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

In re:	)	Chapter 11
ZACHRY HOLDINGS, INC., *et al.*[1]	)	Case No. 24-90377 (MI)
Debtors.	)	(Jointly Administered)

NOTICE OF FILING OF THE PLAN SUPPLEMENT

PLEASE TAKE NOTICE that, on January 23, 2025, the above-captioned debtors and debtors in possession (collectively, the "**Debtors**") filed the *Modified First Amended Joint Chapter 11 Plan of Reorganization of Zachry Holdings, Inc. and Its Debtor Affiliates* [Docket No. 1978] (as may be amended, supplemented, or modified from time to time, the "**Plan**") and the *Disclosure Statement for the Modified First Amended Joint Chapter 11 Plan of Reorganization of Zachry Holdings, Inc. and Its Debtor Affiliates* [Docket No. 1986] (the "**Disclosure Statement**") in the United States Bankruptcy Court for the Southern District of Texas (the "**Court**").

PLEASE TAKE FURTHER NOTICE that, on January 23, 2025, the Court entered the *Order (I) Scheduling a Combined Disclosure Statement Approval and Plan Confirmation Hearing, (II) Conditionally Approving the Disclosure Statement, (III) Approving the Revised Confirmation Timeline, Solicitation Procedures, Solicitation Package, and Notices, (IV) Establishing Procedures for Objecting to the Disclosure Statement and Modified First Amended Plan, and (V) Granting Related Relief* [Docket No. 1991] (the "**Disclosure Statement Order**").

PLEASE TAKE FURTHER NOTICE that, pursuant to the Disclosure Statement Order, February 5, 2025 is the Debtors' deadline to file the GUC Trust Agreement and the GUC Trust Note Term Sheet.

PLEASE TAKE FURTHER NOTICE that the following exhibits are attached hereto, each of which remains subject to continued review and revision by the Debtors and other interested parties:

Exhibit A GUC Trust Agreement

Exhibit B GUC Trust Note Term Sheet

[1] The last four digits of Zachry Holdings, Inc.'s tax identification number are 6814. A complete list of each of the Debtors in these Chapter 11 Cases and the last four digits of their federal tax identification numbers may be obtained on the website of the Debtors' Claims and Noticing Agent at www.veritaglobal.net/ZHI. The location of the Debtors' service address in these Chapter 11 Cases is: P.O. Box 240130, San Antonio, Texas 78224.

Dated: February 5, 2025
Houston, Texas

/s/ Charles R. Koster

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Debtors in Possession

Certificate of Service

I certify that on February 5, 2025, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Charles R. Koster
Charles R. Koster

Exhibit A

GUC Trust Agreement

The GUC Trust Agreement contained in this **Exhibit A** remains subject to continued review and revision by the Debtors and other interested parties. The Debtors' rights are expressly reserved to alter, amend, modify, or supplement the GUC Trust Agreement in accordance with the terms of the Plan or by order of the Court. If the GUC Trust Agreement is altered, amended, modified, or supplemented in any material respect prior to the Confirmation Hearing, the Debtors will file a redline of such document with the Court.

DRAFT AS OF FEBRUARY 5, 2025
REMAINS SUBJECT TO FURTHER REVIEW AND REVISION

GUC TRUST AGREEMENT

BY AND AMONG

[●],

SOLELY IN THEIR CAPACITY AS GUC TRUSTEE,

ZACHRY HOLDINGS, INC.,

ON BEHALF OF ITSELF AND ITS AFFILIATED DEBTORS

[●], 2025

GUC TRUST AGREEMENT

This GUC Trust Agreement (this "**Agreement**"), dated as of [●], 2025, by and among Zachry Holdings, Inc. ("**ZHI**") and its affiliated debtors and debtors in possession (the "**Debtors**")[1] as settlors, and [●] (the "**GUC Trustee**"), not individually, but solely in its capacity as GUC Trustee, is executed in connection with the *Modified First Amended Joint Chapter 11 Plan of Reorganization of Zachry Holdings, Inc. and Its Debtor Affiliates* [Docket No. 1978] (as may be amended, modified, or supplemented in accordance with its terms, the "**Plan**"), which contemplates the establishment of this trust (the "**GUC Trust**"), and is made effective as of the Effective Date of the Plan.

RECITALS

WHEREAS, on May 21, 2024, the Debtors filed voluntary petitions for relief under chapter 11 of the United States Code, 11 U.S.C. § 101-1532 (the "**Bankruptcy Code**") in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the "**Bankruptcy Court**") (the "**Chapter 11 Cases**");

WHEREAS, on June 4, 2024, the United States Trustee for Region 7 appointed the Statutory Unsecured Claimholders Committee (as reconstituted, the "**Committee**");

WHEREAS, on January 22, 2025, the Debtors filed the Plan;

WHEREAS, on [●], the Bankruptcy Court entered the order confirming the Plan [Docket No. [●]] (the "**Confirmation Order**");

WHEREAS, the Plan and the Confirmation Order provide for the creation of a GUC Trust, to be formed on the Effective Date, to hold and administer the GUC Trust Assets for the benefit of the GUC Trust Beneficiaries, in accordance with the terms of the Plan, the Confirmation Order, and this Agreement. This Agreement is executed to establish the GUC Trust and to facilitate the implementation of the Plan;

WHEREAS, the Effective Date of the Plan occurred on [●], 2025;

WHEREAS, the powers, authority, responsibilities, and duties of the GUC Trustee shall be governed by the Plan, the Confirmation Order, and this Agreement;

WHEREAS, the Debtors, the GUC Trustee, and the GUC Trust Beneficiaries agree that, for United States federal income tax purposes, the Debtors and the respective GUC Trust Beneficiaries will treat the formation of the GUC Trust as if such GUC Trust Beneficiary had received a distribution of an undivided interest in the assets of the GUC Trust from the Debtors and then contributed such interests to the GUC Trust in accordance with Treasury Regulation section 301.7701-4 and to treat the GUC Trust Beneficiaries as the grantors and owners of the GUC Trust in accordance with Treasury Regulation Section 301.7701-4 and, therefore, as responsible for the payment of tax on their respective allocable share of the taxable income of the GUC Trust;

WHEREAS, the GUC Trust is intended to qualify as a "liquidating trust" for all purposes under the IRC, the Investment Company Act of 1940, and any regulations related thereto;

WHEREAS, in accordance with the Plan and the Confirmation Order, the GUC Trust Interests are intended to be exempt, to the extent applicable, from the requirements of the Securities Act of 1933, as amended, and any applicable state and local laws requiring registration of securities, pursuant to section 1145 of the Bankruptcy Code;

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[1] The last four digits of Zachry Holdings, Inc.'s tax identification number are 6814. A complete list of each of the Debtors in these Chapter 11 Cases and the last four digits of their federal tax identification numbers may be obtained on the website of the Debtors' claims and noticing agent at www.veritaglobal.net/ZHI. The location of the Debtors' service address in these Chapter 11 Cases is: P.O. Box 240130, San Antonio, Texas 78224.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained the Plan, the Confirmation Order, and this Agreement, the parties to this Agreement agree as follows:

1. DEFINITIONS

Terms used but not defined herein shall have the meaning ascribed to them in the Plan. For purposes of this Agreement, the following terms shall have the meanings set forth below:

1.1. "**Cause**" means, for purposes of removing the GUC Trustee, (a) the GUC Trustee's conviction of a felony or any other crime involving moral turpitude, (b) any act or failure to act by the GUC Trustee involving actual dishonesty, fraud, misrepresentation, theft, or embezzlement, as determined by Final Order of a court of competent jurisdiction, (c) the GUC Trustee's willful and repeated failure to substantially perform his or her duties under this Agreement after written notice and an opportunity to cure, as determined by Final Order of a court of competent jurisdiction, or (d) the GUC Trustee's incapacity, such that he or she is unable to substantially perform his or her duties under this Agreement for more than ninety (90) consecutive days.

1.2. "**Confidential Parties**" means, collectively, the GUC Trustee and each of his or her respective employees, members, agents, professionals, and advisors, including the GUC Trust Professionals.

1.3. "**GUC Trust Assets**" means (a) the GUC Trust Note and (b) the GUC Trust Cash Amount.

1.4. "**GUC Trust Beneficiaries**" means the Holders of Allowed General Unsecured Claims under the Plan.

1.5. "**GUC Trust Cash Amount**" means Cash in the amount of $[250,000.00] to be contributed by the Debtors to the GUC Trust on the Effective Date.

