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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re: ELETSON HOLDINGS INC., et al., Debtors.[1]	Chapter 11 Case No.: 23-10322 (JPM) (Jointly Administered) **Ref. Docket No.: 2094**

RIVERON, RTS LLC'S (I) LIMITED OBJECTION TO ELETSON HOLDINGS INC.'S MOTION FOR AN ORDER AUTHORIZING TURNOVER UNDER §542(e) OF THE BANKRUPTCY CODE AND CONFIRMING TRANSFER OF ATTORNEY-CLIENT PRIVILEGE, AND (II) RESERVATION OF RIGHTS

Riveron, RTS LLC ("Riveron") hereby files its limited objection (the "Limited Objection") to *Eletson Holdings Inc.'s Motion for an Order Authorizing Turnover Under §542(e) of the Bankruptcy Code and Confirming Transfer of Attorney-Client Privilege* [Docket No. 2094] (the "Turnover Motion")[2] filed by Eletson Holdings Inc. ("Holdings") seeking turnover of the Eletson Client Files. In support of its Limited Objection, Riveron respectfully states as follows:

[1] Prior to November 19, 2024, the Debtors in these cases were: Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC. On March 5, 2025, the Court entered a final decree and order closing the chapter 11 cases of Eletson Finance (US) LLC and Agathonissos Finance LLC. Commencing on March 5, 2025, all motions, notices, and other pleadings relating to any of the Debtors shall be filed in the chapter 11 case of Eletson Holdings Inc. The Debtor's mailing address is c/o Herbert Smith Freehills Kramer (US) LLP, 1177 Avenue of the Americas, New York, New York 10036.

[2] All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Turnover Motion.

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PRELIMINARY STATEMENT

1. In the context of these chapter 11 cases, Riveron was a Court-approved estate professional that was engaged by the Debtors for the limited purpose of conducting valuation and waterfall analyses, evaluating competing proposed plans, providing an expert report, and testifying at the confirmation hearing. Riveron's engagement concluded on October 31, 2024. The Court approved Riveron's retention on a final basis on August 22, 2024 [Docket No. 1010], and approved Riveron's fees and expenses on a final basis on February 7, 2025 [Docket No. 1423], and all amounts owed to Riveron for the services performed by Riveron for the Debtors have been paid.

2. Although Riveron will certainly comply with any final order entered in connection with the Turnover Motion, Riveron respectfully submits that any production obligations should account for both the pending appeal before the United States Court of Appeals for the Second Circuit (No. 25-445) (the "Pending Appeal") and the Court-approved Riveron engagement letter (the "Engagement Letter"), attached hereto as **Exhibit A**, which provides that only the Deliverables (as defined below) are property of the Debtors.

BACKGROUND

3. On March 7, 2023 (the "Petition Date"), three creditors filed involuntary chapter 7 petitions against the Debtors, and on September 25, 2023, this Court entered an order converting the involuntary chapter 7 cases to voluntary cases under chapter 11 of the Bankruptcy Code (the "Chapter 11 Cases").

4. The Chapter 11 Cases involved competing proposed plans (the "Competing Plans"), one of which was filed by the above-captioned Debtors (collectively, the "Debtors" or the "Company") [Docket No. 840], and two of which were filed by a group of creditors [Docket Nos. 846 & 848]. On July 10, 2024, the Court entered the *Order (I) Approving Disclosure Statements,*

(II) Approving Solicitation and Notice Procedures with Respect to Confirmation of Competing Plans, (III) Approving Forms of Various Ballots and Notices in Connection Therewith, (IV) Approving Scheduling of Certain Key Dates in Connection with Confirmation, and (V) Granting Related Relief [Docket No. 856] (the "Joint Solicitation Order"). The Joint Solicitation Order approved the solicitation of the three Competing Plans.

5. In order to assist with an analysis of the Competing Plans, the Debtors sought to engage Riveron for a limited purpose as the Debtors' domestic financial advisor. On August 13, 2024, the Debtors submitted the *Debtors' Application for Entry of an Order (I) Authorizing the Retention and Employment of Riveron, RTS LLC as Domestic Financial Advisor to the Debtors (II) Approving the Terms of Employment and (III) Granting Related Relief* [Docket No. 936] (the "Riveron Retention Application"). As provided in the Riveron Retention Application, the Debtors sought to engage Riveron to provide (a) plan analysis, (b) valuation analysis, (c) waterfall analysis, (d) comparison of the three Competing Plans, and (e) other services as may be agreed upon by Riveron and the Debtors. *See* Engagement Letter, Sch. A. On August 22, 2024, the Court entered an order approving the Riveron Retention Application [Docket No. 1010].

6. Riveron performed the services under the Engagement Letter, including by testifying at the confirmation hearing on behalf of the Debtors. Riveron's engagement with the Debtors commenced on August 5, 2024 and ended on October 31, 2024 (approximately 87 days total). *See* Docket Nos. 1010 & 1320.

7. On November 4, 2024, the Court entered an order confirming the plan (the "Plan") [Docket No. 1223], and on November 19, 2024 (the "Effective Date"), the Plan went effective. *See* Docket No. 1258.

