

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

IN RE: :
: :
TA ESTATE, INC. F/K/A : Chapter 11 Case No. 19-10976
THRUSH AIRCRAFT, INC., :
: :
Debtor. :

**DISCLOSURE STATEMENT FOR
JOINT LIQUIDATING PLAN OF REORGANIZATION OF
TA ESTATE, INC. F/K/A THRUSH AIRCRAFT, INC. DATED MAY 5, 2020**



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NOTICE

This Disclosure Statement and the attached Plan and Ballot (the “Plan Documents”) are the only documents authorized by the Court to be used in connection with the solicitation of votes accepting or rejecting the Liquidating Plan under Chapter 11 of the Bankruptcy Code (as it may be amended). No representations have been authorized by the Court concerning the Debtor or the Plan, except as set forth in the Plan Documents.

This Disclosure Statement contains only a summary of the Plan and is not intended to replace careful and detailed review and analysis of the Plan, but to aid and supplement such review. This Disclosure Statement is qualified in its entirety by reference to the more detailed provisions set forth in the Plan (which is included as Schedule 1 to this Disclosure Statement). All capitalized terms contained in this Disclosure Statement have the meaning

assigned in the accompanying Plan. In the event of a conflict between the Plan and Disclosure Statement, the provisions of the Plan will govern. All Holders of claims are encouraged to review the full text of the Plan and to carefully review this entire Disclosure Statement before deciding whether to vote to accept or reject the Plan.

This Disclosure Statement summarizes certain provisions of the Plan, statutory provisions, documents related to the Plan, events in Debtor's Chapter 11 case, and financial information. Although the Plan Proponents believe the Plan and related document summaries are fair and accurate, such summaries are qualified to the extent that they do not set forth the entire text of such documents or statutory provisions. Factual information contained in this Disclosure Statement has been provided by Debtor, except where otherwise specifically noted. Debtor is unable to warrant or represent that the information contained herein, including the financial information, is without inaccuracy or omission.

The statements contained in this Disclosure Statement are made as of the date hereof, except to the extent an earlier date is specified with respect to any information. The delivery of this Disclosure Statement does not imply that the information contained herein is correct at any time subsequent to the date hereof or thereof.

No individual or entity should construe the contents of this Disclosure Statement as providing any legal, business, financial, or tax advice. Every individual or entity should consult with their own legal, business, financial or tax advisors as to any such matters.

The Disclosure Statement has not been approved or disapproved by the Securities and Exchange Commission (the "SEC"). The SEC has not reviewed, certified, or passed upon the accuracy or adequacy of this statements contained herein, and it is not required to do so.

As to any contested matters, adversary proceedings, and other claims, actions or threatened actions involving Debtor or its creditors that exist, or may be made or initiated in the future, this Disclosure Statement will not constitute, nor shall it be construed as, an admission of any fact, liability, stipulation, or waiver. Instead, any material in this Disclosure Statement will be treated as a statement made in settlement negotiations, and shall not be admissible in further proceedings.

You may vote for or against the Plan only by completing and returning the enclosed Ballot by the Voting Deadline set in the accompanying Order approving this Disclosure Statement (the "Order and Notice"). Ballots not completed and returned will not be counted for any purpose.

The approval by the Bankruptcy Court of this Disclosure Statement does not constitute a finding by the Court that the representations contained herein are factual, nor does such approval constitute an endorsement of any of the representations contained in either this Disclosure Statement or in the attached Plan.

The Plan will not be binding on creditors unless it is confirmed by the Bankruptcy Court at the confirmation hearing for the Plan, which will be held on the date, time, and place specified on the accompanying notice and order.

I. INTRODUCTION

On September 4, 2019 (the “**Petition Date**”), TA Estate, Inc. f/k/a Thrush Aircraft, Inc. (the “**Debtor**” or “**Thrush**”) filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code. The above-captioned bankruptcy case is sometimes referred to in this Disclosure Statement as the “Case.” This Disclosure Statement provides information about Debtor, the reasons for filing the Case, key developments during the Case, and an explanation of the Liquidating Plan of Reorganization (the “**Plan**”) proposed by Debtor and the Official Committee of Unsecured Creditors of Thrush Aircraft, Inc. (the “**Committee**”) (collectively, the “**Plan Proponents**”).

The Plan Proponents submit this Disclosure Statement pursuant to § 1125 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.* (the “**Bankruptcy Code**”), in connection with the solicitation of acceptances of the Plan, a copy of which is attached hereto as **Schedule 1**.

A. The Disclosure Statement.

The purpose of this Disclosure Statement is to set forth information that: (i) outlines pertinent history about Debtor and its business, and the reasons that Debtor filed the Case; (ii) summarizes the Plan; and (iii) is intended to assist each Holder of any Claim against, or Equity Interest in, Debtor entitled to vote for acceptance or rejection of the Plan to make an informed decision of whether to vote to accept or reject the Plan. No solicitation for votes on the Plan may be made except pursuant to this Disclosure Statement, and no person has been authorized to utilize any other information concerning Debtor or its business for such purpose.

This Disclosure Statement does not purport to be a complete description of the Plan, the financial status of Debtor, the applicable provisions of the Bankruptcy Code, or of other matters that may be deemed significant by Creditors, Interest Holders, or other parties-in-interest. The Disclosure Statement necessarily involves a series of compromises between extensive “raw data” and the legal language in documents or statutes on the one hand and considerations of readability and usefulness on the other. **Article 1 of the Plan provides definitions which include substantive and material provisions which apply both to the Plan and to this Disclosure Statement. The definitions should be read in conjunction with this Disclosure Statement.** For further information, you should examine the Plan directly and consult your legal, financial, and tax advisors.

B. Bankruptcy Court Approval of this Disclosure Statement.

After notice and a hearing, the Bankruptcy Court approved this Disclosure Statement as containing adequate information of a kind and in sufficient detail to enable each Holder of a Claim against, or Interest in, Debtor to make an informed judgment as to whether to vote to accept or reject the Plan.

II. VOTING PROCEDURES AND REQUIREMENTS

A. Eligibility to Vote.

The Plan Proponents are soliciting acceptances of the Plan from each Class of Creditors identified in the Plan as an impaired class that is not deemed to have rejected the Plan. “Unclassified Claims,” identified below, are unimpaired, and are therefore deemed to accept the Plan. Such parties will not vote. Each Class of Creditors or Interest Holders that will not receive any distribution under the Plan is deemed under § 1126(g) of the Bankruptcy Code to have rejected the Plan. The Plan Proponents will not solicit acceptances from those Creditors or Interest Holders.

Specifically, only the Holders of Allowed Claims in those classes specified below and further specified in the Plan (the “**Voting Classes**”) are eligible to vote to accept or reject the Plan.

This Disclosure Statement and the accompanying Plan are being sent to all Holders of Unclassified Claims, Creditors, and Interest Holders, whether or not entitled to vote. Under § 1141 of the Bankruptcy Code, the Plan, if approved (“**Confirmed**”) by the Bankruptcy Court, will bind all parties, whether or not such parties are entitled to vote for or against the Plan.

B. Ballots and Voting Deadlines.

1. Ballots.

Holders of Claims entitled to vote on the Plan will receive the Ballot accompanying this Disclosure Statement. All votes to accept or reject the Plan must be cast by using the Ballot enclosed with this Disclosure Statement (or manually executed copies thereof). No other votes will be counted.

Please fill out the Ballot and return it to the Bankruptcy Court as the Court instructs.

Do not return any invoices, securities, notes, or proofs of claim with your Ballot.

If delivery is by mail, enough time should be allowed to ensure timely delivery to and actual receipt by the Bankruptcy Court by the Voting Deadline specified in the accompanying Order and Notice.

As provided in the attached Order and Notice of the Bankruptcy Court approving the form and content of this Disclosure Statement, in order to be counted, ballots must be completed, signed, and actually received in proper form by the Bankruptcy Court on or before the date set in the attached order (the “Voting Deadline”), or such later date to which this solicitation is extended by the Court. Ballots received after this time may not be counted unless the Court so orders. If you have any questions about procedures for voting, or if you did not receive a ballot, received a damaged ballot, have lost your ballot, or have any questions about the Plan or Disclosure Statement, please call counsel for Debtor or the Committee as set forth on the cover page of this document.

Debtor and the Committee in their sole discretion may waive objections to Ballots filed after the Voting Deadline, or related to Disputed Claims (*e.g.*, those listed in Debtor's Schedules as disputed, unliquidated, or contingent, or where Debtor has objected to a filed Proof of Claim). Otherwise such ballots will not be counted absent an order from the Bankruptcy Court.

If a Ballot is signed by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations, or others acting in a fiduciary or representative capacity, such persons shall indicate such capacity when signing.

2. Revocation of Ballots.

Ballots to accept or reject the Plan may only be revoked or changed with Bankruptcy Court approval.

3. Voting Multiple Claims.

Persons holding Claims in more than one Class must vote in each Class.

4. Incomplete Ballots.

Any Ballot received which is unsigned or does not indicate either an acceptance or a rejection of the Plan, will not be counted. Incomplete ballots may be amended by the Holder of the Claim on account of which the Ballot is cast to cure the deficiency, provided the amendment is filed before the beginning of the Confirmation Hearing.

C. Confirmation Hearing.

Pursuant to the accompanying Order, a Confirmation Hearing will be held before the Honorable Austin E. Carter, United States Bankruptcy Judge, at a date, time, and place listed in such Order and Notice. The Confirmation Hearing may be adjourned from time to time by additional notice prior the hearing, or by announcement in Bankruptcy Court on the scheduled date of the hearing. At the Confirmation Hearing, the Bankruptcy Court will: (i) determine whether the requisite votes have been obtained from the Voting Classes; (ii) hear and determine objections, if any, to the Plan and to confirmation of the Plan that have not been previously disposed of; and (iii) determine whether to confirm the Plan. All objections, if any, to confirmation of the Plan must be filed with the Bankruptcy Court and served pursuant to the accompanying Order.

Objections to Confirmation of the Plan may be filed by any Creditor or party in interest, regardless of whether such Creditor or party in interest is entitled to vote on the Plan.

D. Recommendations.

The Plan Proponents believe the Plan provides the most efficient approach to maximizing the value of the Debtor's assets for the benefit of the Debtor's creditors and equity interest holders. Therefore, the Plan Proponents urge creditors to vote to accept the Plan.