1.6. "**GUC Trust Fees and Expenses**" means all reasonable and documented fees, expenses, and costs incurred by the GUC Trust and any additional amounts that the GUC Trustee determines are necessary to reserve for the operating expenses of the GUC Trust.

1.7. "**GUC Trust Interests**" means the beneficial interests in the GUC Trust, which shall be uncertificated and represented solely by appropriate book entries in the Trust Register of the GUC Trust and distributed to GUC Trust Beneficiaries on a pro rata basis based on such GUC Trust Beneficiary's Allowed General Unsecured Claim. The GUC Trust Interests held by the GUC Trust Beneficiaries shall entitle each such beneficiary thereof to the proceeds of the GUC Trust Note on account of such GUC Trust Beneficiary's Allowed General Unsecured Claim, subject to the terms and conditions of the Plan, the Confirmation Order, and this Agreement.

1.8. "**GUC Trust Note"** means a note to be issued to the GUC Trust on the Effective Date, in a face amount equal to the aggregate Allowed amount of General Unsecured Claims.

1.9. "**GUC Trust Note Term Sheet**" means the term sheet attached hereto as **Exhibit 1**.

1.10. "**GUC Trust Indemnified Parties"** means the GUC Trustee, the GUC Trust Professionals, or any other representatives, agents, employees, successors, or assigns of the GUC Trust or the GUC Trustee.

1.11. "**GUC Trust Professionals**" means professionals retained by the GUC Trustee including, without limitation, disbursing and transfer agents, legal counsel, accountants, experts, tax, investment, auditing, and forecasting and other consultants, and other agents or advisors, as the GUC Trustee deems appropriate to carry out the GUC Trustee's duties under the Plan, the Confirmation Order, and this Agreement.

1.12. "**IRC**" means, as amended, the Internal Revenue Code of 1986.

1.13. "**Reorganized Debtor**" means a Debtor, or any successor or assign thereto, by merger, consolidation, reorganization, or otherwise, in the form of a corporation, limited liability company, partnership, or other form, as the case may be, on and after the Effective Date.

1.14. "**Requisite GUC Trust Beneficiaries**" means holders of 50.1% in aggregate dollar amount of the then outstanding GUC Trust Interests.

1.15. "**Treasury Regulation**" means any regulation promulgated by the United States Department of the Treasury, including any temporary regulations from time to time promulgated under the IRC.

1.16. "**Trust Register**" means a register, maintained by the GUC Trustee, reflecting the number of GUC Trust Interests allocated to each GUC Trust Beneficiary and the amount of each GUC Trust Beneficiary's Allowed General Unsecured Claim(s).

1.17. "**Trustee Parties**" means, collectively, the GUC Trustee, the GUC Trust Professionals, and any other representatives, agents, employees, successors, or assigns of the GUC Trustee.

2. ESTABLISHMENT OF GUC TRUST

2.1. Name of the Trust

The name of the GUC Trust is the "**Zachry GUC Trust**." In connection with the exercise of the GUC Trustee's powers under this Agreement, the GUC Trustee may use this name or such variation thereof as the GUC Trustee may determine, with the consent of the Reorganized Debtors, which consent shall not be unreasonably withheld.

2.2. Purpose of GUC Trust

The GUC Trust shall be established for the primary purpose of (a) holding and liquidating the GUC Trust Assets in accordance with Treasury Regulation section 301.7701-4(d), and (b) distributing the proceeds thereof to GUC Trust Beneficiaries with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the GUC Trust. Accordingly, the GUC Trustee shall hold and manage the GUC Trust Assets pending the satisfaction and discharge of the GUC Trust Note, make distributions to the GUC Trust Beneficiaries on account of their GUC Trust Interests, and not unduly prolong the duration of the GUC Trust. The GUC Trust shall not be deemed a successor-in-interest of the Debtors for any purpose other than as specifically set forth in this Agreement or in the Plan.

2.3. Transfer of Assets and Rights to the Trust

Pursuant to **Article IV.F** of the Plan, on the Effective Date, the Debtors shall transfer and shall be deemed to transfer the GUC Trust Assets and all of the Debtors' current and future rights, title, and interest in and to the GUC Trust Assets to the GUC Trust, for the benefit of the GUC Trust Beneficiaries.

2.4. Vesting of Assets

On the Effective Date, pursuant to **Article IV.F** of the Plan, the GUC Trust Assets shall vest in the GUC Trust free and clear of all Claims, Liens, or other encumbrances or interests and such transfer shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use, or other similar tax. On and after the Effective Date, the GUC Trust shall be authorized to make distributions to the GUC Trust Beneficiaries in accordance with the Plan, the Confirmation Order, and this Agreement.

On the Effective Date, the GUC Trustee shall succeed to and be vested with right, title, and interests in the GUC Trust Assets, and with all rights and discretion regarding the GUC Trust Assets, subject to the terms of the Plan, the Confirmation Order, and this Agreement.

2.5. Appointment of the GUC Trustee

[●] is hereby appointed to serve as the GUC Trustee, and hereby accepts this appointment and agrees to serve in such capacity effective upon the Effective Date of the Plan and pursuant to the terms of the Plan, the Confirmation Order, and this Agreement. A successor GUC Trustee shall be appointed as set forth in **Article 4.6** hereof in the event the GUC Trustee is removed or resigns pursuant to this Agreement or if the GUC Trustee otherwise vacates the position.

2.6. Funding of the GUC Trust Fees and Expenses

The GUC Trustee shall satisfy the GUC Trust Fees and Expenses using the GUC Trust Cash Amount. For the avoidance of doubt, neither the GUC Trust Note nor its proceeds shall be used to satisfy the GUC Trust Fees and Expenses.

3. DUTIES AND POWERS OF THE GUC TRUSTEE

3.1. Scope of Trustee Powers and Duties

Except as otherwise provided in the Plan, the Confirmation Order, or this Agreement, the GUC Trustee shall control and exercise authority over the GUC Trust Assets and shall be responsible for holding, administering, and liquidating the GUC Trust Assets in accordance with the Plan, the Confirmation Order, and this Agreement and taking actions on behalf of the GUC Trust. The GUC Trustee shall have all duties, obligations, and rights assumed by, assigned to, or vested in the GUC Trust under the Plan, the Confirmation Order, and this Agreement. Such duties, obligations, and rights include, without limitation, all duties, obligations, and rights relating to the settlement, administration, and liquidation of the GUC Trust Assets, and making distributions to GUC Trust Beneficiaries as set forth in the Plan, the Confirmation Order, and this Agreement.

The GUC Trustee shall have the authority to bind the GUC Trust within the limitations set forth in the Plan, the Confirmation Order, and this Agreement, but shall for all purposes hereunder be acting in the capacity of GUC Trustee and not individually. Except as otherwise specified in the Plan, the Confirmation Order, or this Agreement, the GUC Trustee need not obtain any order or approval of any court, including the Bankruptcy Court, in the exercise of any power or discretion conferred by the Plan, the Confirmation Order, or this Agreement.

3.2. Scope of Authority of GUC Trustee

In connection with the administration of the GUC Trust, and on behalf of the GUC Trust, the GUC Trustee shall be authorized, subject to the terms of the Plan, the Confirmation Order, and this Agreement, to:

a. hold legal title to all GUC Trust Assets transferred to the GUC Trust;

b. take possession, custody, or control of the GUC Trust Assets;

c. protect and enforce the rights to the GUC Trust Assets vested in the GUC Trust;

d. allocate (and reallocate) GUC Trust Interests to (and among) Holders of Allowed General Unsecured Claims as necessary to ensure that each Holder of an Allowed General Unsecured Claim receives the treatment specified in the Plan;

e. open and maintain bank accounts in the name of the GUC Trust, draw checks and drafts thereon on the sole signature of the GUC Trustee, and terminate such accounts;

f. maintain the books and records of the GUC Trust, including the Trust Register;

g. use the GUC Trust Cash Amount to pay the GUC Trust Fees and Expenses;

h. purchase liability insurance coverage as the GUC Trustee deems necessary and appropriate with respect to the GUC Trustee's duties pertaining to the GUC Trust Assets (in the form of an errors and omissions policy, fiduciary policy, or otherwise), with such expense payable as a GUC Trust Fee and Expense;

i. raise financing secured by the GUC Trust Assets if necessary to satisfy the GUC Trust Fees and Expenses, in the event the GUC Trust Cash Amount is insufficient to satisfy such obligations;

j. make distributions and pay any other obligations owed by the GUC Trust;

k. establish such funds, reserves, and accounts, as necessary to carry out the provisions of the Plan, the Confirmation Order, and this Agreement;

l. administer the GUC Trust's tax obligations, including: (A) filing tax returns and paying tax obligations, (B) making distributions to GUC Trust Beneficiaries net of such taxes and applicable withholdings, and (C) representing the interests and account of the GUC Trust before any taxing authority in all matters, including, without limitation, any action, suit, proceeding, or audit;

m. in the event that the GUC Trustee determines that the GUC Trust Beneficiaries or the GUC Trust may, will, or have become subject to adverse tax consequences, take such actions that will, or are intended to, alleviate such adverse tax consequences; and

n. seek relief from the Bankruptcy Court prior to the close of the Chapter 11 Cases pursuant to section 350(a) or, following the close of the Chapter 11 Cases, a court of competent jurisdiction in order to implement the provisions of the Plan, Confirmation Order, and this Agreement.