8. On February 7, 2025, the Court entered the *Omnibus Order (I) Granting Interim Applications for Allowance of Compensation and Reimbursement of Expenses Incurred; and (II) Granting Final Allowance of Compensation for Professional Services Rendered and Reimbursement of Expenses Incurred from the Petition Date Through and Including November 19, 2024* [Docket No. 1423] approving, among other things, Riveron's interim and final fee applications on a final basis.

LIMITED OBJECTION

A. This Court Should Hold the Turnover Motion Under Advisement Until the Pending Appeal is Decided.

9. Although not a party to the Pending Appeal, Riveron understands that the appeal[3] arises from a turnover order (the "DC Turnover Order") entered by the United States District Court for the Southern District of New York (the "District Court") in Case No. 1:23 cv-7331 (the "EH Action"), a proceeding between Eletson Holdings Inc. and Eletson Corp. (collectively, "Debtor EH"), on the one hand, and Levona Holdings, Ltd. ("Levona"), on the other. Debtor EH commenced the EH Action on August 18, 2023, by seeking confirmation of an arbitration award entered in its favor, while Levona sought vacatur of that award. Following the Effective Date, Holdings filed a motion in the EH Action to displace their counsel, Reed Smith LLP ("Reed Smith"), and for turnover of EH Debtor's client files in Reed Smith's possession.[4]

10. The District Court entered the DC Turnover Order which ordered Reed Smith to turn over certain materials, including:

> 1. The entire client file maintained by Reed Smith in any matter wherein it represented Eletson Corp. or Eletson Holdings, Inc.

[3] The Pending Appeal is comprised of two appeals being heard in tandem. *See* Case No. 25-445, Docket No. 9 (ordering 25-445 and 25-176 to be heard in tandem).

[4] Section 10.6 of the Plan purports to remove the Debtors' existing professionals on the Effective Date. Docket No. 1132 § 10.6.

in relation to the Arbitration Award, the enforcement thereof or the monetization of it and the disputes underlying the Arbitration.

2. All communications between Eletson Corp., Eletson Holdings, Inc. and/or any agents thereof, including Reed Smith, and any third party relating to the Arbitration.

3. Unredacted time sheets through the current date, including internal work in progress accounting time entries, relating to the Arbitration.

Case No. 1:23-cv-7331, Docket No. 243 at 9, Docket No. 269.

11. Riveron also understands that Reed Smith's appeal of the DC Turnover Order forms the basis for part of the Pending Appeal, and enforcement of the DC Turnover Order is currently stayed [Case No. 25-445, Docket No. 66.1]. Holdings acknowledges the significance of the Pending Appeal in its Turnover Motion.[5] Reed Smith raises several questions in the Pending Appeal concerning the validity of the Plan and, consequently, the validity of the ownership and governance changes affecting Debtor EH and Holdings that were implemented pursuant to the Plan. *See* Case No. 25-445, Docket No. 15. Reed Smith also argues that, if the Plan was validly consummated, Holdings and Levona are now under common ownership, which either means that no justiciable controversy remains, or that any compelled turnover would result in irreparable harm, because, given the common ownership, the files would be provided to adverse parties. *See id*.

[5] "Holdings is aware that turnover of a subset of the Eletson Client File is the subject of a currently pending appeal before the Second Circuit [Case No. 25-445] relating to a turnover order entered by the District Court in the context of the vacatur proceeding [Case No. 1:23-cv-7331] (the "Vacatur Proceeding"). Thus, Holdings is willing to hold enforcement of this order with regard to documents relating to the Vacatur Proceeding in abeyance pending outcome of the Second Circuit decision. Holdings respectfully requests that all other recorded information, documents, books and records developed and maintained in the course of, or in connection with, the representation of the Debtors, including relating to the Debtors' property and financial affairs, be turned over upon entry of the Proposed Order." Turnover Motion n. 2.

12. Because the Pending Appeal challenges the validity of the Plan and the ownership changes implemented pursuant to it, the appeal directly affects Riveron's ability to determine what documents may properly be produced to Holdings. In light of these unresolved issues, which, among other things, call into question Holding's authority to seek turnover of any Eletson Client File documents from those subject to the Turnover Motion, Riveron respectfully requests that the Court stay consideration of the Turnover Motion pending a final determination of the Pending Appeal.

B. Riveron's Engagement Letter Limits the Scope of Client File Documents.

13. Pursuant to paragraph 9 of the Proposed Order attached as Exhibit A to the Turnover Motion, Riveron understands that Holdings agrees that the terms of the Engagement Letter control with respect to what documents potentially constitute the "Eletson Client File."[6] Specifically, paragraph 9 of the Proposed Order states:

> For the avoidance of doubt, the Former Professionals are not obligated to turn over any documents not included in the Eletson Client File, as such term is defined in any relevant engagement letters by and between Holdings and the respective Former Professional.

As detailed below, the terms of the Engagement Letter determine the respective rights and ownership in the Deliverables (defined below) and the working papers and other documents Riveron developed and used during its engagement with the Debtors.