III. DEBTOR AND ITS BUSINESS

A. Debtor.

1. Debtor.

Thrush was an industry leader in the design, manufacture and sale of various models of single engine turbine powered aircraft primarily utilized in the agricultural market (the “**Business**”). Founded in 2003, by K. Payne Hughes, and headquartered in Albany, Georgia, Thrush has a long history of providing superior quality aircraft with the highest standards for safety and attention to detail, with sets it apart from its competitors.

Thrush’s history began when North American Rockwell (“**Rockwell**”) purchased the product line of Snow Aeronautical. The first Rockwell agricultural plane was test flown in 1966. Even though it only carried a 400-gallon hopper, the aircraft contributed to the long, colorful history of crop dusting, and laid the foundation for the transition into larger aircraft.

In March 1970, Rockwell moved the entire product line of agricultural aircraft from Olney, Texas to Albany, Georgia, thereby creating a long partnership with the Albany community. Rockwell continued to manufacture aircraft at a steady pace consisting of at least one airplane per day. Eventually, in the late 1970s, Rockwell sold production rights to its agricultural aircraft to Ayers Corporation (“**Ayers**”) led by Mr. Fred Ayers. Ayers continued to operate the Business until it filed for bankruptcy on November 27, 2000 primarily due to mismanagement and market conditions. The Business was foreclosed upon by GATX Capital, wherefrom Thrush Aircraft, Inc. purchased substantially all of the assets, thereby creating the current Thrush and Debtor. Subsequently, Mr. K. Payne Hughes, Sr. (“Mr. Hughes”) acquired the equity interest in Thrush Aircraft, Inc.

Since Mr. Hughes’ purchase, the Business expanded substantially and currently manufactures and sells a full range of aerial application aircraft utilized in agriculture, forestry, and firefighting roles worldwide. Thrush currently offers and actively sells to customers throughout the world five different models of aircraft, utilizing engines manufactured by either Pratt & Whitney or General Electric. Thrush produces the following models for use in agricultural aviation: Thrush 510P, Thrush 510G, Thrush 510GR, Thrush 550P, and Thrush 710P. Thrush’s aircraft have been utilized by such familiar names as Dole Fresh Fruit, Del Monte Fresh Fruit, Aerovic, FumiPalma, as well as many governments. Moreover, Thrush’s agricultural models have been modified for other uses in other industries, such as border patrol and reconnaissance.

Thrush operates a state-of-the-art manufacturing facility in Albany, Georgia capable of producing seventy (70) aircraft per year in a single shift (the “**Facility**”). The 227,000 square foot facility includes all aspects of design, tooling production, planning, product manufacturing, and product support with superior efficiency and low operating costs. As an additional service to customers, Thrush offers pilot training through the use of a RedBird Flight Simulator located at the facility. The Facility provides “through the gate” access to Southwest Georgia Regional Airport allowing for quick delivery and customer access.

An additional source of income to Thrush is the manufacture of parts and subassemblies for the aerospace industry for worldwide sales.

Thrush leases its facility from KPH Properties II, Inc.¹ (“**KPH**”) on a long term lease at a rate of \$25,000.00 per month. KPH owns the building and associated fixtures, while the Debtor owns all equipment, inventory, work-in-process, and finished aircraft located at the Facility.

Mr. Hughes owns 100% of the outstanding common shares of the Debtor. Mr. Hughes holds the role as Chief Executive Officer. The Chief Financial Officer of the Debtor is D. Stanley Logue. During the Bankruptcy Case, Thrush sold substantially all of its assets, and following the closing, changed its name to TA Estate, Inc.

2. Overview of Assets and Liabilities.

2.1 Assets.

As of the Petition Date, the Debtor valued its assets at \$10,093,808.26, primarily comprised of machinery, equipment and vehicles valued at \$8,172,014.00 and \$1,921,794.26 in other personal property primarily consisting of cash, deposits, accounts receivable, customer orders, office furniture and equipment and intellectual property.

2.2 Liabilities.

As of the Petition Date, the Debtor listed total estimated liabilities of approximately \$41 million. Such liabilities included various secured obligations totaling approximately \$27.6 million to various lenders, including Wells Fargo Bank, N.A. in the amount \$12,920,481.00 and Mr. Hughes with estimated liabilities in excess of \$13 million. The remaining secured obligations consist of various equipment loans due to multiple lenders, totaling approximately \$1,677,338.00. The Debtor also scheduled various unsecured liabilities, including disputed claims, trade payables, priority claims, and credit cards totaling approximately \$13,350,822.46.

3. Reasons for Filing Bankruptcy.

Due to various economic factors and the lack of adequate operating capital, the Debtor continued to suffer substantial losses prior to the filing of the Bankruptcy Case. The primary reason for the lack of adequate operating capital is threefold:

First, substantially all of Thrush’s production and sales have historically been agricultural model aircraft contracted to be sold in the northern hemisphere. As part of its growth initiative, Thrush aggressively pursued growth opportunities in the international market using the Export Import Bank of the United States’ (“**EX-IM Bank**”) guarantee program. Under such program, Thrush would initiate sales to international customers, take a promissory note for payment of the purchase, and then place EX-IM Bank insurance on each individual note. Thrush would then sell

¹ Solely owned by K. Payne Hughes.

those notes on the secondary market for a price equal to the face value of the note, thereby generating cash for operations. Historically, Wells Fargo Bank, N.A. (“**Wells Fargo**”) purchased these notes. However, over time the Wells Fargo processing period to close a note sale increased to as much as 12 months. This delay created a strain on Thrush’s cash flows. In 2017, Thrush defaulted under its credit facility with Wells Fargo, which resulted in Wells Fargo’s discontinuing its purchase of notes. Thrush then entered into a new arrangement with PNC Bank for the purchase of the notes, which allowed Thrush to flip the notes in a period of 60-90 days from the date of execution. Despite the PNC Bank note buying arrangement, Thrush’s operating losses and trade payables continued to increase.

Secondly, in December 2015 the worldwide agricultural equipment market experienced a downturn, which resulted in a high volume of cancelled customer orders. By way of example, at one point in late 2015, Thrush had 15 airplanes sitting on its tarmac without buyers, due to cancellations. As a result, in the spring of 2016, Thrush, together with its customer IOMAX USA, Inc. (“**IOMAX**”) searched new markets outside the agricultural industry and embarked on an aggressive redesign and manufacture of Thrush’s 710P plane model. These efforts resulted in the military patrol aircraft known as the Archangel. The airframes of these aircraft were manufactured at Thrush, then transported to IOMAX’s facility, where armaments and related patrol equipment was installed. IOMAX then sold the modified aircraft to government purchasers. Thrush produced 25 of these planes during the next two years.

Finally, as the agricultural aircraft market rebounded, Thrush, using existing cash flow, invested heavily in its growing border patrol aircraft development and sales. A large follow-on order was placed for 14 patrol aircraft scheduled for delivery over a period of two years, which would have generated revenues of between \$30 and \$34 million dollars. This order, coupled with the resurgence of the agricultural product line, required Thrush to increase production capacity. To increase its overall production capacities and efficiencies, Thrush hired a total of 300 employees, invested in several expensive pieces of equipment to aid in the acceleration of production, and improved customer service through capital investments in its sales department. Additionally, Thrush made substantial investments in IT and production software through its purchase and implementation of the SAP© accounting systems, including the ERP© software system. The SAP implementation process failed for the first three years although this multi-million dollar investment had just begun to show a return. As of the Petition Date the system was running smoothly with steady improvements being made by Thrush’s in-house team. In summary, between 2015 and 2017, Thrush made substantial investments in highly skilled personnel, investments in advanced technology machinery, expanded plant facilities, expanded pilot training facilities, computer and IT functionalities, and made additional significant investments in research and development. In 2017, however, the key order for patrol aircraft was cancelled resulting in estimated lost revenue between \$30 and \$34 million dollars. This cancellation put Thrush in a difficult cash flow position, resulting in an \$8.8 million net loss during 2017 and \$5.6 million for the period ending on July 31, 2018.

An additional reason for the downturn in Thrush’s business was Mr. Hughes’ declining health. Beginning in May 2017 through June 2019, Mr. Hughes underwent 18 surgeries, which forced him to miss work for extended periods of time. Mr. Hughes’ absence and inability to actively participate in the day-to-day management of Thrush contributed to its decline.

In response to the lack of adequate operating capital, Thrush's management implemented many cost reductions and improved efficiencies. Nonetheless, Thrush's operating capital, long term debt, and trade debt remained critical, necessitating the instant bankruptcy filing.

On August 28, 2019, in an effort to further reduce costs of operations and at the insistence of Wells Fargo, Thrush laid off 108 employees but continued to operate on a limited basis in order to build out remaining aircraft to fulfill orders.

The primary objective of the Bankruptcy Case was to reorganize the Business through a sale of substantially all of the Debtor's assets as a going concern, which was accomplished through the sale to HHM Aviation Financing, LLC, as discussed further below.

IV. DEBTOR'S CHAPTER 11 CASE

The Plan Proponents now offer a plan of liquidation under Chapter 11 of the Bankruptcy Code. The Debtor has continued to operate the Business and manage its business as a debtor-in-possession, as authorized under §§ 1107(a) and 1108 of the Bankruptcy Code. Significant developments during the Bankruptcy Case are described below.

A. Significant "First Day" Bankruptcy Orders.

At the outset of the Chapter 11 Case, Debtor filed motions with the Bankruptcy Court seeking both procedural and substantive relief, resulting in orders: (1) authorizing Debtor to retain Stone & Baxter, LLP as its bankruptcy counsel [Doc. 113]; (2) establishing compensation procedures for professionals whereby the fees and expenses of professionals could be paid [Doc. 126]; (3) preventing termination of utility services and establishing procedures by which the Debtor and utility companies could negotiate and determine what, if any, deposits or other security the Debtor was required to provide to utility companies to insure continued service [Doc. 117]; (4) extending the time to file schedules and a statement of financial affairs [Doc. 46]; (5) limiting notice of certain matters [Doc. 69]; (6) authorizing continued use of the Debtor's pre-petition bank accounts [Doc. 58]; (7) authorizing the payment of wages, salaries, and other employee benefits [Doc. 56]; and (8) granting authority to pay pre-petition insurance premiums and renewing premium finance programs [Doc. 55].

B. Significant Events During the Chapter 11 Case.

1. The Official Committee of Unsecured Creditors.

On September 16, 2019, pursuant to 11 U.S.C. § 1120(a) the United States Trustee appointed a creditors' committee in the Bankruptcy Case (the "Creditors' Committee"). On September 24, 2019, the Creditors' Committee filed a Motion to retain Horwood, Marcus & Berk Chartered, and Boyer Terry LLC as co-counsel to represent the Committee. An order was entered authorizing such employment on October 2, 2019. Since its organization, the Creditors' Committee has been active in the Bankruptcy Case and is a co-proponent of the Plan.

