for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such persons. Notwithstanding such authority, the GUC Trustee shall not be under any obligation to consult with attorneys, accountants, financial advisors, or agents, and the GUC Trustee's determination not to do so shall not result in the imposition of liability, unless such determination is based on willful misconduct, gross negligence, or actual fraud. The GUC Trust shall indemnify and hold harmless the GUC Trustee, its designees and professionals, including without limitation employees, agents, subcontractors, and administrative personnel employed or engaged by the GUC Trustee in connection with the administration of the GUC Trust, and all duly designated agents and representatives thereof (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 their duties or the implementation or administration of the Plan; *provided*, *however*, that no such indemnification will be made to such persons for such actions or omissions as a result of willful misconduct, gross negligence, or actual fraud as determined by a final judgment of the Bankruptcy Court.

Section 6.4 *Compensation and Reimbursement*.

(a) [As compensation for his or her services and in payment of its expenses under this Agreement, the GUC Trustee, and any successor to the GUC Trustee, shall be entitled to [ ] plus the reimbursement of reasonable out-of-pocket expenses. Such fees and reimbursable out-of-pocket expenses shall be deemed GUC Trust Expenses hereunder, payable exclusively from the GUC Trust Assets.]

(b) Subsequent to the Effective Date, the reasonable fees and expenses of any professionals retained by the GUC Trustee shall be (i) deemed GUC Trust Expenses, and (ii) paid by the GUC Trust in accordance with any applicable retention agreements without any requirement of approval by the Bankruptcy Court of the retention, fees, or expenses payable to such professionals.

Section 6.5 *Exculpatory Provisions*. The GUC Trustee shall not have any obligation, responsibility, or liability for: (i) the validity, execution (except the GUC Trustee's own execution), enforceability, legality, or sufficiency of this Agreement; and (ii) taking any action under this Agreement, if taking such action (x) would subject the GUC Trustee to a tax in any jurisdiction where the GUC Trust is not then subject to a tax, or (y) would require the GUC Trust to qualify to do business in any jurisdiction where it is not then so qualified, unless the GUC Trustee receives an indemnity satisfactory to the GUC Trustee against such tax (or equivalent liability), or any liability resulting from such qualification.

ARTICLE VII

GUC TRUSTEE AND SUCCESSOR GUC TRUSTEES

Section 7.1 *Resignation, Incapacity, Death, or Removal*. The GUC Trustee may resign at any time by giving not less than thirty (30) days' prior written notice thereof filed with the Bankruptcy Court, and such resignation shall become effective upon the appointment of a permanent or interim successor GUC Trustee by the GUC Trustee. The GUC Trustee shall cease to serve upon his incapacity. For the purposes of this Agreement, "incapacity" shall mean (a) adjudication by a court of competent jurisdiction that the GUC Trustee is incapacitated; or (b) upon delivery of a written document signed by the GUC Trustee's personal physician indicating that the GUC Trustee is unable to serve in such capacity. In the event that GUC Trustee is unable act due to incapacity or other exigent circumstance, legal counsel to the GUC Trust shall be authorized to take necessary action to preserve the GUC Trust until a successor is appointed.