14. Section 6(a) of the Engagement Letter, entitled "Company's Exclusive Use," provides, in relevant part:

> [t]he Company acknowledges and agrees that any oral or written advice, outlines, recommendations, information, summaries, presentations, memorandums, schedules, written reports or other work product (the "Deliverables") Riveron provides to the Company

[6] The defined term "Eletson Client Files" set forth in paragraph 4 of the Turnover Motion is broad and ambiguous and the intended scope and meaning of "Eletson Client Files" is unclear to Riveron.

> under the [Engagement Letter] are intended for the Company's sole benefit, and Riveron does not authorize any other party to receive or rely upon such Deliverables.

Engagement Letter, Sect. 6(a).

15. Section 6(c) of the Engagement Letter, entitled "Ownership," provides that the Deliverables "shall be owned by [the Debtors], subject to the confidentiality and non-disclosure provisions" of the Engagement Letter and that "Riveron shall retain sole and exclusive ownership" of its working papers and other documents that Riveron developed and used to prepare the Deliverables or that Riveron may have created as a result of the services provided to the Debtors. Engagement Letter, Sect. 6(c)

16. Although Riveron questions whether it should be required to turnover any of the requested documents to Holdings, Riveron respectfully submits that should the Court order Riveron to produce any of the Eletson Client Files requested pursuant to the Turnover Motion, that any such production ordered by the Court be limited to the Deliverables, and that any other documents, including, but not limited to, Riveron's internal emails, are not required to be produced. The use by Holdings of any documents produced by Riveron should also be subject to the confidentiality and non-disclosure provisions of the Engagement Letter.

C. Riveron is Entitled to its Costs and Expenses Associated with Any Court-Ordered Production.

17. Lastly, Section 7(a) of the Engagement Letter provides for a standard indemnification provision, providing Riveron with indemnification for costs associated with responding to subpoenas or other process, such as the Turnover Motion. Specifically, the Engagement Letter provides that the Company agrees to indemnify the Indemnified Persons (as defined in the Engagement Letter) if any such Indemnified Person "becomes involved in any capacity in any claim, action, proceeding (including any objection to or proceeding involving an

Indemnified Person's fees or expenses) or any investigation … brought by or against any person or entity, in any way related to the [Engagement Letter]." Engagement Letter, Sect. 7(a).

18. The Engagement Letter further provides that the Company will advance payment to the Indemnified Person for "reasonable out-of-pocket legal and other expenses (including the cost of any investigation and preparation)" unless a final non-appealable decision by a court of competent jurisdiction determines that any loss, claim, judgment, damage or liability of such Indemnified Person "resulted primarily from the gross negligence or willful misconduct of such Indemnified Person" in performing the services provided for in the Engagement Letter. *See* Engagement Letter, Sect. 7(a). Moreover, per the Engagement Letter, "[i]n the event of any subpoena or court order regarding disclosure of Company information, the Company shall pay Riveron for its costs and expenses associated with such subpoena or court order." Engagement Letter, Sect. 3(d). Accordingly, should the Court determine that Riveron must produce documents to Holdings pursuant to the Turnover Motion, Holdings should be required to reimburse Riveron for any and all associated fees and costs incurred in connection with any collection, review, and production of such documents, including reasonable attorneys' fees in relation to such production and responding to the Turnover Motion.

RESERVATION OF RIGHTS

19. Riveron reserves the right to join in and adopt any arguments made by any of the other Former Professionals in response to the Turnover Motion. Nothing contained in this Limited Objection or any order granting the relief requested in this Limited Objection, and no action taken by Riveron pursuant to the relief requested or granted, shall (a) waive, impair, prejudice, or otherwise affect any rights, claims, defenses, arguments, or remedies of Riveron with respect to this matter or any related matters, including, without limitation, in any proceedings before this

Court or in any other court; or (b) act as a waiver or limitation of any claims, causes of action, or other rights of Riveron or any other party in interest against any person or entity under the Bankruptcy Code or any other applicable law.

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CONCLUSION

WHEREFORE, for the reasons set forth above, Riveron respectfully requests that the Court stay consideration of the Turnover Motion pending a final determination of the Pending Appeal.

Dated: August 25, 2026
New York, New York

/s/ Michael R. Nestor

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EXHIBIT A

Engagement Letter

RIVERON

August 5, 2024

Lascarina Karastamati
President & Director
Eletson Holdings Inc.
118 Kolokotroni Street
Piraeus, 185 35

Re: Engagement to Provide Professional Services to Eletson Holdings Inc.

Dear Mr. Karastamati,

The purpose of this letter (this "Engagement Letter") is to confirm our mutual understanding of the scope and terms for the engagement by Eletson Holdings Inc., Eletson Finance (US) LLC, and Agathonissos Finance LLC (collectively, the "Company")[1] of Riveron RTS, LLC ("Riveron"). This Engagement Letter and the attached Schedules A, B, C and D, together constitute the agreement governing the engagement (the "Agreement").

Scope of Engagement. Riveron will provide the Company with the services listed on Schedule A, Scope of Services (the "Services").