2. The Filing of Schedules of Assets and Liabilities and Statement of Financial Affairs.

On October 4, 2019, Debtor filed its Schedules of Assets and Liabilities (the “**Schedules**”) and Statement of Financial Affairs (“**SOFA**”), as amended. The Schedules and SOFA are of record in the office of the Clerk of the Bankruptcy Court and available for inspection online and at the Clerk’s Office.

The Schedules, filed under oath, list all known assets and liabilities of Debtor as of the Petition Date. The manner in which Claims against Debtor are listed in the Schedules is important. Under § 1111(a) of the Bankruptcy Code, a Proof of Claim or Interest is deemed filed for any claim or interest that appears in the Schedules, except a claim or interest that is scheduled as disputed, contingent, or unliquidated. Parties satisfied with the manner in which their claim or interest is listed in the Schedules need not file a Proof of Claim in the Bankruptcy Case, but if there is disagreement with the amount so scheduled, unless a Proof of Claim is filed, the amount of the claim or interest shown in the Schedules establishes the amount of the claim or interest for all purposes in the Bankruptcy Case. The deadline for filing a Proof of Claim was established by the Bankruptcy Court as January 1, 2020 [Doc. 10].

A Proof of Claim filed in the Bankruptcy Case automatically supersedes the Schedules, unless a party objects. The Plan provides that Debtor or the Liquidating Trustee will have the later of: (i) one hundred and eighty (180) days after the Effective Date; and (ii) such later date as may be fixed by the Bankruptcy Court for cause, including the Liquidating Trustee waiting until it is known whether there will be assets available for distributions on account of Priority Non-Tax Claims and General Unsecured Claims, to object to Proofs of Claim or claims that are deemed filed prior to the Court’s Bar Date. Creditors have the burden of examining the Debtor’s Schedules to determine if their Claims are accurately scheduled.

3. Meetings of Creditors under § 341.

Debtor attended the 341 Meeting of Creditors on October 8, 2019.

4. Post-Petition Financing

On September 17, 2019, the Bankruptcy Court entered the *Interim Order Authorizing Debtor to Obtain Financing and Granting Administrative Expense Status Pursuant to 11 U.S.C. § 364(c)* [Doc. 76] (the “**Interim DIP Order**”). The Interim DIP Order was followed by that certain *Final Order Authorizing Debtor to Obtain Financing and Granting Administrative Expense Status Pursuant to 11 U.S.C. § 364(c)* [Doc. 119] (the “**DIP Financing Order**”). Under the DIP Financing Order, the Bankruptcy Court authorized the Debtor to obtain a credit facility from HHM Aviation Financing, LLC (“**HHM**”) in an amount not to exceed \$1,230,000.00 as necessary to meet the operating capital needs of the Debtor between the Petition Date and the sale of substantially all the Business (the “**DIP Facility**”). Additionally, the Court authorized the Debtor to enter into a Management Services Agreement with HHM. HHM was granted a lien on the Debtor’s FAA-issued aircraft type certificates, related drawing packages, and specialized tooling. Mr. Hughes previously held a lien on a portion of such collateral that he subordinated to HHM. To date, borrowing by the Debtor under the DIP Facility has been as indicated on the

monthly operating reports and was paid in full in connection with the closing of the Sale as discussed below.

5. Cash Collateral.

On October 3, 2019, after interim and final hearings, the Bankruptcy Court entered the *Final Order Authorizing the Use of Cash Collateral Pursuant to Section 363 of the Bankruptcy Code* [Doc. 120] (the “**Cash Collateral Order**”). In pertinent part, in exchange for adequate protection payments, the Cash Collateral Order authorized the Debtor to continue to use its cash collateral, which was critical to the Debtor’s continued operation while it pursued a sale pursuant to § 363 of the Bankruptcy Code of substantially all of its assets.

6. The Sale of the Debtor’s Assets.

The Debtor commenced the Bankruptcy Case for the primary purpose of consummating a sale of substantially all of its assets. HHM was selected as the Debtor’s “Stalking Horse Bidder” to allow the Debtor to market its assets to others to determine the highest and best amount for the Debtor’s assets.

On October 2, 2019, the Debtor filed its *Motion for Orders Approving (I) (A) Bid Procedures, (B) Procedures and Notice Relating to the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (C) Break-Up Fee; and (II) (A) Form of Asset Purchase Agreement, (B) the Sale of Substantially All of the Debtor’s Assets Outside the Ordinary Course of Business, Free and Clear of All Liens, Claims, Encumbrances, and Interests, (C) Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, and (D) Waiver of the 14-Day Stay of Fed. R. Bankr. P. 6004(h) and 6006(d)* [Doc. 114], requesting that the Bankruptcy Court enter an order establishing procedures to solicit higher or better offers for the assets the Debtor was otherwise agreeing to sell to HHM (the “**Sale Motion**”).

The Debtor market-tested the terms of the HHM offer for the Debtor assets during the Bankruptcy Case. After the Petition Date, several potential transaction prospects expressed interest in acquiring the Debtor’s assets. Unfortunately, no other offer came to fruition and an auction was not conducted as the Debtor did not receive another qualifying bid.

On October 30, 2019, the Bankruptcy Court held a sale hearing and approved the sale to HHM. On November 1, 2019, the Bankruptcy Court entered the *Order Pursuant to 11 U.S.C. §§ 105, 363, and 365 of the Bankruptcy Code (A) Authorizing the Sale of Substantially All of the Assets of Thrush Aircraft, Inc. Not in the Ordinary Course of Business to HHM Aviation Financing, LLC; (B) Authorizing the Debtor to Assume and Assign Certain Executory Contracts and Unexpired Leases and Reject Other Executory Contracts and Leases; and (C) Granting Certain Related Relief* [Doc. No. 213], approving the sale of substantially all of the Debtor’s assets to HHM for \$6,331,707.06, including payments to lien holders, assumption of certain additional liabilities, payment cure amounts associated with assumption of various leases and executory contracts, and the rights to use of the name “Thrush Aircraft” (the “**Sale Order**”). The HHM sale closed on November 5, 2019 at which time the Debtor changed its name to TA Estate, Inc. In connection with the closing, the Debtor retired the DIP Facility using a portion of the sale proceeds.

7. Challenge Rights Settlement.

A significant issue in the Bankruptcy Case involved disputes between the Committee and Wells Fargo concerning the extent and priority of Wells Fargo’s liens and claims associated with the Debtor.

During the course of the Bankruptcy Case, the Committee undertook an investigation of the validity, extent and priority of Wells Fargo’s security interests in and lien upon the Debtor’s assets to determine what, if any, deficiencies existed with respect to Wells Fargo’s asserted security interest and liens. The Committee’s investigation also included an analysis of third-party credit enhancements held by Wells Fargo as well as any claims the Debtor might have against Wells Fargo. As a result of its investigation, the Committee found no infirmities in Wells Fargo’s asserted security interest in and lien upon: (i) the Debtor’s accounts, payment intangibles and inventory; (ii) with certain exceptions noted below, the Debtor’s equipment and deposit accounts; and (iii) the Debtor’s condominium. However, the Committee believed that Wells Fargo’s security interest might be unperfected with respect to certain equipment consisting of titled motor vehicles of the Debtor and certain bank accounts of the Debtor at banks other than Wells Fargo, and that Wells Fargo’s security interest in general intangibles was at issue because it was limited to payment intangibles alone.

Wells Fargo responded to the Committee’s investigation and the Committee disagreed with Wells Fargo’s position. Nonetheless, in order to facilitate the Debtor’s sale of substantially of its assets to HHM, to induce the Committee and Wells Fargo to withdraw their respective objections to the sale, and to avoid costly and protracted litigation over the liens and claims of Wells Fargo, as well as the uncertainties of outcome of any such litigation, the Debtor, Wells Fargo and the Committee agreed to enter into that certain *Stipulation and Agreement of Global Settlement of Controversies Among the Official Committee of Unsecured Creditors, Wells Fargo Bank, National Association, Wells Fargo Equipment Finance, Inc., and Thrush Aircraft, Inc.* providing for a global settlement (the “**Stipulation**”).

In connection therewith, on November 18, 2019, the aforementioned parties filed their *Joint Motion for Approval of Settlement Pursuant to Federal Rule of Bankruptcy Procedure 9019* [Doc. 234] (the “**Settlement Motion**”). The Settlement Motion included a copy of the Stipulation and provided notice of such settlement including the following summary laying the ground work for the Plan:

<i>Stipulation as to Liens and Claims of Wells Fargo and WFEF</i>	<p>Effective on the Effective Date (as defined below), the Parties stipulate and agree that:</p> <p>(a) Wells Fargo Equipment Finance (“WFEF”) shall be deemed to be the Holder of an allowed claim in the amount of \$181,412.76 (the “<i>WFEF Claim</i>”), which was secured on the Petition Date by a valid, perfected and unavoidable first priority security interest in and lien upon the WFEF Collateral, including the WFEF Collateral sold in the 363 Sale.</p> <p>(b) Wells Fargo shall be deemed to have an allowed claim in the aggregate unpaid principal amount of \$12,919,998, together with accrued and unpaid pre-petition interest in the amount of \$4,355 (the amount remaining after application of the \$75,000</p>
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	<p>adequate protection payment received by Wells Fargo prior to the consummation of the 363 Sale, reimbursable pre-petition legal fees totaling \$365,477, reimbursable post-petition legal fees totaling \$178,906, and pre-petition fees and other reimbursable expenses totaling \$80,823, for a total claim as of the date of this Stipulation equal to \$13,549,559 (the “<i>Wells Fargo Stipulated Claim</i>”); and the Wells Fargo Stipulated Claim was secured on the Petition Date (and at the time of closing of the 363 Sale) by legal, valid, perfected and unavoidable security interests in and liens upon substantially all of the Debtor’s assets, including, without limitation, a first priority security interest in and lien upon the Debtor’s accounts (other than proceeds of those items of equipment in which Wells Fargo did not have a perfected or first priority security interest), general intangibles (including, without limitation, type certificates, payment intangibles, and software), inventory, and the Debtor’s condominium, and a valid, perfected, and unavoidable security interest in all of the Debtor’s equipment (excluding titled motor vehicles), which equipment security interest is subject to various prior, perfected security interests (including, without limitation, the security interest of WFEF in the WFEF Collateral).</p> <p>(c) The Hughes Subordinated Claim totals in excess of \$13 million, but shall be an allowed unsecured claim in that capped amount for purposes of distributions that inure to the benefit of Wells Fargo, irrespective of the existence of any claim that the Debtor’s estate may have against Hughes under Chapter 5 of the Bankruptcy Code (until such time, if ever, as any such Chapter 5 claim has been determined to exist, reduced to judgment or settled, and remains unpaid).</p> <p>(d) Pursuant to the Collateral Use Order, Wells Fargo is entitled to an Adequate Protection Lien (as defined in the Collateral Use Order) on all pre-petition and post-petition assets of the Debtor to secure at least \$2 million of the Wells Fargo Stipulated Claim, and such Adequate Protection Lien has priority over all post-petition claims and all other security interests in and liens upon any property of the Debtor other than valid, perfected and unavoidable pre-petition liens and the liens in favor of HHM granted pursuant to the DIP Financing Order (which liens of HHM were extinguished upon closing of the 363 Sale. If and to the extent that the Adequate Protection Lien in favor of Wells Fargo proves to be inadequate protection for the use of the Wells Fargo Collateral (including, without limitation, its cash collateral), or Wells Fargo waives (on the terms hereinafter set forth) the benefit of the Adequate Protection Lien, then Wells Fargo is entitled to a priority claim under § 507(b) of the Bankruptcy Code in an amount not less than \$2 million (the “<i>507(b) Claim</i>”).</p> <p>(e) Wells Fargo’s deficiency claim totals \$8,649,559 (the “<i>Wells Fargo Stipulated Deficiency Claim</i>”), which is derived by subtracting from the total Wells Fargo Stipulated Claim the amount received by Wells Fargo from the 363 Sale and by adding back the sum of \$250,000 which represents a carve-out from the cash amount received by Wells Fargo from the 363 Sale (such \$250,000 sum being the “<i>Wells Fargo Cash Settlement Amount</i>”), <u>provided</u> that the Wells Fargo Stipulated Deficiency Claim shall be further increased by any amount that HHM fails to pay Wells Fargo from the post-closing sale of acquired aircraft or pursuant to the promissory note made payable by HHM to Wells Fargo.</p> <p>(f) The deficiency claim of WFEF totals \$81,412.76, which is derived by subtracting the sum of \$100,000 that was received by WFEF pursuant to the 363 Sale from the total WFEF Claim.</p> <p>The Wells Fargo Stipulated Claim, the WFEF Claim, and the Hughes Subordinated Claim are payable, and shall be paid, in accordance with this Stipulation, without defense, offset, counterclaim, or other reduction.</p>
<p><i>Wells Fargo Settlement Amount</i></p>	<p>Effective on the Effective Date (as defined below), Wells Fargo shall deduct from the cash payment remitted to it pursuant to the Bankruptcy Court’s order approving the 363 Sale of substantially all of the Debtor’s assets an amount equal to the Wells Fargo Cash Settlement Amount and shall transfer such amount to the Debtor. The Debtor shall place such amount in</p>

	<p>escrow to be used to pay the costs and expenses incurred by the Debtor’s estate in connection with the preparation and filing of a Liquidation Plan (as defined below) and associated disclosure statement, efforts to obtain confirmation of the Liquidation Plan, and administration and realization upon the Remaining Assets (as defined below). Any balance that remains in the escrow account on the earliest to occur of full and final administration or abandonment of the Remaining Assets, dismissal of the Chapter 11 Case, or closing of any Chapter 7 case to which the Chapter 11 Case is converted shall be promptly remitted to Wells Fargo in payment of its 507(b) Claim.</p>
<p><i>Compromise and Payment of Wells Fargo Stipulated Claim and WFEF Claim</i></p>	<p>Effective on the Effective Date (as defined below), the Wells Fargo Stipulated Claim and the WFEF Claim shall be compromised and satisfied as follows:</p> <ul style="list-style-type: none"> (a) The secured portion of the Wells Fargo Stipulated Claim shall be deemed to have been satisfied by the cash and non-cash consideration delivered to Wells Fargo from the 363 Sale, subject to the provisions hereof. (b) As part of its compromise and settlement, Wells Fargo waives the benefit of its Adequate Protection Lien and agrees that its 507(b) Claim shall be reduced to (and capped at) \$600,000, representing a reduction of at least \$1.4 million. As so reduced, Wells Fargo’s 507(b) Claim shall be paid from Net Asset Recoveries (as defined below), ahead of and in preference to all other pre-petition or post-petition claims against the Debtor other than administrative expense claims allowed under § 503(b) of the Bankruptcy Code and entitled to priority under § 507(a)(2) of the Bankruptcy Code (collectively, the “<i>Administrative Claims</i>”); <u>provided, however</u>, that the first \$250,000 of the 507(b) Claim to be satisfied shall be paid from Remaining Asset Recoveries (as defined below) without deduction therefrom of legal fees incurred in connection with such Remaining Asset Recoveries, but any such legal fees may be charged to any subsequent Remaining Asset Recoveries and recovered therefrom. (c) The Wells Fargo Stipulated Deficiency Claim shall be reduced to (and capped at) \$8.3 million and shall be entitled to pro rata treatment with all other allowed general unsecured claims, <u>provided</u> Wells Fargo shall be entitled to receive each distribution made from Remaining Asset Recoveries (as defined below) on account of the Hughes Subordinated Claim. Notwithstanding the foregoing pro rata treatment of the Wells Fargo Stipulated Deficiency Claim and Hughes Subordinated Claim with other allowed general unsecured claims, after the § 507(b) Claim has been paid in full (and subject to the payment of any unpaid Administrative Claims), Holders of allowed general unsecured claims (excluding the Wells Fargo Stipulated Deficiency Claim, the WFEF Deficiency Claim, and the Hughes Subordinated Claim) shall be entitled to receive 75% of the Net Asset Recoveries (as defined below) up to an aggregate of \$350,000, following which all Holders of allowed general unsecured claims (including the Wells Fargo Stipulated Deficiency Claim, the WFEF Deficiency Claim, and the Hughes Subordinated Claim) shall be entitled to receive from Net Asset Recoveries (as defined below) their pro rata share thereof (with any distribution on account of the Hughes Subordinated Claim to be remitted to Wells Fargo); <u>provided, however</u>, Wells Fargo shall be entitled to receive 75% of the Net Asset Recoveries (as defined below) in respect of any litigation claim that may exist against Hughes (whether any such claim arises under Chapter 5 of the Bankruptcy Code or otherwise), not to exceed \$350,000, in consideration of the competing claims that Wells Fargo has against Hughes under guaranties executed in its favor by Hughes. (d) As used herein, the term “<i>Remaining Assets</i>” shall mean those assets that were not sold by the Debtor to HHM pursuant to the 363 Sale, including, without limitation, all claims, demands, reckonings, and causes of action that the Debtor may have against any person or entity, whether arising under Chapter 5 of the Bankruptcy Code or otherwise (excluding claims, if any, against Wells Fargo or WFEF, which will be released pursuant to the terms of the Liquidation Plan); the term “<i>Remaining Asset Recovery</i>” shall mean amounts recovered in connection with the sale, collection, or

	<p>liquidation of a Remaining Asset or the prosecution or settlement of a Remaining Asset that constitutes a claim against a third party (other than Wells Fargo or WFEF); and the term “<i>Net Asset Recovery</i>” shall mean the amount received in any Remaining Asset Recovery, net of costs and expenses (including, without limitation, reasonable legal fees) incurred in obtaining such Remaining Asset Recovery.</p>
<p><i>Liquidation Plan</i></p>	<p>The Parties shall pursue confirmation of a plan of liquidation (the “<i>Liquidation Plan</i>”), which shall govern the administration of the Remaining Assets and distribution of Remaining Asset Recoveries and shall be jointly prepared by the Debtor and the Committee (with the Committee assuming primary responsibility for drafting the Liquidation Plan, but soliciting input from both the Debtor and Wells Fargo). The Parties shall cooperatively and in good faith seek confirmation of the Liquidation Plan so long as the Liquidation Plan incorporates the terms set forth in this Stipulation and such other terms and conditions as are reasonably acceptable to the Parties.</p> <p>(a) The Liquidation Plan shall provide for the creation of a liquidation trust (the “<i>Liquidating Trust</i>”) and the assignment to the Liquidating Trust of all Remaining Assets.</p> <p>(b) The Liquidating Trust will be administered by a liquidating trustee (the “<i>Liquidating Trustee</i>”), who shall be selected by the Committee with the advice and consent of the Debtor and Wells Fargo. The Liquidating Trustee shall have the ordinary and customary role and duties of a post-confirmation plan administrator, with authority to sell, collect, or otherwise liquidate any Remaining Assets; pursue, prosecute and settle litigation claims forming a part of the Remaining Assets; and lodge and prosecute objections to any claims against the Debtor’s Chapter 11 estate (other than the Wells Fargo Stipulated Claim and the WFEF Claim).</p> <p>(c) The Liquidation Plan shall create a two-member oversight committee (the “<i>Oversight Committee</i>”) composed of a representative from EX-IM Bank (or its designee) and the Committee (or a Committee designee) to monitor the activities of the Liquidating Trustee, including, without limitation, administration of the Liquidating Trust and Remaining Assets and the filing and prosecution of objections to claims filed against the Chapter 11 estate. The Liquidating Trustee may settle litigation claims that are part of the Remaining Assets with the consent of the members of the Oversight Committee (as defined below) or, in the absence of unanimous consent, with the consent of one member of the Committee and approval of the Bankruptcy Court after notice and a hearing.</p> <p>(d) The Liquidating Trustee shall be authorized to retain professionals to assist in the administration of the Liquidating Trust and Remaining Assets and the Liquidating Trustee’s discharge of all duties owed to Liquidating Trust beneficiaries. Without limiting the generality of the foregoing, the Liquidating Trustee may retain any of the professionals involved in the Chapter 11 Case irrespective of their roles in the Chapter 11 Case. The Liquidating Trustee may engage counsel on either an hourly rate basis or contingency fee basis, in each case subject to review and approval of the Oversight Committee and, in the absence of unanimity by members of the Oversight Committee, with the consent of one Oversight Committee member and approval of the Bankruptcy Court after notice and a hearing. Any fees and expenses incurred by the Liquidating Trust in connection with the sale, collection, liquidation, prosecution or settlement of any Remaining Asset shall be paid solely from the Remaining Asset Recoveries.</p> <p>(e) The Liquidation Plan shall provide for the distribution of Remaining Asset Recoveries as follows:</p> <ul style="list-style-type: none"> • first, to any unpaid Administrative Claims; • second, to Wells Fargo on account of its 507(b) Claim as reduced pursuant to this Stipulation;