Section 7.2 *Acceptance of Appointment by Successor GUC Trustee*. The death, resignation, or removal of the GUC Trustee shall not operate to terminate the GUC Trust created by this Agreement or to revoke any existing agency created pursuant to the terms of this Agreement or invalidate any action theretofore taken by the GUC Trustee. Any successor GUC Trustee shall be selected, if possible, by the GUC Trustee or, if such GUC Trustee is unable to select a successor GUC Trustee, legal counsel to the GUC Trustee shall seek approval of the Bankruptcy Court for a successor GUC Trustee selected by such legal counsel. In the event the GUC Trustee position becomes vacant and no successor GUC Trustee has been appointed pursuant to the preceding sentence after a period of sixty (60) days, the vacancy shall be filled by a Person or entity selected by the United States Trustee. Any successor GUC Trustee appointed hereunder shall execute an instrument accepting such successor GUC Trustee's appointment and shall deliver one counterpart thereof to the Bankruptcy Court for filing, and, in case of the GUC Trustee's resignation or removal, to the retiring GUC Trustee. Thereupon, such successor GUC Trustee shall, without any further act, become vested with all the liabilities, duties, powers, rights, title, discretion, and privileges of the predecessor GUC Trustee in the GUC Trust with like effect as if originally named GUC Trustee and shall be deemed appointed pursuant to Bankruptcy Code section 1123(b)(3)(B) to be heard with regard to Claim Objections in accordance with the Plan, the Confirmation Order, and this Agreement.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.1 *Confidentiality.* The GUC Trustee and any successor GUC Trustee (each a "Covered Person") shall, and shall cause its agents and representatives to, during the period that they serve in such capacity under this Agreement and following either the termination of this Agreement or such individual's or entity's removal, incapacity, or resignation hereunder, hold strictly confidential and not use for personal gain any non-public information of or pertaining to any of the Debtors, their Estates, the GUC Trust Assets, or their relationship and dealings with the Debtors, of which it has become aware in its capacity as a Covered Person (the "Non-Public Information"). In the event that any Covered Person is required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigation, demand or similar legal process) to disclose any Non-Public Information, such Covered Person shall notify the Debtors and the GUC Trustee as soon as reasonably practicable (and in any event prior to any disclosure) so that the Debtors and the GUC Trustee may seek a protective order or other appropriate remedy or, in its discretion, waive compliance with the terms of this Section 8.1. In the event that (i) no such protective order or other remedy is obtained and such Covered Person is nonetheless legally compelled to disclose the Non-Public Information, or (ii) the Debtors and/or the GUC Trustee, waives compliance with this Section 8.1, the Covered Person will furnish only that portion of the Non-Public Information that the Covered Person, advised by counsel, is legally required to furnish and will give the Debtors and the GUC Trustee written notice (unless prohibited by law) of the Non-Public Information to be disclosed and exercise all reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Non-Public Information.

Section 8.2 *Debtor Corporate Authority*. Pursuant to Section VII.I of the Plan, upon the Effective Date, the GUC Trustee shall be empowered and authorized to act on behalf of the Debtors and to take all such actions and measures as necessary to implement the Plan, which actions or measures would otherwise be taken by an officer or a director of the Debtors.

Section 8.3 *Construction*. This Agreement and the GUC Trust created hereby shall be governed by and construed in accordance with the laws of the State of Texas without giving effect to choice of law principles. The GUC Trustee's interpretation of the provisions of this Agreement, the Confirmation Order, and the Plan shall be deemed conclusive in the absence of a contrary interpretation of a court of competent jurisdiction.

Section 8.4 *Jurisdiction*. The parties agree that the Bankruptcy Court shall have exclusive jurisdiction to determine all controversies and disputes arising under or in connection with this Agreement.

Section 8.5 *Severability*. In the event any provision of this Agreement shall be determined by Final Order of a court of proper jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 8.6 *Notices*. Any notice, consent, approval or other communication required or permitted to be given in accordance with this Agreement shall be in writing and shall be deemed

to have been sufficiently given, for all purposes, if delivered personally, deposited, postage prepaid, in a post office or letter box, or transmitted by facsimile or electronic mail (email), or sent by nationally recognized overnight delivery service addressed to the person for whom such notice is intended at such address as set forth below or such other address as may be provided to the other parties in writing. The date of receipt of such notice shall be the earliest of (a) the date of actual receipt by the receiving party, (b) the date of personal delivery (or refusal upon presentation for delivery), (c) on the date of the transmission confirmation, or (d) three business days after service by first class mail.

(i) if to the GUC Trustee:

[•]

(ii) If to the Debtors:

[•]

(iii) if to any Beneficiary, to the address or facsimile number of such Beneficiary as reflected in the Claims Register.