3.3. Limitation of GUC Trustee's Authority

Notwithstanding anything to the contrary under applicable law, this Agreement, the Plan, or the Confirmation Order, the authority of the GUC Trustee is limited as follows:

a. For federal tax purposes and otherwise, the GUC Trustee shall not be authorized to continue or engage in any trade or business with respect to the GUC Trust Assets or any proceeds therefrom except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the GUC Trust.

b. The GUC Trustee shall not invest the GUC Trust Assets or the proceeds thereof in any accounts other than demand and time deposits. Such investment in demand and time deposits shall be in the sole discretion of the GUC Trustee as is reasonably necessary to maintain the value of the assets.

c. The GUC Trustee shall take such actions consistent with the prompt and orderly liquidation of the GUC Trust Assets as required by applicable law and consistent with the treatment of the GUC Trust as a "liquidating trust" pursuant to Treasury Regulation section 301.7701-4(d) and in accordance with IRS Revenue Procedure 82-58, 1982-2 C.B. 847, as amplified by IRS Revenue Procedure 91-15, 1991-1 C.B. 484 and IRS Revenue Procedure 94-45, 1994-2 C.B. 684 and as a "grantor trust" for federal income tax purposes, pursuant to sections 671 through 679 of the IRC to the extent such actions are permitted by this Agreement. The GUC Trust shall in no event be dissolved later than five (5) years after the date hereof unless the Bankruptcy Court or a court of competent jurisdiction, upon motion of the GUC Trustee within the six (6) months prior to the fifth (5th) anniversary hereof (or within the six (6) month period prior to the end of an extension period), determines that a fixed-period extension (not to exceed three (3) years, together with any prior extensions, without a favorable private letter ruling from the IRS or an opinion of counsel satisfactory to the GUC Trustee that any further extension would not adversely affect the status of the GUC Trust as a GUC Trust for United States federal income tax purposes) is necessary to facilitate or complete the recovery and liquidation of the GUC Trust Assets. Upon the filing of such a motion, the term of the GUC Trust shall be automatically extended through entry of a final order thereon, unless the extension would adversely affect the status of the GUC Trust as a liquidating trust for federal income tax purposes.

d. The GUC Trustee shall not take, or fail to take, any action that would jeopardize treatment of the GUC Trust as a "liquidating trust" and as a "grantor trust" (with the GUC Trust Beneficiaries as the grantors) for U.S. federal income tax purposes.

e. For all purposes relating to the Investment Company Act of 1940, the GUC Trust is intended to qualify as a "liquidating trust."

f. The GUC Trustee shall not guarantee any debt of other Persons.

g. The GUC Trustee shall not assert or pursue any Claims, objections to Claims, or any other Causes of Action.

h. The GUC Trust shall not take any action inconsistent with the Plan, the Confirmation Order, or this Agreement.

3.4. Fiduciary Duties of GUC Trustee

Pursuant to the Plan and this Agreement, the GUC Trustee shall act in a fiduciary capacity on behalf of the GUC Trust Beneficiaries.

3.5. Other Activities

The GUC Trustee may be employed by third parties while performing the duties required under the Plan, the Confirmation Order, and this Agreement, so long as such other employment does not involve holding or representing any interest adverse to the interests of the GUC Trust or the GUC Trust Beneficiaries, or otherwise preclude or impair the GUC Trustee from performing its duties under the Plan, the Confirmation Order, or this Agreement. The GUC Trustee represents that, as of the Effective Date, the GUC Trustee does not hold or represent any interest adverse to the interests of GUC Trust or the GUC Trust Beneficiaries, including by virtue of its employment by any third party.

4. TERM AND COMPENSATION FOR GUC TRUSTEE

4.1. Compensation

The GUC Trustee shall be (a) compensated) as provided on **Exhibit 2** hereto for services rendered on behalf of the GUC Trust and (b) reimbursed for of all reasonable, out-of-pocket, and documented expenses related to the GUC Trustee's work on behalf of the GUC Trust, which shall be paid exclusively from the GUC Trust Cash Amount, but not from the GUC Trust Note or any of its proceeds.

4.2. No Bond

Notwithstanding any state or other applicable law to the contrary, the GUC Trustee shall not be obligated to obtain a bond, but may do so, in its sole discretion, in which case the expense incurred in connection with such bonding shall be paid as a GUC Trust Fee and Expense.

4.3. Termination

The duties, responsibilities, and powers of the GUC Trustee shall terminate in accordance with **Article 10.1** hereof.

4.4. Removal

If Cause for removal exists, the GUC Trustee may be removed at any time by the Requisite GUC Trust Beneficiaries, provided that no such removal shall be effective until a successor GUC Trustee agrees to serve as GUC Trustee subject to all of the terms and conditions of this Agreement. Following the effective date of any such removal, the removed GUC Trustee shall be entitled to prompt payment from the GUC Trust Cash Amount of all fees, expenses, and other compensation earned through and including the effective date of such removal, and any out-of-pocket expenses reasonably incurred in connection with the transfer of all powers and duties to the successor GUC Trustee.

4.5. Resignation

The GUC Trustee may resign by giving not less than thirty (30) days' prior written notice thereof filed with the Bankruptcy Court, provided that such resignation shall not become effective until (x) a successor GUC Trustee agrees to serve as GUC Trustee subject to all of the terms and conditions of this Agreement, or (y) a successor GUC Trustee is appointed by the Bankruptcy Court, subject to all of the terms and conditions of this Agreement. Following the effective date of any such resignation, the resigned GUC Trustee shall be entitled to prompt payment from the

GUC Trust Cash Amount of all fees, expenses, and other compensation earned through and including the effective date of such resignation, and any out-of-pocket expenses reasonably incurred in connection with the transfer of all powers and duties to the successor GUC Trustee.

4.6. Successor GUC Trustee

In the event the GUC Trustee is removed or resigns pursuant to this Agreement or the GUC Trustee otherwise vacates its position, a successor GUC Trustee shall be appointed to replace such predecessor GUC Trustee effective upon the successor GUC Trustee's agreement in writing to accept such appointment and to serve as GUC Trustee subject to the terms of the Plan, the Confirmation Order, and this Agreement. Upon its appointment, any successor GUC Trustee shall become vested with all of the estates, properties, rights, powers, trusts, and duties of its predecessor GUC Trustee with like effect as if originally named as the GUC Trustee by this Agreement. A predecessor GUC Trustee shall, when requested in writing by the successor GUC Trustee, execute and deliver any reasonable instrument or instruments conveying and transferring to such successor GUC Trustee all the estates, properties, rights, powers, and trusts of such predecessor GUC Trustee.

5. GUC TRUST INTERESTS

5.1. Allocation of Beneficial Interests to Holders of Claims

On the Effective Date or as soon thereafter as practicable, each GUC Trust Beneficiary shall be allocated its GUC Trust Interests as set forth in the Plan, Confirmation Order, and this Agreement. The GUC Trustee shall be authorized, in accordance with the terms of this Agreement, the Plan, and the Confirmation Order, to receive claims registers listing Allowed General Unsecured Claims from the Claims and Noticing Agent and allocate (and reallocate) GUC Trust Interests to (and among) Holders of Allowed General Unsecured Claims as necessary to ensure that each Holder of an Allowed General Unsecured Claim receives the treatment specified in the Plan. The GUC Trustee may effect such allocations and reallocations solely on a book-entry basis, which shall be reflected in any reporting required to be provided to GUC Trust Beneficiaries under **Article 7** this Agreement.