Fees and Expenses. The Company will compensate Riveron for its services, and reimburse Riveron for its expenses, as set forth in Schedule B, Fees and Expenses.

General Terms and Conditions. The Agreement is subject to the terms and conditions set forth in Schedule C, General Terms and Conditions.

Staffing. David Nolletti will be the Senior Managing Director responsible for the overall engagement, assisted by a team of consultants with appropriate experience and skills.

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[1] Each of the entities in the term Company are debtors and debtors in possession in jointly administered chapter 11 cases pending in the United States Bankruptcy Court for the Southern District of New York, with case no. 23-10322 (JPM).

If you agree with the terms of the Agreement, please sign and date this Engagement Letter below and return a copy to the undersigned. In addition, please execute a wire transfer for payment of any required upfront fees and/or retainers, in accordance with the instructions on Schedule B. This Agreement shall become effective upon receipt of payment of any required upfront fees and/or retainers, and signed Engagement Letter, at which time we will commence work.

We very much appreciate the opportunity to serve as advisors to the Company.

Sincerely,

Riveron RTS, LLC

DocuSigned by:
By: David Nolletti Date: 8/8/2024
848F45AB258A449...
Name: **David Nolletti**
Title: **Senior Managing Director**

Agreed and accepted:

Eletson Holdings Inc., on its own behalf and on behalf of its affiliated debtors in possession

Signed by:
By: Date: 8/8/2024
73EBA784786348A...
Name: Lascarina Karastamati
Title: Director/ President

Schedule A

Scope of Services

1. Plan Analysis
2. Valuation Analysis
3. Waterfall Analysis
4. Comparison of the three competing plans
5. Other services as agreed upon by the Company and Riveron

Schedule B

Fees and Expenses

1. **Fees.** Riveron will charge the Company for the Services based upon the actual number of hours incurred at the following hourly rates:

Position	Hourly Rate
Senior Managing Director	$865 - $1,450
Managing Director	$710 - $960
Associate Director to Senior Director	$580 - $850
Associate to Manager	$460 - $565
Paraprofessional	$275

Riveron's hourly rates are subject to periodic adjustment.

2. **Expenses.** In addition to the Fees set forth in this Schedule B, the Company shall pay directly, or reimburse Riveron upon receipt of periodic billings, for all reasonable out-of-pocket expenses incurred in connection with the Services, such as travel, meals, reasonable attorney fees, and delivery services. Riveron can provide documentation of such expenses upon request.

3. **Invoicing and Payment.** Riveron will submit invoices for its fees and expenses weekly or periodically as required by the parties. Riveron's fees are exclusive of taxes or similar charges, which shall be the responsibility of the Company. Subject to the terms of the Order Establishing Procedures For Interim Compensation And Reimbursement of Expenses Of Professionals [Dkt 398] (the "Professionals Fee Order"), all invoices will be due and payable upon receipt (subject to terms of the Professionals Fee Order) and are payable via wire transfer of U.S. funds in accordance with the following instructions:

Riveron RTS, LLC
Federal Tax ID: 38-2487108

Retainer:	**Any Billings Thereafter:**
Texas Capital Bank, N.A., Dallas, Texas ABA Routing #111017979 Riveron RTS, LLC Account # 1111226161	Texas Capital Bank, N.A., Dallas, Texas ABA Routing #111017979 Riveron RTS, LLC Account # 1111226146

Schedule C

General Terms and Conditions

These General Terms and Conditions ("Terms") are incorporated into the Agreement that includes the Engagement Letter to which these Terms are attached.

All defined terms shall have the meanings ascribed to them in the Engagement Letter, the Schedules attached to the Engagement Letter, and these Terms. The Company and Riveron are each a "party," and together the "parties." "Riveron Entities" refers to Riveron and other direct and indirect subsidiaries of Riveron Parent Holdings LP. The headings and titles in these Terms are for convenience only.

1. Nature of the Engagement

(a) **Limited Scope.** The Services set forth in Schedule A are limited to those that the Company has determined will best meet its needs. The Services should not be relied upon to disclose errors, irregularities (including fraud or defalcations), or illegal acts that may exist or have occurred. The ultimate depth and scope of Riveron's work and analysis will necessarily be limited by time limitations, scope of Services limitations, and the availability and sufficiency of relevant information.

(b) **No Audit or Attestation**. Riveron is a management consulting firm and not a CPA firm. Riveron's services will not include or constitute an audit, attest opinion, verification, tax compliance, review or compilation of the information that Riveron is provided, or any other type of financial statement reporting or consulting engagement that is subject to the rules of the AICPA, the SSCS, the PCAOB or other such state and national professional bodies. Accordingly, Riveron will not express a conclusion or provide any other form of assurance on the completeness or accuracy of the Company's financial or tax information. The Services do not include legal, tax, accounting, insurance, or similar professional services, which are typically outsourced. The Services also do not include investment banking, investment advice, or the Company's engagement of Riveron in connection with the purchase, sale or exchange of securities.