Section 8.7 *Entire Agreement*. This Agreement, and to the extent applicable, the Plan and the Confirmation Order together constitute the entire agreement by and among the parties with respect to the subject matter hereof, and there are no representations, warranties, covenants, or obligations except as set forth herein, in the Plan, and in the Confirmation Order. This Agreement (together with the Plan and the Confirmation Order) supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions, written or oral, if any, of the parties hereto relating to any transaction contemplated hereunder. Except as otherwise specifically provided herein, nothing in this Agreement is intended or shall be construed to confer upon or to give any Person other than the parties hereto and the Beneficiaries any rights or remedies under or by reason of this Agreement. This Agreement shall be binding on the parties hereto and their successors, including any chapter 11 trustee or chapter 7 trustee appointed in the Bankruptcy Cases.

Section 8.8 *No Relationship Created*. Nothing contained herein shall be construed to constitute any relationship created by this Agreement as an association, partnership, or joint venture of any kind.

Section 8.9 *Effective Date*. This Agreement shall become effective as of the Effective Date.

Section 8.10 *Amendment*. The GUC Trustee may supplement, modify, or waive any provision of this Agreement, without notice to or the consent of any Beneficiary or the approval of the Bankruptcy Court. Notwithstanding the immediately preceding sentence, no amendments, supplements, modifications or waivers of this Agreement shall be permitted if such modifications or waivers (i) would adversely affect the distributions to any of the Beneficiaries or adversely affect the U.S. federal income tax status of the GUC Trust as a "liquidating trust" or be inconsistent with the purpose and intention of the GUC Trust to liquidate in an expeditious but orderly manner

the GUC Trust Assets in accordance with Treasury Regulations Section 301.7701-4(d); (ii) would or would reasonably be expected to be adverse in any manner to the Debtors (without the consent of such affected parties in their sole discretion); (iii) would be inconsistent with the Plan or Confirmation Order in any respect, without further order of the Bankruptcy Court; (iv) absolve the GUC Trustee of liability for gross negligence, willful misconduct, or actual fraud; or (v) would permit the GUC Trustee to engage in any activity prohibited by Section 5.2. In addition to the foregoing, this Section 8.10 may not be amended without the consent of the Debtors.

Section 8.11 *Headings*. The headings contained in this Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or of any term or provision hereof.

Section 8.12 *Counterparts*. This Agreement may be executed in facsimile and in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument.

Section 8.13 *No Bond*. The GUC Trustee shall serve without a bond.

Section 8.14 *Relationship to the Plan*. If any provisions of this Agreement are found to be inconsistent with provisions of the Plan or the Confirmation Order, the provisions of the Plan or Confirmation Order, as applicable, shall control.

[*Remainder of Page Intentionally Left Blank*]

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.

GUC TRUSTEE

By: [•]

By: _____
Name:
Partner

ASCEND ELEMENTS, INC.

By: Ascend Elements, Inc.

By: _____
Name: [•]
Title: Chief Executive Officer

EXHIBIT B

SCHEDULE OF ASSUMED CONTRACTS

Ascend - Schedule of Contracts that May Be Needed Post-Effective Date

Debtor	Counterparty Name	Description
Ascend Elements, Inc.	ADG Flanders Road Westborough LLC	Lease Agreement, Dated 04/22/2024, Consent To Sublease, Dated 06/11/2021
Ascend Elements, Inc.	ADP, Inc.	Amendment To Global Master Services Agreement, Dated 11/25/2025
Ascend Elements, Inc.	Crystal Warehouse Corporation	Warehouse Lease, Dated 9/1/25
Ascend Elements, Inc.	PRINCIPAL LIFE INSURANCE COMPANY; DELAND, GIBSON INSURANCE ASSOCIATES, INC.	Supplemental Life Insurance
Ascend Elements, Inc.	United Healthcare Insurance Company	Activie Policies related to STD, LTD, Life, AD&D, FMLA/PFML, Medical, Dental, Vision

EXHIBIT C

SCHEDULE OF RETAINED CAUSES OF ACTION

Except as otherwise provided herein, as of the Effective Date, in accordance with section 1123(b) of the Bankruptcy Code, each Retained Cause of Action shall be preserved and, along with the exclusive right to enforce such Cause of Action, shall vest exclusively in the GUC Trust.