5.2. Disputed General Unsecured Claims

As soon as reasonably practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed General Unsecured Claim becomes a Final Order, the GUC Trust shall provide the Holder of the Allowed General Unsecured Claim the GUC Trust Interests to which such Holder is entitled under the Plan.

5.3. Interests Beneficial Only

Ownership of GUC Trust Interests shall not entitle any GUC Trust Beneficiary to any title in or similar rights to the GUC Trust Assets as such (which title shall be vested in the GUC Trust) or to any right to call for a partition or division of the GUC Trust Assets or to require an accounting. GUC Trust Beneficiaries shall have no voting rights with respect to such GUC Trust Interests.

5.4. Transfer of GUC Trust Interests

Any and all GUC Trust Interests shall be freely transferrable; *provided, however*, that any such transfer shall only become effective upon serving the GUC Trustee, pursuant to the notice requirements in **Article 12.8**, with notice and proof of such transfer. Upon receiving notice, the GUC Trustee shall update the Trust Register to reflect such transfer as soon as reasonably practicable.

5.5. Effect of Death, Dissolution, Incapacity, or Bankruptcy of GUC Trust Beneficiary

The death, dissolution, incapacity, or bankruptcy of a GUC Trust Beneficiary during the term of the GUC Trust shall not operate to terminate such GUC Trust Beneficiary's GUC Trust Interests during the term of the GUC Trust, nor shall it entitle the representative or creditors of the deceased, incapacitated, or bankrupt GUC Trust Beneficiary to an accounting or to take any action in any court or elsewhere for the distribution of the GUC Trust Assets or for a partition thereof, nor shall it otherwise affect the rights and obligations of the GUC Trust Beneficiary under this Agreement or in the GUC Trust.

5.6. Tax Identification Number

The GUC Trustee may require any GUC Trust Beneficiary to furnish such GUC Trust Beneficiary's social security number or employer or taxpayer identification number as assigned by the IRS and complete any related documentation including, but not limited to, an IRS Form W-8 (with all relevant attachments) or IRS Form W-9, and the GUC Trustee may condition any distribution to any GUC Trust Beneficiary upon the receipt of such information and the receipt of such other documents as the GUC Trustee reasonably requests. If a GUC Trust Beneficiary does not provide the GUC Trustee with its social security number or employer or taxpayer identification number or any other requested related documentation in the manner requested within ninety (90) days of any written request by the GUC Trustee for such information or documentation, then the distribution to such GUC Trust Beneficiary shall be administered as an unclaimed distribution in accordance with **Article 6.3** of this Agreement.

5.7. Representation of GUC Trust Interests

The GUC Trust Interests shall be uncertificated. The GUC Trust Interests shall be represented by appropriate book entries in the Trust Register.

5.8. Trust Register

a. Register of GUC Trust Interests. The GUC Trustee shall create and maintain the Trust Register in the manner and location that shall be designated by the GUC Trustee from time to time. The GUC Trustee may rely on the register of General Unsecured Claims maintained by the Claims and Noticing Agent, as applicable, in preparing the Trust Register.

b. Access to Trust Register by GUC Trust Beneficiaries. The GUC Trust Beneficiaries, the Reorganized Debtors, and their duly authorized representatives shall have the right, upon reasonable prior written notice to the GUC Trustee, and in accordance with reasonable regulations prescribed by the GUC Trustee, to inspect, and at the expense of such reviewing party make copies of, the Trust Register, in each case only for a reasonable purpose which, in the case of a GUC Trust Beneficiary, shall be related to such GUC Trust Beneficiary's GUC Trust Interests in the GUC Trust, which determination shall be made by the GUC Trustee in its sole discretion.

c. Absolute Owners. The GUC Trustee may deem and treat each GUC Trust Beneficiary of record as determined pursuant to this Agreement as the absolute owner of such GUC Trust Beneficiary's GUC Trust Interests for the purpose of receiving distributions and payment thereon or on account thereof and for all other purposes whatsoever.

5.9. Securities Law

The parties hereto intend that the GUC Trust Interests shall not be "securities" under applicable laws, but none of the parties hereto represent or warrant that such rights shall not be securities or shall be entitled to exemption from registration under applicable securities laws. If such rights constitute securities, the parties hereto intend for the exemption from registration provided by section 1145 of the Bankruptcy Code and under applicable securities laws to apply to their issuance under the Plan. The GUC Trustee may amend this Agreement in accordance with **Article 11** hereof to make such changes as are deemed necessary or appropriate, with the advice of counsel, to ensure that the GUC Trust is not subject to registration and/or reporting requirements of the Securities Act or any other federal, state, or local securities laws or regulations.

6. PROVISIONS REGARDING DISTRIBUTIONS

6.1. Distribution Agent

The GUC Trustee shall make distributions to the GUC Trust Beneficiaries in accordance with the Plan, the Confirmation Order, and this Agreement, and may employ or contract with other Persons as necessary to assist in making such distributions.

6.2. Timing of Distributions

The net income of the GUC Trust and all net proceeds from the liquidation of the GUC Trust Assets shall be distributed at least annually (except that the GUC Trustee may retain an amount of cash or other GUC Trust Assets or net income of the GUC Trust as is reasonably necessary to maintain the value of the GUC Trust Assets and to meet claims and contingent liabilities). Upon the satisfaction and discharge of the GUC Trust Note, the GUC Trustee shall distribute the proceeds of the GUC Trust Note to GUC Trust Beneficiaries, including any interest accrued thereon and not yet paid to GUC Trust Beneficiaries.

If the GUC Trust Note Term Sheet provides for the payment of accrued interest to GUC Trust Beneficiaries prior to the satisfaction and discharge of the GUC Trust Note, the GUC Trustee may make interim distributions of accrued interest on the GUC Trust Note to GUC Trust Beneficiaries, in accordance with the terms of the GUC Trust Note Term Sheet, *provided that* the GUC Trust shall, in its reasonable discretion and based upon a review all outstanding Disputed General Unsecured Claims at the time such distributions are made, withhold and reserve funds to be made available to Holders of Disputed General Unsecured Claims on account of any accrued interest in the event that such Claim becomes an Allowed General Unsecured Claim and the Holder of such Allowed General Unsecured Claim receives GUC Trust Interests on account of its Allowed General Unsecured Claim in accordance with **Article 5.1** of this Agreement.

6.3. Unclaimed Property

In the event that any distribution to a GUC Trust Beneficiary remains unclaimed or is returned as undeliverable, no distribution to such GUC Trust Beneficiary shall be made unless and until the GUC Trust is notified in writing of the then-current address of such GUC Trust Beneficiary, at which time all currently-due, missed distributions shall be made to such GUC Trust Beneficiary as soon as reasonably practicable thereafter without interest from the date the original distribution was attempted and unsuccessful through the date of the subsequent distributions. Any unclaimed or undelivered distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of ninety (90) days from the date of attempted distribution. After such date, all unclaimed property or interests in property shall revert to the GUC Trust, automatically and without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal, provincial, or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any GUC Trust Beneficiary to such unclaimed property or interest in property shall be discharged and forever barred.

Nothing contained in the Plan, the Confirmation Order, or this Agreement shall require the GUC Trustee, any GUC Trust Professionals, or any distribution agent to attempt to locate any GUC Trust Beneficiary.

6.4. Plan Distribution to Holders of Claims Generally

a. No Plan Distribution in Excess of Allowed Claims.

GUC Trust Beneficiaries shall not receive, in respect of their Claims, distributions in excess of the amount of their respective Allowed General Unsecured Claims, *plus* their share of any accrued interest on the GUC Trust Note.

b. Disputed Payments.

If any dispute arises as to the identity of a GUC Trust Beneficiary that is to receive any distribution, the GUC Trustee may, in lieu of making such distribution to such GUC Trust Beneficiary, make such distribution into an escrow account or otherwise hold such distribution until the disposition thereof is determined by a court of competent jurisdiction or by written agreement among the interested parties to such dispute, which written agreement is reasonably acceptable to the GUC Trustee.

c. Disputed General Unsecured Claims.