	<ul style="list-style-type: none">• third, to any allowed but unpaid claims under § 507(a) of the Bankruptcy Code (other than Administrative Claims), payable in accordance with § 507 of the Bankruptcy Code; and• fourth, to Holders of allowed general unsecured claims against the Debtor, including, without limitation, the Wells Fargo Stipulated Deficiency Claim, the WFEF Deficiency Claim, and the Hughes Subordinated Claim as provided herein. <p>Nothing in this Stipulation is intended to prejudice or otherwise affect the rights of entities other than the Parties and their professionals to assert their right to distributions based on claims entitled to priority under § 507(a) of the Bankruptcy Code.</p> <p>(f) The Liquidation Plan shall provide for general releases of the Parties and their professionals from all pre-petition and post-petition claims, known or unknown, from the beginning of time through the effective date of the Liquidation Plan.</p> <p>(g) For purposes of confirmation of the Liquidation Plan, the Debtor, the Committee and their respective professionals will waive compliance with 11 U.S.C. §1129(a)(9).</p> <p>If the Chapter 11 Case is converted to a case under Chapter 7 of the Bankruptcy Code, the provisions hereof shall continue to be effective and binding, and the Wells Fargo Stipulated Claim and the WFEF Claim shall be entitled to payment and priority as set forth in that section.</p>
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On December 9, 2019, the Bankruptcy Court entered its order granting the Settlement Motion and approving the Stipulation. [Doc. 260].

8. Avoidance of Transfers – Preferential Payments.

Under the Bankruptcy Code, certain payments made to creditors before bankruptcy that result in the creditor improving its position *vis-a-vis* other creditors who were not paid may be forced to be repaid to the Bankruptcy Estate. The repaying creditor’s claim is then increased to reflect the refunded payment and distributions to the creditor are then calculated based upon the increased amount of the creditors claim. 11 U.S.C. §502(h). In order to be subject to repayment, the payments to the creditor must total in excess of \$6,425.00 during the applicable preference period. The elements of a preferential payment include:

The transfer of an interest of the debtor in property—

- (1) to or for the benefit of a creditor;
- (2) for or on account of an antecedent debt owed by the debtor before such transfer was made;
- (3) made while the debtor was insolvent;
- (4) made—
 - (A) on or within 90 days before the date of the filing of the petition; or
 - (B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider; and

- (5) that enables such creditor to receive more than such creditor would receive if—
- (A) the case were a case under chapter 7 of the Bankruptcy Code;
 - (B) the transfer had not been made; and
 - (C) such creditor received payment of such debt to the extent provided by the provisions of the Bankruptcy Code. This includes the concept that a creditor holding a fully-secured claim on the date of transfer has not improved its position by having received the payment because under a Chapter 7, it would be entitled to have its claim paid in full.

Defenses to the repayment of a transfer that would otherwise be deemed preferential include:

- (1) to the extent that such transfer was—
- (A) intended by the debtor and the creditor to or for whose benefit such transfer was made to be a contemporaneous exchange for new value given to the debtor; and
 - (B) in fact a substantially contemporaneous exchange;
- (2) to the extent that such transfer was in payment of a debt incurred by the debtor in the ordinary course of business or financial affairs of the debtor and the transferee, and such transfer was—
- (A) made in the ordinary course of business or financial affairs of the debtor and the transferee; or
 - (B) made according to ordinary business terms;

A transfer also need not be repaid to the extent that, after such transfer, such creditor gave new value to or for the benefit of the debtor—

- (A) not secured by an otherwise unavoidable security interest; and
- (B) on account of which new value the debtor did not make an otherwise unavoidable transfer to or for the benefit of such creditor;

The trustee has the burden of proving the avoidability of a preferential transfer, and the creditor or party in interest against whom recovery or avoidance is sought has the burden of proving an affirmative defense to the repayment. An action to recover a preferential transfer requires the filing of an adversary proceeding, which is governed by the Federal Rules of Bankruptcy Procedure (F.R.B.P.) 7001, *et seq.*

The Statements of Financial Affairs filed in the Bankruptcy Case reflect potential preferential payments based upon the presumption of the insolvency of Debtor during the ninety (90) days preceding the Petition Date (one year with respect to insiders) under § 547 of the Bankruptcy Code. If you received a payment or other transfer within ninety (90) days of the bankruptcy, then such transfer may be subject to avoidance under the Bankruptcy Code, including its §§ 544, 547, and 550.

The Debtor and Liquidating Trustee have not yet fully completed their investigation regarding potential preferential payments under § 547 of the Bankruptcy Code, but the Debtor

has extensively listed in the Statement of Financial Affairs those payments made to creditors within ninety (90) days and one (1) year for insiders. [See Doc. 171 at pp. 15 – 22].

V. SUMMARY OF THE PLAN

The following is a brief summary of the Plan. Holders of claims and interests are urged to read the Plan in full. Holders of claims and interests are also urged to, and should, consult with counsel in order to understand and analyze the Plan fully. If Confirmed, the Plan will become a legally binding agreement among Debtor and all of its creditors and parties-in-interest.

Generally, the Plan provides for the treatment of Allowed Claims and Equity Interests. A Claim is defined by the Plan and the Bankruptcy Code to be a right to payment from Debtor, or from the property of Debtor, or a right to an equitable remedy for breach of performance, if such breach gives rise to a right to payment. The Plan defines an Allowed Claim as follows: (i) a Claim, proof of which is filed by the Bar Date or this Plan; or (ii) that has been, or is later, scheduled by the Debtor as liquidated in amount and not disputed or contingent; or (iii) has not been objected to by the Liquidating Trustee; or (iv) is allowed by the Joint Settlement Agreement; or (v) filed within any applicable period fixed by the Bankruptcy Court; or (vi) as to which a Final Order allowing such Claim has been entered.

The categories of Claims and Equity Interests listed below classify Claims and Interests for all purposes, including: (i) voting; (ii) confirmation of the Plan; and (iii) distribution pursuant to the Plan and pursuant to §§ 1122 and 1123(a)(1) of the Bankruptcy Code. The Plan designates four (4) Classes of Claims and one Class of Equity Interests. These Classes take into account the differing nature and priority under the Bankruptcy Code of the various Claims and Interests. A Claim or Interest will be deemed classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Interest qualifies within the description of such different Class. A Claim or Interest is in a particular Class only to the extent that such Claim or Interest is allowed in that Class and has not been paid or otherwise settled prior to the Effective Date. To the extent that the Holders of any Allowed Claims or Interests object to Debtor’s classification scheme, such objections will be considered at the Confirmation Hearing, and, if sustained, the classifications outlined below will be deemed modified in accordance with any order sustaining such objections.

Any Class of Claims that, as of the date of the commencement of the Confirmation Hearing, contains no Allowed Claims will not be considered for purposes of determining acceptance or rejection of the Plan by such Class under § 1129(a)(8) of the Bankruptcy Code. The classification of Claims against and Equity Interests in Debtor, and their respective voting rights, pursuant to the Plan are as follows:

Class	Impairment	Treatment
Unclassified Claims	Unimpaired	Certain Claims may not be classified under chapter 11 plans, they include: Claims entitled to Administrative Expense Status, U.S. Trustee Fees, Court Costs, or Priority Status under 11 U.S.C. § 507(a)(8) (certain tax

		claims), and the administrative expense Claim of Winthrop Resources Corporation in the stipulated amount of \$7,000.00. The Plan provides for payment of Unclassified Claims as required by the Bankruptcy Code.
Class 1 Wells Fargo § 507(b) Claim	Impaired	Class 1 consists of the full Wells Fargo § 507(b) Claim, entitled to priority treatment pursuant to the Joint Settlement Agreement and the Settlement Order. Wells Fargo’s Class 1 Claim is deemed allowed pursuant to the Joint Settlement Agreement and the Settlement Order. The Holder of the Wells Fargo § 507(b) Claim shall be paid, in full and complete satisfaction of such Allowed Claim, from Net Asset Recoveries (ahead of and in preference to all other pre-petition or post-petition Claims, other than Administrative Claims that are Allowed Claims incurred during the pendency of the Bankruptcy Case); provided, however, that the first \$250,000 of the Wells Fargo § 507(b) Claim to be satisfied shall be paid from Remaining Asset Recoveries after first deducting from each such Remaining Asset Recovery an amount equal to the costs and reasonable out-of-pocket expenses (including reasonable legal fees, calculated at the lesser of the hourly rates of legal counsel employed in connection with such Remaining Asset Recovery or the applicable contingency fee arrangement for such Remaining Asset Recovery) incurred in effecting such Remaining Asset Recovery. After Wells Fargo has been paid the first \$250,000 of the Wells Fargo § 507(b) Claim, (a) such legal professionals may be paid any outstanding balances from Remaining Asset Recoveries, and (b) the Liquidating Trustee shall be authorized to establish the Operating Reserve.
Class 2 Priority Non-Tax Claims	Unimpaired	Class 2 consists of all Claims of the kinds specified in § 507(a)(1), (4), (5), (6) and (7) of the Bankruptcy Code and, accordingly, are entitled to priority treatment. Except to the extent the Holder has agreed to a different treatment of its Claim which remains subject to Article III of the Plan as a condition of being an Allowed Claim and subject to the Allowed Administrative Expense Claims, Priority Tax Claims and the Wells Fargo § 507(b) Claim having been Paid in Full prior to any Distribution to this Class, each Holder of an Allowed Claim in Class 2 shall receive, in full and complete satisfaction of such Allowed Claims in Class 2, Cash equal to the allowed amount of such Claim from the following sources: (x) first a Pro Rata Share of the unused portion of the Settlement Payment; and (y) to the extent not Paid in Full after exhaustion of the amount of the Settlement Payment, then a Pro Rata Share of Available Cash until Paid in Full. Each Holder of an Allowed Claim in Class 2 will receive treatment under either clause (x) or clause (y) herein on the later of the Effective Date or on the date that such Claim becomes an Allowed Claim.
Class 3 Secured	Impaired	Class 3 consists of any Secured Claim that may exist. For convenience of identification, this Plan classifies Class 3 Claims in a single class, although it may be a group of subclasses, and each Class 3 Claim will be