The Debtors or GUC Trust, as applicable, expressly reserve the Retained Causes of Action for later adjudication and, accordingly, no doctrine of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise), laches or other preclusion doctrine shall apply to the Retained Causes of Action as a consequence of the Confirmation, the Plan, the vesting of such Causes of Action in the GUC Trust, any order of the Court or these Chapter 11 Cases.

No Person may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as an indication that the Debtors or the GUC Trust, as applicable, will not pursue such Cause of Action.

The Retained Causes of Action Schedule shall be included in the Plan Supplement. The inclusion or failure to include any Retained Cause of Action in the Plan Supplement shall not be deemed an admission, denial or waiver of any claims, rights or Causes of Action that the Debtors, the Estates, or the GUC Trust may hold against any Person.

All rights to enforce, commence, prosecute, pursue, settle, or take any other action with respect to any Cause of Action shall be preserved for the sole benefit of the GUC Trust, including any Causes of Action against the Debtors' current and former directors and officers, regardless of whether any Cause of Action or entity is specifically referenced herein or in the Plan; *provided*, for the avoidance of doubt, the Retained Causes of Action shall not include (i) any Causes of Action against any Released Party, solely to the extent released in the Plan or (ii) any Causes of Action released by the Debtors pursuant to an order of the Court, including, but not limited to, the Cash Collateral Orders and the Sale Orders.

Notwithstanding and without limiting the generality of Article VII.E of the Plan, the following schedules include specific types of Causes of Action expressly preserved by the Debtors and transferred to the GUC Trust, as applicable, including without limitation (1) claims related to contracts and leases; (2) claims related to insurance policies, including director and officer insurance policies; (3) claims related to deposits, adequate assurance payments, prepayments, and other collateral postings; (4) causes of action related to liens; (5) defenses, cross-claims, and counterclaims related to litigation and potential litigation; (6) claims related to accounts receivable and accounts payable; (7) commercial tort claims; and (8) Avoidance Actions.

For the avoidance of doubt, the specific types of Causes of Action set forth in the Schedule of Retained Causes of Action attached hereto are non-exclusive and are not intended to be a comprehensive list of all of Causes of Action retained in connection with the Plan. Notwithstanding anything to the contrary in the Plan, the Debtors and the GUC Trust expressly reserve the right to alter, modify, amend, remove, augment, or supplement the Schedule of Retained Causes of Action at any time with additional Causes of Action. Failure to include any Causes of Action herein shall not be a bar nor have any impact on the GUC Trust's rights, through the GUC Trustee, to bring any Cause of Action not otherwise released pursuant to the Plan or an order of the Court. The decision whether to enforce, commence, prosecute, pursue,

settle, or take any other action with respect to any Causes of Action, or to refrain from doing so, shall remain within the discretion of the GUC Trustee.

SCHEDULE C-1

CLAIMS RELATED TO CONTRACTS AND LEASES

Unless otherwise specifically released by the Plan, the Debtors expressly reserve and, upon the Effective Date, the GUC Trust, acting through the GUC Trustee, shall retain all Causes of Action based in whole or in part upon any and all contracts and leases to which any Debtor or the GUC Trust is or was a party or pursuant to which any Debtor or the GUC Trust has or had any rights or obligations whatsoever (regardless of whether such contract or lease is specifically identified herein or in the Schedules, the Plan, this Plan Supplement, or any amendments thereto), including without limitation all Executory Contracts and Unexpired Leases that are assumed or rejected pursuant to the Plan or an order of the Court.