If an objection to a General Unsecured Claim or to a portion thereof is filed as set forth in **Article VII** of the Plan, no distribution shall be made on account of such Disputed General Unsecured Claim unless and until such Claim becomes an Allowed General Unsecured Claim and the Holder of such Allowed General Unsecured Claim receives

GUC Trust Interests on account of its Allowed General Unsecured Claim in accordance with **Article 5.1** of this Agreement. As soon as reasonably practicable after the date of such allowance, in accordance with Article 6.2 of this Agreement, the GUC Trust shall provide to such GUC Trust Beneficiary the distribution (if any) to which it is entitled as of the date of such allowance under the Plan.

d. Withholding Taxes.

Any federal or state withholding taxes or other amounts required to be withheld under any applicable law shall be deducted and withheld from any distributions made pursuant to the Plan and this Agreement and such amounts shall be treated for all purposes of this Agreement as having been paid to the person in respect of which such deduction and withholding have been made. All GUC Trust Beneficiaries shall be required to provide to the GUC Trustee any information necessary to effect the withholding of such taxes. Notwithstanding the foregoing, each GUC Trust Beneficiary that is to receive a distribution hereunder shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit on account of such distribution.

e. Manner of Payments.

Unless the Person receiving a distribution agrees otherwise, any distribution under the Plan and this Agreement shall be made by check drawn on a domestic bank, ACH transfer from a domestic bank, or by wire transfer from a domestic bank, in the sole discretion of the GUC Trustee.

f. Delivery of Plan Distribution.

Distributions to GUC Trust Beneficiaries shall be made as follows: (1) to the signatory set forth on any of the Proofs of Claim filed by such GUC Trust Beneficiary or other representative identified therein (or at the last known addresses of such GUC Trust Beneficiary if no Proof of Claim is filed or if the GUC Trustee has been notified in writing of a change of address); (2) at the addresses set forth in any written notices of address changes delivered to the Debtors or Reorganized Debtors, as applicable, or the GUC Trustee after the date of any related Proof of Claim; (3) at the addresses reflected in the Schedules if no Proof of Claim has been filed and the Reorganized Debtors or the GUC Trustee, as applicable, have not received a written notice of a change of address; (4) at the address set forth on a completed IRS Form W-8 or IRS Form W-9, received by the GUC Trustee after the date of any related Proof of Claim; or (5) to any counsel that has appeared in the Chapter 11 Cases on the GUC Trust Beneficiary's behalf.

g. Record Date for Plan Distributions.

The GUC Trustee shall have no obligation to recognize the transfer of, or the sale of any participation in, any Allowed General Unsecured Claim after the Distribution Record Date.

6.5. *De Minimis* Distributions

The GUC Trustee shall not be required to make distributions or payments in an amount less than $100.00 to any GUC Trust Beneficiary, *provided, that* such amounts shall be paid on the next subsequent distribution date that the aggregate amount owed to such GUC Trust Beneficiary exceeds $100.00. Whenever any distribution of a fraction of a cent would be required, the GUC Trust shall round such fraction to the nearest penny (up or down).

7. ADMINISTRATION

7.1. GUC Trust Funding

The GUC Trust Assets shall vest in the GUC Trust on the Effective Date, and the GUC Trustee shall use the GUC Trust Cash Amount, but not any proceeds of the GUC Trust Note, to satisfy all GUC Trust Fees and Expenses. To the extent the GUC Trust Cash Amount is insufficient to satisfy the GUC Trust Fees and Expenses, the GUC Trust may, in accordance with the terms of the Plan and Confirmation Order and with unanimous consent of the GUC Trust Beneficiaries, seek and obtain additional financing. The GUC Trustee may not transfer, sell, or assign the GUC Trust Note to any other Entity.

7.2. Books and Records

The GUC Trustee shall maintain books and records relating to the administration of the GUC Trust Assets and the distribution by the GUC Trustee of the proceeds therefrom in such detail and for such period of time as may be necessary to make full and proper accounting in respect thereof and to comply with applicable provisions of law. The GUC Trustee shall also maintain books and records relating to the income and expenses of the GUC Trust, and the payment of expenses of and liabilities of, claims against or assumed by, the GUC Trust in such detail and for such period of time as may be necessary to make full and proper accounting in respect thereof and to comply with applicable provisions of law. Except as otherwise provided herein or in the Plan, nothing in this Agreement requires the GUC Trustee to file any accounting or seek approval of any court with respect to the administration of the GUC Trust, or as a condition for making any payment or distribution out of the GUC Trust Assets.

Subject to all applicable privileges, the GUC Trust Beneficiaries and the Reorganized Debtors shall have the right, in addition to any other rights they may have pursuant to this Agreement, under the Plan, or otherwise, upon thirty (30) days' prior written notice to the GUC Trustee, to request a reasonable inspection of the books and records held by the GUC Trustee, *provided*, *however*, that all costs associated with such inspection shall be paid in advance by such requesting party, and further, if so requested, such requesting party shall have entered into a confidentiality agreement satisfactory in form and substance to the GUC Trustee, and make such other arrangements as may be reasonably requested by the GUC Trustee. Notwithstanding anything to the contrary herein, the GUC Trust Beneficiaries' right to review the GUC Trust's books and records does not extend to accessing any reports or any other information provided by the Reorganized Debtors to the GUC Trustee under the GUC Trust Note.

The books and records maintained by the GUC Trustee may be disposed of without order of the Bankruptcy Court by the GUC Trustee at the later of (i) such time as the GUC Trustee determines that the continued possession or maintenance of such books and records is no longer necessary for the benefit of the GUC Trust or the GUC Trust Beneficiaries or (ii) upon the termination and completion of the winding down of the GUC Trust.

7.3. Notice to GUC Trust Beneficiaries Following the Effective Date

As soon as reasonably practicable after the Effective Date, the GUC Trustee shall provide notice to each GUC Trust Beneficiary of the GUC Trust Interests allocated to each GUC Trust Beneficiary as of the Effective Date. No less than once annually following the distribution of such initial notices, the GUC Trustee shall provide notice to each GUC Trust Beneficiary of its GUC Trust Interests, as such GUC Trust Interests may be reallocated pursuant to the Plan and **Article 5.1** of this Agreement.

7.4. Annual Reports

As soon as reasonably practicable after the end of each calendar year, and as soon as practicable upon termination of the GUC Trust, the GUC Trustee shall send or otherwise provide (for instance, without limitation, via electronic portal) to each GUC Trust Beneficiary a separate statement setting forth the GUC Trust Beneficiary's share of items of income, gain, loss, deduction or credit (including the receipts and expenditures of the GUC Trust) as relevant for U.S. federal income tax purposes and will instruct each such GUC Trust Beneficiary to report such items on their federal income tax returns (including, for the avoidance of doubt, with respect to withholding tax) or to forward the appropriate information to such GUC Trust Beneficiary's underlying beneficial holders with instructions to utilize such information in preparing their U.S. federal income tax returns.

7.5. Federal Income Tax

Grantor Trust Status. For United States federal income tax purposes, it is intended that the GUC Trust be classified as a liquidating trust under Treasury Regulation section 301.7701-4 and as a grantor trust subject to the provisions of Subchapter J, Subpart E of the IRC, which is owned by the GUC Trust Beneficiaries as grantors. Except to the extent that any portion of the GUC Trust is treated as a "disputed ownership fund" within the meaning of Treasury Regulation Section 1.468B-9 for U.S. federal income tax purposes ("**DOF**"), the parties agree that, for United States federal income tax purposes, the Debtors and the respective GUC Trust Beneficiaries will treat the formation of the GUC Trust as if such GUC Trust Beneficiary had received a distribution of an undivided interest in the assets of the GUC Trust from the Debtors and then contributed such interests to the GUC Trust in accordance with Treasury Regulation section 301.7701-4. The GUC Trust is intended to qualify as a "grantor trust" for federal income

tax purposes and the GUC Trustee shall operate and maintain the GUC Trust in compliance with the guidelines for liquidating trusts as set forth in IRS Revenue Procedure 94-45, 1994-2 C.B. 684, and Treasury Regulation section 1.671-4(a) and all subsequent guidelines regarding liquidating trusts issued by the IRS. The GUC Trustee shall treat all trust income as subject to tax on a current basis. The GUC Trust Beneficiaries shall each report their share of the net income of the GUC Trust and pay any tax owing thereon on a current basis. Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the GUC Trustee of a private letter ruling if the GUC Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the GUC Trustee), the GUC Trustee shall file returns for the GUC Trustee as a grantor trust pursuant to Treasury Regulation section 1.671-4(a); provided, however, that the GUC Trustee may, in the GUC Trustee's reasonable discretion, determine the best way to report for tax purposes with respect to any portion of the GUC Trust, including: (i) filing a tax election to treat any and all reserves for disputed claims as a DOF within the meaning of Treasury Regulation section 1.468B-9 for federal income tax purposes rather than to tax such reserve as a part of the GUC Trust, or (ii) electing to report as a separate trust or sub-trust or other entity. If an election is made to treat any portion of the GUC Trust as a DOF, the GUC Trustee shall comply with all federal and state tax reporting and tax compliance in connection with same.