Claims		placed in a separate subclass and treated as a distinct Class for distribution purposes. For the avoidance of doubt, the Secured Claims of both Wells Fargo and WFEF have been satisfied, in the manner described in the Joint Settlement Agreement. Except to the extent the Holder has agreed to a different treatment of its Secured Claim, each Holder of an Allowed Claim in Class 3, if any, shall receive, in full and complete satisfaction of such Allowed Claim, either: (i) Cash equal to the allowed amount of such Holder’s Secured Claim; or (ii) the Secured Collateral in respect of such Secured Claim. Each Holder of an Allowed Claim in Class 3 will receive treatment under either clause (i) or clause (ii) herein on the later of the Effective Date or on the date that such Claim becomes an Allowed Claim.
Class 4 General Unsecured Claims	Impaired	Class 4 consists of all Allowed Claims of General Unsecured Creditors, including the Wells Fargo Stipulated Deficiency Claim, WFEF Deficiency Claim, and the Hughes Subordinated Claim (Provided, however, Wells Fargo is deemed the Holder of the Hughes Subordinated Claim based on Hughes’s subordination of the Hughes Subordinated Claim to the payment in full of all indebtedness at any time owed to Wells Fargo under the Wells Fargo Pre-Petition Documents (thereby entitling Wells Fargo to any distribution made from Assets of the Estate on account of the Hughes Subordinated Claim) and Hughes’s collateral assignment of the Hughes Subordinated Claim to Wells Fargo, each as acknowledged and agreed to in the Joint Settlement Agreement). On the Effective Date, each Holder of an Allowed Class 4 Claim will receive in full satisfaction of its Class 4 Claim its pro rata share of the Class 4 Interests in the Liquidating Trust. On the Effective Date, the Debtor will transfer the Liquidating Trust Assets to the Liquidating Trust.
Class 5 Equity Interests	Impaired	Class 5 consists of all Interests in the Debtor. Holders of a Class 5 Interest will not receive any Distribution under this Plan and all such Interests will be deemed canceled and terminated (without further act or deed) as of the date of the entry of the Final Decree in the Case.

B. Unclassified Claims.

1. General Administrative Claims.

The Plan provides that, except to the extent the Holder of an Allowed Administrative Claim agrees to other, lesser treatment, each Holder of an Allowed Administrative Claim shall be paid in respect of such Allowed Claim the full amount thereof, in Cash, by the later of: (i) the Effective Date or (ii) the date on which such Claim becomes an Allowed Administrative Claim.

2. Statutory Fees.

The Plan provides that Allowed Administrative Claims for fees payable pursuant to 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid in Cash, in full, as funds become available to pay such Claims.

3. Fee Claims.

Professionals having Allowed Professional Fee Claims shall be paid in full, in Cash, by the Liquidating Trust in accordance with the Order Establishing Compensation Procedures for Professionals entered in the Bankruptcy Case on October 4, 2019 (Dkt. 126, the “**Administrative Fee Order**”) or, with respect to any disputed Professional Fee Claim, the date upon which the Bankruptcy Court order allowing such Professional Fee Claim becomes a Final Order. Upon entry of the Confirmation Order, the Liquidating Trustee shall set aside in escrow all unpaid amounts estimated to be owed to Professionals for Professional Fee Claims through the Effective Date (less amounts previously paid or paid on an interim basis after Confirmation as authorized by the Administrative Fee Order) pending entry of a Final Order on each such Professionals’ application for Allowance of its Professional Fee Claim.

The Bankruptcy Court must rule on all Professional fees and expenses incurred from the Petition Date through and including the Effective Date before such fees will be payable, unless the order approving such Professionals’ retention provides otherwise. For all Fee Claims except the statutory Clerk’s Office costs of Court and U.S. Trustee’s fees treated above, and unless the order approving such Professionals’ retention provides otherwise, the Professional in question must file and serve a properly noticed fee application, and the Bankruptcy Court must rule on the application. Only the amount of fees allowed by the Bankruptcy Court will be payable under the Plan.

4. Bar Dates for General Administrative Claims.

The Holder of an Administrative Claim *other than*: (1) a Professional Fee Claim; (2) a Post-petition Obligation incurred and payable in the Ordinary Course of Business by a Debtor (and not past due, but excluding personal injury claims and workman’s compensation claims – the Holders of which must initiate an appropriate procedure for allowance thereof under this subparagraph of this Plan on or before the Administrative Bar Date); and (3) an Administrative Claim that has been Allowed on or before the Effective Date, must file with the Bankruptcy Court and serve on the Debtor, the Committee and the Office of the United States Trustee, a request for payment of such Administrative Claim within the later of thirty (30) days after service of notice of entry of the Confirmation Order (the “**Administrative Bar Date**”). Such request must include at a minimum (A) the name of the Holder of the Claim, (B) the amount of the Claim, and (C) the basis of the Claim. ***Failure to File and serve such request timely and properly shall result in the Administrative Claim being forever barred and discharged.*** Objections to general Administrative Claims must be Filed and served on the parties that were served with such Claims or requests and the requesting party by the later of: (A) 60 days after the Confirmation Date; (B) 30 days after the Filing of the applicable request for payment of Administrative Claims; or (C) such later date as provided for by order of the Bankruptcy Court, which order may be entered upon application of the Debtor without further notice or hearing (the

“Administrative Claim Objection Deadline”). *The Holders of the Administrative Claims enumerated in (1)– (3) above of this paragraph shall not be required to file a request for payment of their Administrative Claims and shall be paid as further specified in this Article.*

5. Priority Tax Claims.

Each Holder of an Allowed Priority Tax Claim will be paid in respect of such Allowed Claim (including with respect to any interest that is determined to be part of its Allowed Claim) the full amount thereof, in Cash, by the later of: (i) at Closing or (ii) the date on which such Claim becomes an Allowed Claim; or (iii) shall receive such lesser amount or other treatment as the Holder of an Allowed Priority Tax Claim and the Debtor might otherwise agree.

C. Means of Implementation of the Plan.

1. Vesting of Liquidating Trust Assets.

The Plan is a liquidating chapter 11 plan. Within seven (7) days after the Effective Date, or as provided in the Confirmation Order, all Assets of the Estate shall be assigned to the Liquidating Trust, including but not limited to: (i) all Cash held by the Debtor; (ii) any remaining personal property owned by the Debtor as of the Effective Date; and (iii) the Causes of Action.

2. Liquidating Trust Asset Administration.

The Liquidating Trustee, with oversight from the Trust Oversight Committee, shall administer the Liquidating Trust Assets pursuant to the Plan and the Liquidating Trust Agreement from and after the Confirmation Date. The Liquidating Trustee shall be responsible for liquidating the Liquidating Trust Assets, analyzing and reconciling Claims (including filing and pursuing objections to the extent required), pursuing the Avoidance Actions and Causes of Action, making distributions of the Net Proceeds to the beneficiaries of the Liquidating Trust and all other activities typically related to trust administration. Upon his or her appointment, the Liquidating Trustee shall be the Estate Representative with authority to sue and be sued in the place of a trustee under 11 U.S.C. § 523. The Liquidating Trustee may engage counsel for the Debtor and/or the Committee to pursue causes of action.

For purposes of implementation of the Plan, the Trust Oversight Committee shall be created on the Confirmation Date and comprised of two members: (i) one EX-IM Bank representative or designee; and (ii) one Committee representative or designee. The Trust Oversight Committee shall exercise such rights and duties set forth in the Liquidating Trust Agreement. Each member of the Trust Oversight Committee shall serve until the earlier of: (x) his or her death or resignation; (y) his or her removal pursuant to the Liquidation Trust Agreement; or (z) the termination of the Liquidation Trust.

The Committee shall terminate automatically upon the Effective Date. Upon termination, the Committee shall be dissolved and its members shall be deemed released of their duties and responsibilities in connection with the Case or the Plan and its implementation, and the retention or employment of the Committee’s counsel shall terminate, except for ministerial duties or any

duties imposed pursuant to the Plan (including, without limitation, filing applications for allowance and payment of Professional Fee Claims).

3. Dissolution of the Debtor.

As soon as he determines practicable, but not later than the completion of its functions under the Liquidating Trust Agreement, the Liquidating Trustee will provide for the orderly wind-down or dissolution of the Debtor. The Liquidating Trustee shall thereafter continue to have standing to assert claims or pursue matters on behalf of the Debtor to the extent necessary to preserve, protect and liquidate the Liquidating Trust Assets or otherwise necessary to administer the Liquidating Trust. The Liquidating Trustee shall maintain the Debtor's corporate status with the Georgia Secretary of State's Office until the Trust is concluded.

4. Conditions to Confirmation.

The Bankruptcy Court shall not enter the Confirmation Order unless and until the Confirmation Order shall be reasonably acceptable in form and substance to the Plan Proponents. Notwithstanding the foregoing, the Debtor, the Committee and their respective Professionals waive any objection to confirmation based upon any non-compliance with 11 U.S.C. § 1129(a)(9) as of the Effective Date.

5. Conditions to Effective Date.

The following are conditions precedent to the occurrence of the Effective Date: (i) the Confirmation Order confirming the Plan, as such Plan may have been modified, shall have been entered by the Bankruptcy Court and be in full force and effect and shall not have been vacated, amended, modified or stayed, and if it is the subject of any appeal, reconsideration or other review, no stay of the Confirmation Order shall be in effect; (ii) the Liquidating Trust Agreement, in form and substance satisfactory to the Debtor and the Committee, shall be executed and delivered, and all conditions precedent to the effectiveness thereof shall have been satisfied; (iii) all other documents or agreements necessary to consummate the Plan shall have been delivered or effectuated; (iv) the Liquidating Trustee shall have been appointed by the Plan Proponents upon notice to the Bankruptcy Court; and (v) the Liquidating Trustee determines that it believes there will be sufficient assets, once liquidated, to pay Allowed Administrative Claims, Allowed Priority Tax Claims and Allowed Priority Claims in full. The Plan Proponents or the Liquidating Trustee may waive any of the foregoing conditions precedent at any time.

6. Quarterly Operating Reports.

Until the entry of a Final Decree, the Liquidating Trustee shall prepare and file Quarterly Operating Reports as required by the Office of the United States Trustee within the times specified by the United States Trustee.