The claims and Causes of Action reserved include, without limitation, Causes of Action against vendors, lessors, suppliers of goods or services, customers, or any other parties:

a. for overpayments, back charges, duplicate payments, improper holdbacks, deductions owing or improper deductions taken, deposits, warranties, guarantees, indemnities, recoupment, or setoff;

b. for wrongful or improper termination, suspension of services or supply of goods, or failure to meet other contractual or regulatory obligations;

c. for underperformance or failure to fully perform or to condition performance on additional requirements under contracts with any one or more of the Debtors before the assumption or rejection, if applicable, of such contracts;

d. for payments, deposits, holdbacks, reserves, or other amounts owed by any creditor, utility, supplier, vendor, insurer, surety, factor, lender, bondholder, lessor, or other party;

e. for any liens, including mechanic's, artisan's, materialmen's, possessory, or statutory liens held by any one or more of the Debtors;

f. arising out of environmental or contaminant exposure matters against lessors, environmental consultants, environmental agencies, or suppliers of environmental services or goods;

g. for counterclaims and defenses related to any contractual obligations;

h. for any turnover actions arising under sections 542 or 543 of the Bankruptcy Code; and

i. for unfair competition, interference with contract or potential business advantage, breach of contract, infringement of intellectual property, or any business tort claims; and

j. all indemnification rights.

SCHEDULE C-2

CLAIMS RELATED TO INSURANCE POLICIES

All Insurance Policies maintained by the Debtors as of the Petition Date, including directors' and officers' insurance policies, and all schedules and related documents concerning such Insurance Policies, are hereby incorporated by reference in this Schedule C-2 as if fully set forth herein.

Unless otherwise released by the Plan, the Debtors expressly reserve and, upon the Effective Date, the GUC Trust, acting through the GUC Trustee, shall retain all Causes of Action based in whole or in part upon any and all insurance contracts and Insurance Policies, including directors' and officers' insurance policies, to which any Debtor is or was a party or pursuant to which any Debtor has or had any rights whatsoever, regardless of whether such contract or policy is specifically identified herein or in the Schedules, the Plan, this Plan Supplement, or any amendments thereto, including all such claims concerning which the Debtors have notified such insurers as of the Effective Date and Causes of Action against insurance carriers, reinsurance carriers, insurance brokers, underwriters, occurrence carriers, surety bond issuers, or other insurers relating to coverage, indemnity, contribution, reimbursement, or any other matters.

For the avoidance of doubt, the GUC Trust, acting through the GUC Trustee, expressly reserves and retains all Causes of Action arising in connection with any previously asserted, pending, or future claims under the insurance contracts and Insurance Policies.

SCHEDULE C-3

CLAIMS RELATED TO DEPOSITS, ADEQUATE ASSURANCE PAYMENTS, PREPAYMENTS, AND OTHER COLLATERAL POSTINGS

Unless otherwise released by the Plan, the Debtors expressly reserve and, upon the Effective Date, the GUC Trust, acting through the GUC Trustee, shall retain all Causes of Action based in whole or in part upon any and all postings of security deposits, adequate assurance payments, or any other type of deposit, prepayment, or collateral, regardless of whether such posting of security deposit, adequate assurance payment, or any other type of deposit, prepayment, or collateral is specifically identified herein or in the Schedules, the Plan, this Plan Supplement, or any amendments thereto.

SCHEDULE C-4

CAUSES OF ACTION RELATED TO LIENS

Unless otherwise released by the Plan, the Cash Collateral Orders, or the Sale Orders, the Debtors expressly reserve and, upon the Effective Date, the GUC Trust, acting through the GUC Trustee, shall retain all Causes of Action based in whole or in part upon any and all liens, regardless of whether such lien is included herein or in the Schedules, the Plan, this Plan Supplement, or any amendments thereto.

SCHEDULE C-5

DEFENSES, CROSS-CLAIMS AND COUNTERCLAIMS RELATED TO LITIGATION AND POTENTIAL LITIGATION

Unless otherwise specifically released by the Plan, the Debtors expressly reserve and, upon the Effective Date, the GUC Trust, acting through the GUC Trustee, shall retain all Causes of Action against or related to all Entities that are party to or that may in the future become party to litigation, arbitration, or any other type of adversarial proceeding or dispute resolution proceeding, whether formal or informal or judicial or non-judicial, including an adversary proceeding before the Court, between the Debtors or the GUC Trust and such Entity, regardless of whether such Entity is included herein or in the Schedules, the Plan, this Plan Supplement, or any amendments thereto, and including all counterclaims that have been presented or threatened and all claims and counterclaims with respect to workers' compensation.