Allocations of GUC Trust Taxable Income. Subject to the provisions of **Article 12** hereof, allocations of GUC Trust taxable income shall be determined by reference to the manner in which an amount of cash equal to such taxable income would be distributed (without regard to any restriction on distributions described herein) if, immediately prior to such deemed distribution, the GUC Trust had distributed all of its other assets (valued for this purpose at their tax book value) to GUC Trust Beneficiaries, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the GUC Trust. Similarly, taxable losses of the GUC Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining GUC Trust Assets. The tax book value of the GUC Trust Assets for this purpose shall equal their fair market value on the Effective Date or, if later, the date such assets were acquired by the GUC Trust, adjusted in either case in accordance with tax accounting principles prescribed by the IRC, the Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

Tax Compliance. The GUC Trustee shall administer the GUC Trust's tax obligations and pay the costs of preparing such tax returns from the GUC Trust Assets, including (A) filing tax returns and paying tax obligations of the GUC Trust, *provided, that*, for the avoidance of doubt, any such tax obligations shall be paid from the GUC Trust Assets, (B) making distributions to GUC Trust Beneficiaries net of such taxes and applicable withholdings, (C) representing the interest and account of the GUC Trust before any taxing authority in all matters, including, without limitation, any action, suit, proceeding, or audit.

Valuation for Tax Purposes. As soon as possible after the transfer of the GUC Trust Assets to the GUC Trust, the GUC Trustee shall perform a good faith valuation of such GUC Trust Assets, shall promptly notify the Debtors, the Reorganized Debtors, and the GUC Trust Beneficiaries of such valuation, and such valuation shall be used by all parties (including the Debtors, the Reorganized Debtors, the GUC Trustee, and the GUC Trust Beneficiaries) for all U.S. federal income tax purposes (and state and local tax purposes, to the extent applicable).

Determination of Taxes. The GUC Trust may request an expedited determination of taxes of the GUC Trust under section 505(a) of the Bankruptcy Code for all returns filed for, or on behalf of, the GUC Trust for all taxable periods through the dissolution of the GUC Trust.

Tax Treatment of Reserves for Disputed General Unsecured Claims. The GUC Trustee may, in the GUC Trustee's sole discretion, determine the best way to report for tax purposes with respect to any reserve for Disputed General Unsecured Claims, including (i) filing a timely tax election to treat any and all reserves for Disputed General Unsecured Claims as a DOF rather than to tax such reserve as a part of the GUC Trust or (ii) electing to report as a separate trust or sub-trust or other entity. If an election is made to report any reserve for disputed claims as a DOF, the GUC Trust shall comply with all federal and state tax reporting and tax compliance requirements of the DOF, including but not limited to the filing of a separate federal tax return for the DOF and the payment of federal and/or state income tax due. Any holders of "disputed claims" (within the meaning of the Treasury Regulations) shall, to the extent of such disputed claims, not be treated as having received any portion of the GUC Trust Assets as to which legal or beneficial title is transferred to the GUC Trust hereunder and shall not be deemed grantors of the GUC Trust to the extent of such disputed claims for U.S. federal income tax purposes, but rather shall be subject to U.S. federal income taxation in accordance with rules set forth in IRC section 468B and the Treasury Regulations thereunder.

7.6. Compliance with Laws

Any and all distributions made pursuant to this Agreement shall comply with all applicable laws and regulations, including, but not limited to, applicable federal and state tax and securities laws. The GUC Trustee shall file (or cause to be filed) any statement, returns, or disclosures relating to the GUC Trust or the GUC Trust Assets, which are required by any governmental unit.

8. GUC Trust PROFESSIONALS

8.1. Retention of GUC Trust Professionals

The GUC Trustee shall have the right, without Bankruptcy Court approval, to retain GUC Trust Professionals on such terms as the GUC Trustee deems appropriate. The GUC Trust Professionals need not be "disinterested" as that term is defined in the Bankruptcy Code.

8.2. Payment of GUC Trust Professionals

The GUC Trust Professionals shall be required to submit reasonably detailed invoices on a monthly basis to the GUC Trustee, including in such invoices a description of the work performed, who performed such work, and if billing on an hourly basis, the hourly rate of each such Person, plus an itemized statement of expenses. Unless otherwise provided in such GUC Trust Professional's engagement agreement, the GUC Trustee shall pay those invoices within thirty (30) days after receipt, without Bankruptcy Court approval, unless the GUC Trustee objects in writing specifying the reasons for such objection and identifying the specific fees or expenses to which objection is made. If there is a dispute as to a portion of an invoice, the GUC Trustee shall pay the undisputed portion. All payments to GUC Trust Professionals shall be paid out of the GUC Trust Cash Amount, but in no event shall any such fees or expenses be paid from the GUC Trust Note or its proceeds.

9. LIABILITY AND INDEMNIFICATION

9.1. Liability, Indemnification of the GUC Trustee and the GUC Trust Professionals

No recourse shall ever be had, directly or indirectly, against the GUC Trust Indemnified Parties, by legal or equitable proceedings or by virtue of any statute or otherwise, or any deed of trust, mortgage, pledge, or note, nor upon any promise, contract, instrument, undertaking, obligation, covenant, or agreement whatsoever executed by the GUC Trustee under the Plan, or by reason of the creation of any indebtedness by the GUC Trustee under the Plan for any purpose authorized by the Plan. All such liabilities, covenants, and agreements of such GUC Trust Indemnified Parties, whether in writing or otherwise, under the Plan shall be enforceable only against, and shall be satisfied only out of, the GUC Trust Assets, including any applicable liability insurance, but not from the GUC Trust Note or any of its proceeds, or such part thereof, as shall, under the terms of any such agreement, be liable therefor, or shall be evidence only of a right of payment out of the GUC Trust Assets. Every undertaking, contract, covenant, or agreement entered into in writing by the GUC Trustee shall provide expressly against the personal liability of the GUC Trustee.

No GUC Trustee Indemnified Party shall be liable for any act or omission of any other GUC Trustee Indemnified Party, nor shall the GUC Trust Indemnified Parties be liable for any act or omission taken or not taken in such capacity, including, but not limited to, in the performance of any of the duties and powers of the GUC Trustee set forth in **Article 3** of this Agreement, other than for specific acts or omissions as determined by a Final Order a court of competent jurisdiction to result solely from such GUC Trustee Indemnified Party's own willful misconduct, fraud, or gross negligence. The GUC Trustee may, in connection with the performance of its functions, and in its sole and absolute discretion, consult with the GUC Trust Professionals and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such entities, regardless of whether such advice or opinions are provided in writing. Notwithstanding such authority, the GUC Trustee shall not be under any obligation to consult with the GUC Trust Professionals and the determination not to do so shall not result in the imposition of liability on the GUC Trust Indemnified Parties, unless such determination is based on such GUC Trustee Indemnified Party's willful misconduct, fraud, or gross negligence, as determined by a Final Order of a court of competent jurisdiction. The GUC Trust shall indemnify and hold harmless the GUC Trust Indemnified Parties from and against and in respect of all liabilities, losses, damages, claims, costs, and expenses (including, without limitation, reasonable attorney's fees, disbursements, and related expenses), which such GUC Trust Indemnified Parties may incur

or to which such GUC Trust Indemnified Parties may become subject to in connection with any action, suit, proceeding, or investigation brought by or threatened against such GUC Trust Indemnified Parties arising out of or due to their acts or omissions or consequences of such acts or omissions, with respect to the implementation or administration of the GUC Trust or the Plan or the discharge of their duties hereunder. Notwithstanding the foregoing, no such indemnification shall be made to such GUC Trust Indemnified Parties for actions or omissions as a result of their willful misconduct, fraud, or gross negligence, as determined by a Final Order of a court of competent jurisdiction.