7. Case Administration.

From and after the Confirmation Date and continuing through the date that a Final Decree is entered, the Liquidating Trustee shall serve as the Estate Representative (pursuant to § 523 of

the Bankruptcy Code) for all matters arising in, arising under or related to the Case. In addition to the foregoing, for all matters arising in, arising under or related to the Case, the Liquidating Trustee shall: (i) have the right to appear and be heard on matters brought before the Bankruptcy Court or other courts of competent jurisdiction; (ii) have the right to obtain records of, or related to, the Debtor (including, without limitation, bank statements and cancelled checks); (iii) be entitled to notice and opportunity for hearing; (iv) be entitled to participate in all matters brought before the Bankruptcy Court, including, but not limited to, adversary proceedings; (v) have exclusive standing (including derivative standing to pursue Causes of Action on behalf of the Debtor) to commence Avoidance Actions and Causes of Action; (vi) be entitled to request the Bankruptcy Court to enter a Final Decree; (vii) be entitled to receive notice of all applications, motions and other papers and pleadings set before the Bankruptcy Court in this Case; and (viii) be authorized to designate the allocation of the remaining Debtor's funds, following consultation with, and subject to the approval of, the Trust Oversight Committee.

8. Tax Returns.

The Liquidating Trustee shall cause to be prepared and filed any federal, state or local tax returns required to be prepared and filed on account of the operation or liquidation of the Debtor that have not been prepared or filed by the Confirmation Date, or which fall due thereafter.

VI. EXECUTORY CONTRACTS

A. Assumption or Rejection of Executory Contracts.

Except as otherwise provided in the Plan or the Asset Purchase Agreement, the Debtor's executory contracts or unexpired leases are rejected as of November 3, 2019 pursuant to a Bankruptcy Court order [Docket No. 213] and shall be deemed rejected pursuant to §§ 365 and 1123 of the Bankruptcy Code.

B. Cure Cost Claims.

Any Cure Costs associated with the assumed contracts will be paid on the Confirmation Date, unless otherwise agreed with the other party to such Executory Contract. All Allowed Cure Costs (which are defined in the Plan as Administrative Claims) associated with the assumed Executory Contracts will be paid in accordance with the hanging paragraph in Section 2.1 of the Plan.

C. Rejected Contracts.

In the event that the rejection of an executory contract or unexpired lease by the Debtor pursuant to the Plan results in damages to the other party or parties to such contract or lease, a Claim for such damages, if not heretofore evidenced by a timely filed proof of claim, such party must have a proof of claim filed with the Bankruptcy Court and served upon counsel for the Debtor and the Liquidating Trust on or before the date that is within thirty (30) days of the Liquidating Trustee's mailing of that certain Notice of Effective Date as set forth in Section 8.2 of the Plan, or such Claim shall be forever barred and unenforceable against the Debtor, the

Liquidating Trust, or their respective properties or interests in property as agents, successors, or assigns.

VII. PROVISIONS GOVERNING PAYMENT AND DISTRIBUTIONS

A. Manner of Payment.

All distributions of Cash under the Plan may be made by the Debtor, the Liquidating Trustee, in its capacity as Distribution Agent under the terms of the Plan or the Liquidating Trust Agreement, respectively. Any distributions that revert to the Liquidating Trust or are otherwise cancelled (such as to the extent any distributions have not been claimed within one year) shall revert solely in the Liquidating Trust to be disbursed in accordance with the terms of the Liquidating Trust Agreement, as applicable. At the option of the Distribution Agent, any Cash payment to be made hereunder or under the Liquidating Trust Agreement may be made by a check or wire transfer or as otherwise required or provided in applicable agreements.

1. Setoffs.

The Debtor and the Liquidating Trustee may, but are not required to, set off against any Claim (for purposes of determining the Allowed amount of such Claim on which distribution shall be made), any claim that the Debtor may have against the Holder of such Claim. Neither the failure to exercise setoff rights, nor the allowance of any Claim shall constitute a waiver or release by the Debtor of any such claim the Debtor may have against the Holder of such Claim.

2. Minimum Distributions.

No distribution of less than \$25.00 on account of an Allowed Claim shall be made by the Distribution Agent to any Holder of a Claim unless a request therefor is made in writing to the Distribution Agent.

VIII. PROVISIONS GOVERNING OBJECTIONS TO CLAIMS

A. Objections to Claims.

The following provisions of the Plan apply only to Claims that are Disputed Claims. Following the Effective Date, the applicable Distribution Agent shall be entitled to file objections to all Claims except those Claims allowed pursuant to the terms of the Plan. Any objections to Priority Non-Tax Claims and General Unsecured Claims shall be served and filed on or before the later of: (i) one hundred and eighty (180) days after the Effective Date; and (ii) such later date as may be fixed by the Bankruptcy Court for cause, including the Liquidating Trustee waiting until it is known whether there will be assets available for distributions on account of Priority Non-Tax Claims and General Unsecured Claims.

B. Payments and Distributions with Respect to Disputed Claims.

Notwithstanding any other provision of the Plan, if any portion of a Claim is a Disputed Claim, no payment or distribution provided hereunder shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

C. Estimation of Claims.

The Liquidating Trustee may at any time request that the Bankruptcy Court estimate any Contingent, Unliquidated, or Disputed Claim pursuant to § 502(c) of the Bankruptcy Code, regardless of whether an objection was previously filed with the Bankruptcy Court with respect to such Claim, or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. The Distribution Agent may make distributions under the Plan or the Liquidating Trust with respect to other Allowed Claims in the same class after making an appropriate reserve based on the estimated amount of such Disputed or Contingent Claim. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Distribution Agent may pursue supplementary proceedings to object to the Allowance of such Claim. All of the aforementioned objection, estimation, and resolution procedures are cumulative and not exclusive of one another. The Liquidating Trustee may estimate, compromise, settle, or resolve Disputed Claims by any procedure approved by the Bankruptcy Court or as otherwise provided in the Liquidating Trust Agreement.

D. Distributions Relating to Disputed Claims.

At such time as a Disputed Claim becomes an Allowed Claim, the Liquidating Trustee shall distribute to the Holder of such Claim, such Holder's pro rata portion of the property distributable with respect to the Class in which such Claim belongs. To the extent that all or a portion of a Disputed Claim is disallowed, the Holder of such Claim shall not receive any distribution on account of the portion of such Claim that is disallowed and any property withheld pending the resolution of such Claim shall be reallocated pro rata to the Holders of Allowed Claims in the same class.

E. Preservation of Rights to Settle Claims.

In accordance with § 1123(b) of the Bankruptcy Code and the Liquidating Trust Agreement, the Liquidating Trust shall retain and may enforce, sue on, settle, abandon, or compromise (or decline to do any of the foregoing) all claims, rights, causes of action, suits, and proceedings, whether in law or in equity, whether known or unknown, that the Debtor or its Estate may hold against any Person or Entity without the approval of the Bankruptcy Court, subject to the terms of the Liquidating Trust Agreement, the Confirmation Order and any contract, instrument, release, indenture, or other agreement entered into in connection herewith. The Debtor or the Liquidating Trustee may pursue such retained claims, rights, or causes of action, suits, or proceedings, including Causes of Action, as appropriate, in accordance with the best interests of the Liquidating Trust Beneficiaries.

IX. PROVISIONS REGARDING EFFECTS OF CONFIRMATION

A. Vesting of Assets.

On the Effective Date, pursuant to §§ 1141(b) and (c) of the Bankruptcy Code, all property of the Debtor's Estate shall vest in the Liquidating Trust, free and clear of all Claims, liens, encumbrances, charges, and other interests, and except with respect to Claims or interests set forth in the Plan, the Liquidating Trust Agreement and the Joint Settlement Agreement. Except as otherwise provided in the Liquidating Trust Agreement, the Liquidating Trust may use

and dispose of trust property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as provided herein.

B. Termination of Equity Interests.

Except as otherwise provided herein or in the Confirmation Order, the rights afforded herein and the payments and distributions to be made hereunder shall terminate all Equity Interests in the Debtor of any kind, nature, or description whatsoever against or in the Debtor or any of its assets or properties to the fullest extent permitted by § 1141 of the Bankruptcy Code, effective as of the date of entry of a Final Decree. Notwithstanding any provision herein, any valid setoff or recoupment rights held by the Debtor shall not be affected by the Plan and are hereby expressly preserved and conveyed to the Liquidating Trust.

C. Term of Injunctions or Stays.

Unless otherwise provided, all injunctions or stays arising under or entered during the Bankruptcy Case under §§ 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the Effective Date and the date indicated in any order providing for such injunction or stay.

D. Injunction Against Interference with Plan.

Upon the entry of the Confirmation Order, all Holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

X. PRESERVATION OF CAUSES OF ACTION

A. Representative of the Estate.

Nothing contained in the Plan or in the Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights or Causes of Action that the Debtor, or the Liquidating Trust may have, or the Liquidating Trust may have under any provision of the Bankruptcy Code or any applicable non-bankruptcy law or rule, common law, equitable principle or other source of right or obligation, including, without limitation, (i) any and all Claims against any Person or Entity, to the extent such Person or Entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtor, the Liquidating Trust or Liquidating Trustee, their officers, directors, or representatives; (ii) the turnover of any property of the Debtor's Estate; and (iii) any Causes of Action retained pursuant to the Plan.

Nothing contained in the Plan or in the Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, Cause of Action, right of setoff, or other legal or equitable defense that the Debtor had immediately prior to the Petition Date, against or with respect to any Claim left unimpaired by the Plan. In accordance with the Plan, the Liquidating

Trust shall have, retain, reserve, and be entitled to assert all such claims, Causes of Action, rights of setoff, and other legal or equitable defenses that the Debtor had immediately prior to the Effective Date fully as if the Bankruptcy Case had not been commenced, and all of the Debtor's legal and equitable rights respecting any Causes of Action may be asserted after the Effective Date at least to the same extent as if the Bankruptcy Case had not been commenced.

XI. MISCELLANEOUS PROVISIONS OF THE PLAN

A. Modifications or Amendment.

The Plan provides that it may be modified or amended prior to confirmation as allowed by the Code or Rules. Following confirmation, amendments or modifications to the Plan may be made by a voting process similar to the voting process for acceptance of the Plan. These procedures are set out in detail in Section 11.4 of the Plan.

D. Effectuating Documents, Further Transactions and Corporate Action.

The Liquidating Trustee is authorized, in accordance with its authority under the Liquidating Trust Agreement, to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

C. Governing Law.

Except to the extent that the Bankruptcy Code is applicable, the rights and obligations arising under the Plan and Disclosure Statement will be governed by and construed and enforced in accordance with the laws of the State of Georgia.