SCHEDULE C-6

CAUSES OF ACTION RELATED TO ACCOUNTS RECEIVABLE AND ACCOUNTS PAYABLE

Unless otherwise released by the Plan, the Debtors expressly reserve and, upon the Effective Date, the GUC Trust, acting through the GUC Trustee, shall retain all Causes of Action against or related to any and all Entities that (i) owe or may in the future owe money to the Debtors or the GUC Trust, or (ii) assert or may assert that the Debtors or the GUC Trust, as applicable, owe money to them, in each case in the foregoing clauses (i) and (ii), regardless of whether any such Entity is expressly identified herein or in the Schedules, the Plan, this Plan Supplement, or any amendments thereto, and including, without limitation, any and all Entities listed on Part 3 of Schedule A/B, Schedule E, or Schedule E/F of the Schedules filed by each of the Debtors in these Chapter 11 Cases, as may be amended from time to time, which are hereby incorporated by reference to this Schedule C-6 as if fully set forth herein.

SCHEDULE C-7

COMMERCIAL TORT CLAIMS

Unless otherwise released by the Plan, the Debtors expressly reserve and, upon the Effective Date, the GUC Trust, acting through the GUC Trustee, shall retain all Causes of Action sounding in commercial tort against any Person or Entity, regardless of whether such Person, Entity, or Cause of Action is specifically identified herein or in the Schedules, the Plan, this Plan Supplement, or any amendments thereto, including, without limitation, Causes of Action arising from:

a. breach of any duty, fiduciary or otherwise, owed to the Debtors or any affiliated entities, including, but not limited to, Causes of Action for breach of fiduciary duty (including duty of loyalty), bad faith, self-dealing, usurpation of corporate opportunity, failure to exercise proper care and diligence in the management and oversight of the Debtors' operations, business, capital structure, and financing decisions, or aiding and abetting any of the foregoing;

b. fraud, fraudulent misrepresentation, fraudulent concealment, fraudulent inducement, constructive fraud, deceit, willful misconduct, conspiracy to defraud, aiding and abetting fraud, and any other claims based on intentional or negligent misrepresentation, or related equitable remedies (including restitution, disgorgement, constructive or resulting trust, accounting, tracing, and equitable liens);

c. negligence, gross negligence, negligence per se, negligent misrepresentation, recklessness, reckless misconduct, willful misconduct, or any related Causes of Action derived from similar principles;

d. corporate waste;

e. conflicts of interest, including any claims related to self-dealing, interested transactions, usurpation of corporate opportunities, or other conduct reflecting divided loyalties;

f. unjust enrichment, including claims arising from any benefits conferred upon or retained by such parties at the expense of the Debtors or their creditors;

g. tortious interference with contract, prospective business relations, or advantageous business relationships; and

h. imposition of a constructive trust on any assets or property that, in equity, should be held for the benefit of the Debtors, their Estates, or the GUC Trust.

SCHEDULE C-8

AVOIDANCE ACTIONS

Unless otherwise released by the Plan, the Debtors expressly reserve and, upon the Effective Date, the GUC Trust, acting through the GUC Trustee, shall retain any and all Avoidance Actions, including, without limitation, any and all avoidance, recovery, subordination, or other claims, actions, or remedies that may be brought by or on behalf of the Debtors or their Estates under the Bankruptcy Code or applicable non-bankruptcy law, including actions or remedies under sections 105(a), 502(d), 510, 542 through 551, and 553 of the Bankruptcy Code, or any similar federal, state, or common law causes of action, including, without limitation, any Causes of Action arising under section 547 of the Bankruptcy Code or similar preference-related actions arising under the Bankruptcy Code or applicable non-bankruptcy law, regardless of whether such Avoidance Action is specifically identified herein or in the Schedules, the Plan, this Plan Supplement, or any amendments thereto.