All expenses, judgments, penalties, fines and amounts incurred by the GUC Trust in connection with this **Article 9** shall be born solely by the GUC Trust, payable from the GUC Trust Assets and including any applicable liability insurance, but not from the GUC Trust Note or any of its proceeds. The costs of administering the GUC Trust and all fees and expenses incurred by and on behalf of the GUC Trust shall be charged against the GUC Trust Assets. Notwithstanding anything herein or in the Plan to the contrary, the Reorganized Debtors shall have no obligation to provide any funds or financing to the GUC Trust, other than the obligation to contribute the GUC Trust Assets, and under no circumstances will the expenses of the GUC Trust be paid or reimbursed by the Debtors or the Reorganized Debtors, as applicable.

In connection with the close of the Chapter 11 Cases pursuant to section 350(a) of the Bankruptcy Code, the GUC Trustee shall be authorized to seek exculpation from and after the Effective Date for the GUC Trust Indemnified Parties, by all Persons and Entities, including, without limitation, Holders of Claims and other parties in interest, from any and all claims, causes of action and other assertions of liability arising out of the discharge of the powers and duties conferred upon said parties pursuant to or in furtherance of this Agreement, the Plan, the Conformation Order, or any order of a court of competent jurisdiction or applicable law or otherwise, except only for actions taken or not taken, from and after the Effective Date only to the extent determined by a Final Order to be solely due to willful misconduct, fraud, or gross negligence.

9.2. Requirements of Undertaking

The GUC Trustee may request the Bankruptcy Court prior to the close of the Chapter 11 Cases pursuant to section 350(a) or, following the close of the Chapter 11 Cases, any court of competent jurisdiction to require, and any such court may in its discretion require, in any suit for the enforcement of any right or remedy under the Plan, or in any suit against the GUC Trustee for any act taken or omitted by the GUC Trustee, that the filing party litigant in such suit undertake to pay the costs of such suit or post a bond, if required, and such court may in its discretion assess reasonable costs, including, without limitation, reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant.

9.3. Reliance by GUC Trustee

Except as otherwise provided herein:

a. the GUC Trustee may rely, and shall be protected in acting or refraining from acting, upon any certificates, opinions, statements, instruments, or reports believed by it to be genuine and to have been signed or presented by the proper Person or Persons;

b. the GUC Trustee shall not be liable for any action reasonably taken or not taken by it in reasonable reliance upon the advice of a GUC Trust Professional;

c. Persons providing services to the GUC Trustee shall look only to the GUC Trust Assets to satisfy any liability incurred by the GUC Trustee to such Person in carrying out the terms of this Agreement, and neither the GUC Trustee nor GUC Trust Beneficiaries shall have any personal obligation to satisfy any such liability, except to the extent that actions taken or not taken after the Effective Date by the GUC Trustee are determined by a Final Order of a court of competent jurisdiction to be solely due to the GUC Trustee's own willful misconduct, fraud, or gross negligence but not from the GUC Trust Note or any of its proceeds;

d. whenever, in the administration of this Agreement, the GUC Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering, or omitting any action hereunder, the GUC

Trustee may rely upon an opinion of counsel or certificate furnished to the GUC Trustee by or on behalf of the GUC Trust Beneficiaries;

e. the GUC Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, or other paper or document, but the GUC Trustee, in the GUC Trustee's discretion, may make such further inquiry or investigation into such facts or matters as the GUC Trustee may see fit, and, if the GUC Trustee shall determine to make such further inquiry or investigation, the GUC Trustee shall be entitled to examine the books, records, and premises of the relevant Person or Entity, personally or by agent or attorney; and

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

9.4. Reliance by the Reorganized Debtors

Any decision, act, consent, approval or instruction of the GUC Trustee given or made pursuant to this Agreement shall constitute a decision, act, consent, approval or instruction of the GUC Trust and GUC Trust Beneficiaries, and the Reorganized Debtors shall be entitled to conclusively rely upon any representation of GUC Trustee with respect to any such act, decision, consent, approval or instruction of the GUC Trust and GUC Trust Beneficiaries, and no person shall have any cause of action against the Reorganized Debtors or any of their Related Parties for any action taken by the Reorganized Debtors or any of their Related Parties in reliance upon the instructions or decisions of GUC Trustee or GUC Trust Beneficiaries.

10. TERMINATION OF GUC TRUST

10.1. Duration and Extension

The GUC Trustee and the GUC Trust shall be discharged or dissolved, as the case may be, on the earlier of (a) such time as (i) all of the GUC Trust Assets have been liquidated and (ii) all distributions required to be made by the GUC Trustee under the Plan and this Agreement have been made, and (iii) any remaining assets have been provided to the Reorganized Debtors; and (b) six (6) years after the date hereof, unless the Bankruptcy Court, upon motion of the GUC Trustee within the six (6) months prior to the five-year anniversary of the Effective Date (or within six (6) months prior to the end of an extension period), determines that a fixed-period extension (not to exceed three (3) years, together with any prior extensions, without a favorable private letter ruling from the IRS or an opinion of counsel satisfactory to the GUC Trustee that any further extension would not adversely affect the status of the trust as a GUC Trust for United States federal income tax purposes) is necessary to facilitate or complete the liquidation and distribution of the GUC Trust Assets. Upon the filing of such a motion, the term of the GUC Trust shall be automatically extended through entry of a final order thereon, unless the extension would adversely affect the status of the GUC Trust as a liquidating trust for federal income tax purposes. After the final distribution of the balance of the GUC Trust Assets pursuant to the Plan and this Agreement, the GUC Trust shall be deemed dissolved for all purposes without the necessity for any other or further actions.

Upon the dissolution of the GUC Trust, any remaining GUC Trust Assets shall be distributed to holders of Allowed General Unsecured Claims in accordance with the Plan and the GUC Trust Agreement.

If all Holders of General Unsecured Claims have received all distributions to which they are entitled under the Plan, any such remaining GUC Trust Assets shall revest in the Reorganized Debtors. Upon the dissolution of the GUC Trust and the satisfaction of all GUC Trust Fees and Expenses, all remaining GUC Trust Assets, including any unclaimed distributions, shall revest in the Reorganized Debtors.

10.2. Diligent Administration

The GUC Trustee shall (a) not unduly prolong the duration of the GUC Trust; (b) consult and confer with the GUC Trust Beneficiaries and keep them fully advised of its activities; and (c) effect the liquidation of the GUC

Trust Assets and distribution to the GUC Trust Beneficiaries in accordance with the terms of the Plan, the Confirmation Order, and this Agreement.

11. AMENDMENT AND WAIVER

11.1. Amendment and Waiver

Any substantive provision of this agreement may be materially amended or waived by order of the Bankruptcy Court if necessary to implement the Plan. Notwithstanding the foregoing, (x) no amendment or waiver may be made to this Agreement that would adversely affect the federal income tax status of the GUC Trust as a "grantor trust," and (y) no such amendment or waiver may be materially inconsistent with the Plan or the Confirmation Order. Technical or nonmaterial amendments to, or waivers of portions of, this Agreement, solely to the extent consistent with the Plan and Confirmation Order, may be made as necessary to clarify this Agreement or to enable the GUC Trust to effectuate the terms of this Agreement, the Plan, and Confirmation Order, with the consent of the GUC Trustee.

12. MISCELLANEOUS PROVISIONS

12.1. Intention of Parties to Establish Grantor Trust

This Agreement is intended to create a grantor trust for U.S. federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as a grantor trust.

12.2. No Relationships Created

Nothing contained herein shall be construed to constitute any relationship created by this Agreement as an association, partnership, or joint venture of any kind, nor shall the GUC Trustee or the GUC Trust Beneficiaries be deemed to be or treated in any way whatsoever to be liable or responsible hereunder as partners or joint venturers. The relationship of the GUC Trust Beneficiaries (on the one hand) to the GUC Trustee (on the other hand) shall be solely that of beneficiaries of a trust and shall not be deemed a principal or agency relationship, and their rights shall be limited to those conferred upon them by this Agreement.

12.3. Confidentiality

The Confidential Parties shall hold strictly confidential and not use for personal gain any material, nonpublic information of which they have become aware in their capacity as a Confidential Party, of or pertaining to any Entity to which any of the GUC Trust Assets relates. However, such information may be disclosed if (a) it is now or in the future becomes generally available to the public other than as a result of a disclosure by the Confidential Parties, or (b) such disclosure is required of the Confidential Parties pursuant to legal process, including, but not limited to, subpoena or other court order or other applicable laws or regulations. In the event that any Confidential Party is requested to divulge confidential information pursuant to clause (b) above, such Confidential Party shall promptly, in advance of making such disclosure, provide reasonable notice of such required disclosure to the GUC Trustee to allow it sufficient time to object to or prevent such disclosure through judicial or other means and shall cooperate reasonably with the GUC Trustee in making any such objection, including, but not limited to, appearing in any judicial or administrative proceeding in support of any objection to such disclosure.