(c) **No Representations or Warranties.** None of the Riveron Entities have made any representations, warranties, or guarantees of any nature as to the success or satisfactory conclusion of this engagement or as to the economic, operational, financial or other results which may be obtained or experienced by the Company. Nothing in this Agreement or any statement by Riveron professionals constitutes a guarantee or a promise regarding such results or outcomes. Any comments about the outcome of the Company's matter are simply expressions of judgment and are not binding on Riveron.

2. Company Responsibilities

(a) **Company Oversight and Direction**. The Company shall assign a qualified person to oversee the Services and will be responsible for all management decisions related to the Services as well as the use or implementation of such Services by the Company as directed in concert with the retention and services provided by Investments and Finance Ltd and will take steps to eliminate any duplication of efforts and tasks between the two advisory firms.

(b) **Access to Records and Personnel.** Riveron requires certain information, data, and opinions from or on behalf of the Company (either provided by the Company directly or through Investments and Finance Ltd., "Company Information") in order

for Riveron to provide the Services. The Company agrees to provide (or to cause others to provide) to Riveron Company Information, along with resources and assistance that Riveron reasonably requires to perform the Services, including access to Company personnel (where applicable). The Company agrees that Company Information it provides will be accurate, complete, and not materially misleading. Any books, records and reports the Company provides will be of reasonable organization and quality. Riveron may rely on all Company Information made available to it, including the accuracy and validity of any data disclosed to it or supplied to it by the Company. Riveron has no responsibility to evaluate the reliability, validity, completeness, sufficiency, or accuracy of the information it is provided. Absent a written request from the Company and written acceptance by Riveron, Riveron will not update or confirm any data Riveron receives.

(c) **Projections.** The Company understands that the Services provided may include the preparation of projections and other forward-looking statements. Riveron will rely on Company Information in the event Riveron prepares such projections and forward-looking statements. Numerous factors, in addition to the accuracy of Company Information, can affect the actual results of the Company's operations, which may be materially and adversely different from the projections. Riveron does not guarantee the Company's future performance.

(d) **Bankruptcy Filings.**

(1) The Company shall (i) apply promptly to the bankruptcy court for approval of Riveron's retention under the terms of the Agreement, nunc pro tunc to the date of execution of this agreement, (ii) provide Riveron draft copies of all pleadings in connection with the same for approval, and (iii) use its best efforts to obtain bankruptcy court approval. Riveron shall have no obligation to provide any Services under this Agreement unless and until Riveron's retention under the terms of this Agreement is approved by a final order of the bankruptcy court in form and substance acceptable to Riveron.

(2) In the event the bankruptcy court approves Riveron's retention by the Company pursuant to the application process described in this Section, the Company shall pay Riveron's fees and expenses pursuant to the Professionals Fee Order.

3. Confidentiality

(a) **General**. Each of Riveron and the Company acknowledges that material and information which has or will come into its possession or knowledge in connection with this Agreement and the performance of the Services may include trade secrets and other confidential and proprietary data of the other party (collectively, "Confidential Information").

(b) **No Unauthorized Disclosure or Use**. Each of Riveron and the Company agrees that it shall not disclose or otherwise make known to any third party, other than its employees, independent contractors or agents that have a need to know, any Confidential Information belonging to the other party without the express written consent of the disclosing party. Neither party will use such Confidential Information for any purpose other than fulfilling its obligations under the Agreement. Each party will take the same precautions it takes to protect its own Confidential Information of like kind, to prevent any disclosure of Confidential Information, but in no event less than a reasonable degree of care.

(c) **General Exceptions**. This confidentiality undertaking shall not apply to information or data which is (1) in the public domain at the time of receipt or which

subsequently becomes part of the public domain through no fault of the recipient, (2) known to the recipient at the time of receipt, or (3) obtained by the recipient on a non-confidential basis from a third-party source which, to the best of the recipient's knowledge, is not prohibited from disclosing such Confidential Information.

(d) **Subpoenas and Orders**. No disclosure of Confidential Information by either party shall be deemed to be a breach or violation of the Agreement if such disclosure is required to be made in any judicial or administrative proceeding pursuant to a valid subpoena or court order or is otherwise required by applicable law. Prior to such disclosure, the recipient party must give the disclosing party advance notice (to the extent practicable and legally permissible) to enable the disclosing party to take action to protect its rights, at the disclosing party's discretion. In the event of any subpoena or court order regarding disclosure of Company information, the Company shall pay Riveron for its costs and expenses associated with such subpoena or court order.

(e) **Electronic Transmission**. Riveron will transmit information to the Company by e-mail, over the Internet. Should any confidentiality breaches occur because of data transmission over the Internet, the Company agrees that this will not constitute a breach of any obligation of confidentiality that Riveron owes to the Company. If the Company wishes to limit such transmission to information that is not highly confidential, or seek more secure means of communication for highly confidential information, it will need to inform Riveron.

(f) **Confidentiality Duration**. The term of this confidentiality undertaking shall commence on the effective date of the Agreement and continue until two (2) years after the Agreement terminates. Riveron will have the right to destroy all Confidential Information and related records, including electronic data, five (5) years after the conclusion of this engagement.