XII. FINANCIAL INFORMATION

Debtor filed its Schedules with the Bankruptcy Court as required by the Bankruptcy Code. Debtor will supplement and amend its Schedules as necessary and appropriate from time to time. Debtor will file post-confirmation quarterly operating reports after the Confirmation Date through the earlier of the entry of a Final Decree or court Order excusing further filings. This financial information has not been included in this Disclosure Statement, but may be examined at the Clerk's Office, United States Bankruptcy Court, Middle District of Georgia, 433 Cherry Street, Macon, Georgia, or online through PACER at <http://www.pacer.gov/>.

XIII. ACCEPTANCE AND CONFIRMATION

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the requirements of § 1129 of the Bankruptcy Code are met. Among the requirements for confirmation of a plan are that: (i) the plan is accepted by all impaired classes of Claims and Interests or, if rejected by an impaired class, that the plan "does not discriminate unfairly" and is "fair and equitable" as to such class; (ii) the plan is feasible; and (iii) the plan is in the "best interests" of Creditors and other Holders of Claims and Interests impaired under the plan.

A. Acceptance of Plan.

In order for an Impaired Class of Claims or Interests to accept the Plan: (a) the Holders (other than any Holder designated under § 1126(e) of the Bankruptcy Code) of at least two-thirds (2/3) in amount of the Allowed Claims or number of Interests actually voting in such Class must have voted to accept the Plan and, with respect to Claims only; and (b) the Holders (other than any Holder designated under § 1126(e) of the Bankruptcy Code) of more than one-half (1/2) in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

Holders of Claims in Impaired Classes are entitled to vote to accept or reject the Plan

The Plan provides that the Plan will constitute a request that the Bankruptcy Court confirm the Plan over such rejection in accordance with § 1129(b) of the Bankruptcy Code, the so-called “cram down” provision. Debtor reserves the right to alter, amend, modify, revoke, or withdraw the Plan or this Disclosure Statement, including any exhibit or attachment, if necessary to satisfy the requirements of § 1129(b) of the Bankruptcy Code.

XIV. FEASIBILITY OF THE PLAN

As a condition to confirmation of the Plan, § 1129(a)(11) of the Bankruptcy Code requires that confirmation of the Plan is not likely to be followed by the liquidation of Debtor unless such liquidation is proposed in the Plan, which in this case this is a liquidating plan.

A. “Best Interests of Creditors” Test.

Confirmation of the Plan also requires that each Claimant either: (i) accept the Plan; or (ii) under the Plan, receive or retain property with a value, as of the Effective Date, that is not less than the value such claimant would receive or retain if Debtor had its assets liquidated under Chapter 7 of the Bankruptcy Code.

Specifically, § 1129(a)(7) of the Bankruptcy Code requires that, with respect to each impaired Class of claims or interests, that such Class either accept the Plan or that each Holder in such Class “will receive or retain under the plan on account of such claim or interest, property of a value as of the effective date of the plan, that is not less than the amount that such Holder would so receive or retain if the debtor were liquidated under chapter 7 of this title on such date.” This is referred to as the Best Interest of Creditors test for confirmation of chapter 11 plans, and basically provides that unless creditors agree to accept less than they would receive in a Chapter 7 liquidation, a plan proponent must propose to pay at least that amount to all Holders of claims in order for its plan to be eligible for confirmation by the Bankruptcy Court, assuming all other requirements of confirmation have been met. Here, this Plan calls for liquidation of all assets of the Debtor and the distribution of the proceeds of liquidation strictly in accordance with statutory protocols. Accordingly, the Best Interests of Creditors Test is satisfied.

XV. CERTAIN TAX CONSEQUENCES

The following discussion summarizes certain federal tax consequence of the Plan to Holders of Claims and Interests. This summary does not address the federal income tax consequences to Holders whose Claims are paid in full, in Cash, or which are otherwise not

impaired under the Plan. The Liquidating Trust attached to the Plan also contains important tax provisions which should be reviewed and considered in connection with the Plan.

THE TAX CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH SUCH HOLDER. THIS DISCUSSION DOES NOT CONSTITUTE TAX ADVICE OR A TAX OPINION CONCERNING THE MATTERS DESCRIBED. THERE CAN BE NO ASSURANCE THAT THE INTERNAL REVENUE SERVICE WILL NOT CHALLENGE ANY OR ALL OF THE TAX CONSEQUENCES DESCRIBED HEREIN, OR THAT SUCH A CHALLENGE, IF ASSERTED, WOULD NOT BE SUSTAINED. ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT WITH THEIR OWN TAX ADVISOR REGARDING THE TAX CONSEQUENCES OF THE PLAN.

THIS ARTICLE XV IS INTENDED TO BE ONLY A SUMMARY OF CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE FEDERAL, STATE, AND LOCAL INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN.

Each Holder of an Allowed Claim may recognize gain or loss upon receipt of such Holders' distribution equal to the difference between the "amount realized" by such Holder and such Holder's adjusted tax basis in the Claim. The tax consequences to Holders will differ and will depend on factors specific to each such Creditor, including but not limited to: (i) whether the Holder's Claim (or a portion thereof) constitutes a Claim for principal or interest; (ii) the origin of such Holder's Claim; (iii) the type of consideration received by the Holder in exchange for the Claim; (iv) whether the Holder is a United States person or a foreign person for tax purposes; (v) whether the Holder reports income on the accrual or cash basis method; and (vi) whether the Holder has taken a bad debt deduction or otherwise recognized a loss with respect to the Claim.

The Liquidating Trust is intended to qualify as a "liquidating trust" as described in Treasury Regulations section 301.7701-(d) and Revenue Procedure 94-45. As such, for federal income tax purposes, the Liquidating Trust is intended to be treated a grantor trust. The sole purpose of the Liquidating Trust is to liquidate and distribute the Trust Assets and the Trust has no objective to continue or engage in the conduct of a trade or business. Accordingly, the tax impact of the Trust will occur during the first year of the Plan and all Trust Beneficiaries will receive a Form 1099 for their pro-rata interest in the Trust as determined by the Liquidating Trustee. The Form 1099 may, and probably will issue before distributions from the Trust are made.

No opinion of counsel has been sought or obtained with respect to any tax consequences of the Plan. No rulings or determinations of the U.S. Internal Revenue Service or any other tax authorities have been sought or obtained with respect to any tax consequence of the Plan, and the discussion below is not binding on the IRS or such other authorities. In addition, a significant amount of time may elapse between the date of this Disclosure Statement and the receipt of a final distribution under the Plan. Events occurring after the date of this Disclosure Statement,

including changes in law and changes in administrative positions, could affect the U.S. federal income tax consequences of the Plan.

Withholding and Reporting.

Payments of interest, dividends, and certain other payments may be subject to backup withholding unless the payee of such payment furnishes such payee's correct taxpayer identification number (social security number or employer identification number) to the payor. The Liquidating Trustee may be required to withhold the applicable percentage of any payments made to a Holder who does not provide a taxpayer identification number. Backup withholding is not an additional tax, but an advance payment that may be refunded to the extent it results in an overpayment of tax.

Circular 230 Disclaimer.

To ensure compliance with the requirements imposed by the IRS we inform you that any U.S. federal tax information contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of: (i) avoiding tax related penalties under the Internal Revenue Code of 1986, as amended; or (ii) promoting, marketing or recommending to another party any transaction or tax matter(s) address herein.

Because the final outcome depends so much on each individual creditor's or interest holder's situation, it is imperative that each creditor or interest holder seek individual tax counsel for advice on its particular situation.

All Holders of claims and interests are urged to consult their own tax advisors with respect to any federal, state, local, and foreign tax consequences of the Plan. This Disclosure Statement is not intended, and should not be construed, as legal or tax advice to any creditor or interest holder.

XVI. ALTERNATIVES TO CONFIRMATION/CONSUMMATION OF THE PLAN

If the Plan is not confirmed and consummated, the alternatives include: (a) liquidation of Debtor under chapter 7 of the Bankruptcy Code; or (b) an alternative plan of reorganization. Debtor believes that if the Plan is not confirmed, then Holders of Allowed Claims will receive a smaller dividend than proposed under the Plan.

A. Liquidation Under Chapter 7.

If no plan can be confirmed, the Chapter 11 Case may be converted to a case under Chapter 7 of the Bankruptcy Code. A Chapter 7 trustee would be appointed to liquidate the remaining assets of Debtor for distribution to creditors in accordance with the priorities established by the Bankruptcy Code. A Chapter 7 trustee would need time to investigate Debtor's pre-petition transactions, and their assets and liabilities. A Chapter 7 trustee would retain and liquidate Debtor's remaining assets, and, if necessary, investigate and pursue Causes of Action. The liquidation of Debtor's assets would result in distressed recoveries and would therefore reduce the recovery to Unsecured Creditors. Debtor also believes that the conversion of the Chapter 11 Case to a case under Chapter 7 of the Bankruptcy Code and the appointment of a

Chapter 7 trustee would increase the costs of administration and reduce and postpone any distribution to Holders of Allowed Claims.

For all of the foregoing reasons, Debtor and the Committee have concluded that Creditors are likely to receive an amount under the Plan that is substantially greater than the amount such Creditors would receive under Chapter 7 liquidation.

XVII. SOLICITATION

The Disclosure Statement you are reading is submitted by Debtor and the Committee in compliance with their obligations under the Bankruptcy Code to provide “adequate information” to enable you to reach an informed decision regarding whether it is in your best interest to vote to accept the Plan. All Claims are to receive the maximum distribution possible under the circumstances at a much earlier date than distributions would be paid if the Case were converted to a Chapter 7 case.

The Debtor and Committee urge all Holders of claims and interests to carefully consider the Liquidating Plan and complete the attached Ballot accepting the Plan.

Thank you, in advance, for your support.

IN WITNESS WHEREOF, the undersigned have caused this Disclosure Statement to be duly executed as of the date written below, which execution may be in multiple identical counterparts.

Dated this the 5th day of May, 2020.

THRUSH AIRCRAFT, INC.

By:

/s/ K. Payne Hughes

K. Payne Hughes, Chief Executive Officer

By:

/s/ Ward Stone, Jr.

Ward Stone, Jr.

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Unsecured Creditors of Thrush Aircraft, Inc.

SCHEDULE 1

**JOINT LIQUIDATING PLAN OF REORGANIZATION OF
TA ESTATE, INC. F/K/A THRUSH AIRCRAFT, INC. DATED MAY 5, 2020**

Liquidating Plan of Reorganization filed separately on the docket