(g) **Disclosures Necessary for Performance**. Riveron may make reasonable disclosures of Confidential Information to perform the Services. In addition, Riveron will have the right to disclose to others in the normal course of business: (1) Riveron's involvement with the Company; and (2) basic information about this engagement as necessary to clear conflicts or make appropriate disclosures in any bankruptcy case in which any Riveron Entity is involved.

4. Relationship of the Parties

(a) **Independent Contractor**. At all times during the term of the Agreement, Riveron is and shall be an independent contractor in providing the Services to the Company. In no event shall an employee of one party be considered to be an employee of the other, and neither party shall have any duty to provide or maintain any insurance or other employee benefits on behalf of the other party or the other party's employees, independent contractors or agents.

(b) **Advisory Nature of Services**. Riveron is providing advisory and consulting services only, and has not been given, and is not assuming, any final, decision-making authority or management role for the Company or any of its affiliates or employee benefit plans. Neither Riveron nor any of its employees or agents will have any fiduciary duties or obligations in connection with or as a result of the Services.

(c) **No Partnership or Agency**. Nothing contained in the Agreement shall be construed as constituting a partnership or joint venture, or the relationship of

principal/agent between the parties. Neither party shall have any right to obligate or bind the other in any manner whatsoever.

(d) **Customary Acknowledgement**. Riveron may, at its own expense, place announcements on its corporate website, in marketing materials and in financial and other newspapers and periodicals (such as a customary "tombstone" advertisement, including the Company's logos or other identifying marks) acknowledging the Company as a client of Riveron and generally describing Riveron's Services in connection therewith. Riveron agrees to not disclose any specifics of the engagement, and to limit announcements to the names and business description of the parties involved and a general description of Riveron's Services provided (for example, "General Corporate Advice").

(e) **Responding to Subpoenas**. In the event Riveron or any Riveron employee or agent is requested or authorized by the Company, or is required by government regulation, subpoena, or other legal process to produce any information or testify as a witness with respect to the Services, the Company will, so long as Riveron or the employee or agent is not a party to the proceeding in which the information or testimony is sought, reimburse Riveron for its professional time and expenses, as well as the actual fees and expenses of its counsel, incurred in responding to such requests.

5. Riveron Personnel; Agreement Not to Solicit

(a) **Riveron Personnel.** Riveron will perform the Services using either employees of Riveron, employees of other Riveron Entities, or independent contractors engaged by Riveron (collectively, "Personnel"). This may include the use of non-US based individuals and entities. Riveron will use all reasonable efforts to ensure ongoing continuity of all assigned Personnel.

(b) **No Solicitation.** The Company acknowledges (1) the significant investment Riveron has made in the identification, recruitment, training and development of the Personnel and in the building of relationships between such Personnel and Riveron's other clients, (2) the loss of client billable time resulting from the transition of client files from a departing employee or agent to another employee or agent, (3) that the Company would receive substantial additional value, and Riveron would be deprived of the benefits of its work force, if the Company were to directly employ, engage or contract with any of the Personnel, and (4) the difficulty of placing a monetary value on the Riveron investments, Riveron losses and Company benefits referred to above. Accordingly, the Company agrees that for the duration of the Agreement and for twenty-four (24) months thereafter, neither the Company nor any of its affiliates will employ, engage or contract with any of the Personnel or otherwise induce any of the Personnel to terminate his or her employment or engagement with a Riveron Entity. This Section 5(b) does not prohibit the Company from making general solicitations for employment that are not directly targeted at the Riveron Entities' employees or agents or from soliciting for employment any individuals who have ceased being employees or agents of the Riveron Entities at least six (6) months prior and unrelated to such solicitation. Regardless of whether the immediately preceding sentence applies, the Company agrees to notify Riveron if it extends an offer of employment to an employee or agent of the Riveron Entities.

(c) **Limited Exception.** From time to time, under limited circumstances, Riveron will consider a request to consent to a waiver of Section 5(b) above in consideration of the Company's payment of a compensatory fee to Riveron (the "Waiver Fee"). The

Waiver Fee shall equal $1 million as fair and reasonable compensation for the loss sustained. The Waiver Fee will be due and payable to Riveron on or before the Company's hiring of such employee or agent. The Company agrees that, in the event of a sale of substantially all of its assets or a majority of its equity, it will cause the buyer to assume the obligations under this Section 5.

6. Deliverables; Sharing of Deliverables with Third Parties.

(a) **Company's Exclusive Use**. The Company acknowledges and agrees that any oral or written advice, outlines, recommendations, information, summaries, presentations, memorandums, schedules, written reports or other work product (the "Deliverables") Riveron provides to the Company under the Agreement are intended for the Company's sole benefit, and Riveron does not authorize any other party to receive or rely upon such Deliverables (except that the Company's legal counsel may receive such Deliverables solely for the purposes of their legal representation of the Company). Riveron specifically disclaims any duty of care to others based on the Services or the Deliverables. The Company acknowledges that the Deliverables are intended for use by the Company's Board of Directors and executive management team only, and the Company will not share such Deliverables with other personnel at the Company without notice to and consent from Riveron.

(b) **Requests for Third Party Access**. In the event the Company seeks to disclose any Deliverable to a third party, then (1) the Company shall notify Riveron of the Company's request to grant such third-party access and (2) if such request is approved by Riveron, prior to sharing any such Deliverable the Company shall deliver to Riveron a signed non-reliance letter from such third party in the form prescribed by Riveron.

(c) **Ownership.** Upon payment of all amounts due to Riveron in connection with this Agreement, and except as set forth below, all rights to Deliverables that Riveron prepares specifically for and delivers to the Company in connection with this Agreement shall be owned by the Company, subject to the confidentiality and non-disclosure provisions in this Agreement. Riveron may retain copies of any of the Deliverables subject to the confidentiality provisions in this Agreement. Riveron shall retain sole and exclusive ownership of its working papers, methodologies, proprietary information, trade secrets, preexisting materials and software, tools, templates, know-how, processes, models and other intellectual property (including any non-Company specific version of any Deliverables) that Riveron previously developed and used to create the Deliverables or may have discovered or created as a result of the Services (the "Proprietary Information"). If the Deliverables contain Proprietary Information, Riveron grants the Company a non-exclusive, non-assignable license to use the Proprietary Information only in connection with the Deliverables and this Agreement.

7. Indemnification; Limitations of Liability

(a) **Indemnification**. To the fullest extent permitted by applicable law, the Company agrees to indemnify, hold harmless, and defend Riveron and certain related entities and persons as set forth in this Section 7. If Riveron or any of its affiliates or any of their respective partners, members, officers, directors, managers, owners, shareholders, agents, employees or controlling persons (collectively, the "Indemnified Persons" and each, an "Indemnified Person" and a "Riveron Party") becomes involved in any capacity in any claim, action, proceeding (including any objection to or proceeding involving an Indemnified Person's fees or expenses) or

investigation (each an "Action", or collectively, "Actions") brought by or against any person or entity, in any way related to the Agreement, the Company periodically will advance to the Indemnified Person amounts necessary to pay such Indemnified Person's reasonable out-of-pocket legal and other expenses (including the cost of any investigation and preparation) incurred in connection with the Actions; provided, however, that if it is finally found (in a non-appealable judgment) by a court of competent jurisdiction (a "Final Judgment") that any loss, claim, judgment, damage or liability (a "Loss", or collectively, "Losses")) of an Indemnified Person has resulted primarily from the gross negligence or willful misconduct of such Indemnified Person in performing the Services, such Indemnified Person shall repay such portion of the advanced amounts that is attributable to expenses incurred in relation to the act or omission of such Indemnified Person that is the subject of such Final Judgment. The Company also will indemnify and hold the Indemnified Persons harmless from and against any Losses to which such Indemnified Person may become subject, that is related in any way to the Agreement, without regard to the exclusive or contributory negligence of any Indemnified Person, except to the extent that it is finally found in a Final Judgment that a Loss resulted primarily from the gross negligence or willful misconduct of the Indemnified Person in performing the Services.

(b) **Limitations of Liability**. Neither Party shall be liable to the other for consequential, incidental, indirect, punitive or special damages (including loss of profits, data, business or goodwill), regardless of the legal theory advanced or of any notice given as to the likelihood of such damages, excluding only third party damages indemnifiable under Section 7(a)(if any). The Riveron Parties shall not be liable to the Company, or any party asserting claims on behalf of the Company or otherwise, including, without limitation, any of the Company's equity holders, for any Loss except for direct damages found in a Final Judgment to be the direct result of Riveron's gross negligence or willful misconduct. The collective liability of the Riveron Parties, if any, in relation to the Agreement or the Services shall be limited in amount to fees actually paid to Riveron by the Company for the Services. The parties acknowledge that the limitations set forth above are integral to the amount of fees charged in connection with the Services, and that were Riveron to assume any further liability, such fees would of necessity be set substantially higher.

(c) **Additional Provisions**. The reimbursement and indemnity obligations of the Company in this Section 7 shall be in addition to any liability which the Company may otherwise have to the Indemnified Person and shall be binding upon and inure to the benefit of any successors, heirs and personal representatives of the Company and the Indemnified Persons. The Company shall not be required to indemnify an Indemnified Person for any amount paid or payable by the Indemnified Person in the settlement of any Action without the consent of the Company, which consent shall not be unreasonably withheld. Prior to entering into any agreement or arrangement which may affect this indemnity and that does not provide for the assumption of the obligations of the Company set forth in this Section 7, the Company will notify Riveron in writing, and if requested by Riveron, shall arrange alternative means which are reasonably satisfactory to Riveron of providing for the obligations of the Company set forth in this Section 7.

8. Governing Law; Dispute Resolution

(a) THIS AGREEMENT SHALL IN ALL RESPECTS BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PROVISIONS OF SUCH STATE. No action,

regardless of form, arising out of the Agreement or the Services may be brought by either party more than two (2) years after the date of completion of the Services, except that an action based upon indemnification or non-payment may be brought at any time consistent with applicable law.

(b) In the event of any dispute, claim or controversy arising out of or relating to the Agreement or the Services, including the determination of the scope or applicability of this dispute resolution provision (each, a "Dispute"), the parties shall use their best efforts to settle such Dispute. To this effect, the parties shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to the parties. If the parties do not reach a solution within a period of fifteen (15) days (or such longer period as the parties mutually agree in writing), then, upon notice by any party to the other party, the Dispute shall be finally determined by the ankruptcy court overseeing the Company's Chapter 11 cases.

9. Termination and Survival

(a) **Termination**. Either the Company or Riveron may terminate the Agreement at any time for any reason upon written notice to the other party. Upon termination, (i) all fees and expenses incurred by Riveron, both billed and unbilled, up through the time and date of termination shall be deemed earned and come payable and (ii) at the option of Riveron, any unpaid amounts shall be set off against the Retainer (if any), with any balance due to either the Company or Riveron paid immediately thereafter.

(b) **Survival**. The terms of the Agreement that by their context are intended to apply after termination of the Agreement or completion of the Services, including but not limited to Section 1 and Sections 3 through 11 of these Terms, shall survive any termination and continue to bind all parties.

(c) **N/A**

10. General

(a) **Entire Agreement**. The Engagement Letter and Schedules set forth the entire agreement between Riveron and the Company relating to the Services, and replace and supersede any previous proposals, letters of engagement, undertakings, agreements, understandings, correspondence and other communications, whether written or oral, regarding the Services.

(b) **Force Majeure**. Riveron will not be responsible for any failure or delay in performance due in whole or in part to any cause beyond Riveron's control.

(c) **No Third-Party Beneficiaries**. Except as expressly provided herein, the Agreement is for the sole benefit of the parties hereto, and nothing herein expressed or implied shall give or be construed to give to any other person or entity any legal or equitable rights whatsoever.

(d) **No Implied Exclusivity**. The Company acknowledges that Riveron, subject to its professional obligations, may provide similar services for other clients, including the Company's competitors.

(e) **Severability**. If any term, provision or portion of the Agreement shall be determined to be invalid, void or unenforceable, the remainder of the terms, provisions and portions of the Agreement shall remain in full force and effect.

(f) **Modification**. This Agreement may not be altered, modified or changed in any manner except by a writing signed by the parties.

(g) **Notices**. All notices under the Agreement shall be in writing. Any notice shall be delivered personally to the recipient, by U.S. mail, or by internationally recognized overnight courier. Any notice shall be deemed to be given only upon actual receipt. All notices required or permitted to be delivered under the Agreement shall be sent, if to Riveron, to: 2515 McKinney Ave., Suite 1600, Dallas, TX 75201, Attention: Chief Financial Officer, with a copy to 155 N. Wacker Drive, Suite 4450, Chicago, IL 60606, Attention: Chief Legal Officer, and via email to legal@riveron.com; and if to the Company, to the address to which the Engagement Letter is addressed, to the attention of the Company's Chief Legal Officer, or to such other name or address as may be given in writing to the other party.

(h) **Data Protection Laws**. The parties mutually intend to comply with all applicable laws and regulations governing the protection of personal data, including without limitation the California Consumer Privacy Act and regulations promulgated thereunder (collectively, "Data Protection Laws"). Accordingly, to the extent that either party will share with the other party data that is reasonably believed to be subject to Data Protection Laws, the parties agree to take appropriate measures and cooperate reasonably in order to ensure compliance with all applicable Data Protection Laws.

(i) **Joint and Several Obligations**. If more than one entity is included in the definition of the Company, each such entity shall be jointly and severally liable for the Company's obligations pursuant to this Agreement.

11. Disclosure of Pre-existing Relationships

(a) To the best of Riveron's knowledge, the Riveron Entities, their members, officers, managers, agents and employees do not have any relationships with the Company or parties in interest of which the Company has made us aware that would create a conflict of interest for Riveron in providing the Services. The Riveron Entities (i) have in the past had, and from time to time have, relationships with parties in interest of the Company in matters unrelated to the Company ("Unrelated Matters") and (ii) have in the past had relationships with the parties in interest disclosed on Schedule D in matters related to the Company (the "Related Matters"). Riveron does not anticipate the Riveron Entities having any future involvement in the Related Matters.

(b) By signing the Agreement, the Company thereby (1) waives any conflict of interest relating to performance of professional services by any of the Riveron Entities in connection with the Related Matters, (2) consents to the continued performance of professional services by any of the Riveron Entities in connection with the Unrelated Matters, and (3) releases the Riveron Parties with respect to any claim or liability arising prior to the date of the Agreement, relating to the Related Matters.

(c) In addition to the Related Matters, from time to time the Riveron Entities may provide services or have business associations with other entities or people with relationships with the Company, including creditors of the Company. The Riveron Entities will not be prevented or restricted from providing services to such other entities or individuals, including entities or individuals whose interests may be in competition or conflict with the Company's interests, provided the Riveron Entities make appropriate arrangements to maintain the confidentiality of the Company's Confidential Information.

Schedule D

Current & Former Relationships in Related Matters

Conflict check complete- no known conflicts