12.4. Laws as to Construction; Enforcement of Agreement

This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to rules governing the conflict of laws. Any action to enforce or interpret this Agreement shall be brought in the Bankruptcy Court unless and until a final decree has been entered in the Chapter 11 Cases, and thereafter in any court of competent jurisdiction.

12.5. Severability

If any provision of this Agreement or the application thereof to any Person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this

Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

12.6. Entire Agreement

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

12.7. Notices Generally

Notices under this Agreement shall be effective and shall be deemed delivered: (i) if by personal delivery, delivery service, or courier, on the date of delivery; (ii) if by electronic mail, on the date of receipt; and (iii) if by mail, on the date of receipt. Any party from time to time may change its address, electronic mail address, or other information for the purpose of notices to that party by giving notice specifying such change to the other party hereto.

If to the Debtors or the Reorganized Debtors, to:

Zachry Holdings, Inc.
P.O. Box 240130
San Antonio, TX 78224
Attention: Jay Old

with copies (which shall not constitute notice) to:

White & Case LLP
609 Main Street, Suite 2900
Houston, Texas 77002
Attention: Charles R. Koster
Email: charles.koster@whitecase.com

-and-

White & Case LLP
111 South Wacker Drive
Chicago, IL 60606
Attention: Bojan Guzina, Andrew F. O'Neill, Adam T. Swingle
Email: bojan.guzina@whitecase.com;
aoneill@whitecase.com;
adam.swingle@whitecase.com

If to the GUC Trustee or the GUC Trust, to:

[●]

12.8. Notices to a GUC Trust Beneficiary

All notices upon GUC Trust Beneficiaries shall be effective and deemed delivered upon transmittal of such notices, and the GUC Trustee shall only provide notices to such GUC Trust Beneficiaries by electronic mail unless a GUC Trust Beneficiary has no email listed in the register of General Unsecured Claims maintained by the Claims and Noticing Agent.

12.9. Survivability

The terms and provisions of this Agreement shall remain fully binding and enforceable, notwithstanding any vacancy in the position of the GUC Trustee.

12.10. Controlling Document

In the event of any inconsistency between this Agreement and the Plan, the terms of the Plan shall control. In the event of any inconsistency between this Agreement and the Confirmation Order, the terms of the Confirmation Order shall control.

12.11. Headings

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

12.12. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all together shall constitute one agreement.

[Remainder of Page Intentionally Left Blank]

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

ZHI, on behalf of itself and all affiliated Debtors and Reorganized Debtors:

By: Mohsin Y. Meghji
Title: Chief Restructuring Officer

GUC Trustee:

By: [●]
Title: [●]

DRAFT AS OF FEBRUARY 5, 2025
REMAINS SUBJECT TO FURTHER REVIEW AND REVISION

Exhibit 1

GUC Trust Note Term Sheet

Exhibit 2

GUC Trustee Compensation

[To Come.]

Exhibit B

GUC Trust Note Term Sheet

The GUC Trust Note Term Sheet contained in this **Exhibit B** remains subject to continued review and revision by the Debtors and other interested parties. The Debtors' rights are expressly reserved to alter, amend, modify, or supplement the GUC Trust Note Term Sheet in accordance with the terms of the Plan or by order of the Court. If the GUC Trust Note Term Sheet is altered, amended, modified, or supplemented in any material respect prior to the Confirmation Hearing, the Debtors will file a redline of such document with the Court.

Zachry Holdings, Inc.
Promissory Note
Indicative Summary of Principal Terms and Conditions

This term sheet (the "Term Sheet") presents material terms relating to the issuance by Zachry Holdings, Inc., a Delaware corporation (the "Company"), of a secured promissory note (the "Note") in connection with the consummation of the Company's restructuring pursuant to chapter 11 of title 11 of the United States Code (*Case No. 24-90377*). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Modified First Amended Joint Chapter 11 Plan of Reorganization of Zachry Holdings, Inc. and Its Debtor Affiliates* [Docket No. 1978].

General:	Issuer: The Company Holder: The GUC Trust Guarantors: All Debtors and any subsidiaries of the Company that guarantee the A&R Credit Facility Initial Principal Amount: Aggregate of Allowed General Unsecured Claims, inclusive of postpetition interest accrued at the federal judgment rate Security: All assets of the Company and the guarantors pledged to the lenders under the A&R Credit Facility and Sunbelt, junior in priority to the lenders under the A&R Credit Facility and Sunbelt and "silent" in all respects pending satisfaction of the senior secured claims and release of senior liens; subject to an intercreditor agreement to be negotiated Maturity: The first business day following the date that is 91 days after the Exit Revolving Maturity Date (as such date is defined in the A&R Credit Facility on the Effective Date)
Interest:	14.50% per annum (paid 4.80% in cash (the "Cash Rate") and 9.70% in kind (the "PIK Rate")). Interest shall be computed on the basis of a year of 365 or 366 days, as the case may be, and shall be payable for the actual number of days elapsed (including the first day but excluding the last day of any applicable interest period). Accrued and unpaid interest shall be paid as follows: (a) paid in cash at the Cash Rate on the last day of any period of three calendar months and (b) paid in kind at the PIK Rate by adding such amounts to the outstanding principal balance of the Note on the last day of each period of three calendar months and shall thereafter be deemed part of the outstanding principal amount of the Note and shall bear interest in accordance with the terms of the Note.
Mandatory Repayment:	Upon the commencement of any liquidation, dissolution or winding up of the affairs of the Company or its Significant Subsidiaries or bankruptcy, reorganization or any other similar event or proceeding, whether voluntary or involuntary, with respect to the Company or its Significant Subsidiaries (each, a "Payment Event") or Deemed Payment Event (as defined below), the then-outstanding principal amount of the Note, together with accrued and

	unpaid interest thereon to but excluding the payment date, shall be immediately due and payable. "Deemed Payment Event" means any of the following: (i) the lease of all or substantially all of the assets of the Company or its Significant Subsidiaries or the sale of all or substantially all of the Company's or its Significant Subsidiaries' assets (in each case whether in one transaction or a series of transactions); (ii) upon a Change of Control (as defined below); and (iii) on approval of a plan of liquidation or dissolution. "Change of Control" means an event or series of events by which (x) the Permitted Holders (as defined below) shall cease (collectively) to own, directly or indirectly, at least 50.1% of the equity interests in the Company entitled to vote for members of the board of directors or equivalent governing body of the Company, (y) the Company shall cease to own, directly or indirectly, 100% of the equity interests in Zachry EPC Holdings, LLC and Zachry Plant Services Holdings, Inc., or (z) there is any occurrence of any "change of control" under the A&R Credit Facility. "Permitted Holders" means (a) John B. Zachry and his heirs; (b) in the event of the incompetence or death of any of the Persons described in clause (a), such Person's estate, executor, administrator, committee or other personal representative, in each case who at any particular date shall be the beneficial owner or have the right to acquire, directly or indirectly, equity interests of the Company; (c) any trust created for the benefit of the Persons described in clause (a) or any trust for the benefit of such trust; and (d) any person controlled by the Persons described in clauses (a) through (c). "Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, governmental authority or other entity. "Significant Subsidiaries" means any subsidiary which has total assets or total revenues (on a consolidated basis with its subsidiaries) of at least 5% of the total assets or total income or revenues from continuing operations, as applicable, of the Company (on a consolidated basis with the Company's subsidiaries). Mandatory prepayments of the Note to the extent of any declined prepayments under the A&R Credit Facility.
Optional Prepayment:	At any time, the Company shall have the option to repay all or a portion of the Note at a price equal to the principal amount repaid plus accrued and unpaid interest thereon to (but excluding) the repayment date.
Breach:	Following written notice from the GUC Trustee, the interest rate on the Note shall increase by an increment of 2% per annum for all periods of time during which a Breach (as defined below) is continuing and such increased interest rate shall be applicable to all missed Cash Rate payments, retroactive to the last date a Cash Rate payment was made.

	"Breach" means any (i) failure to make any mandatory repayment when due, (ii) breaches of representations and warranties and any other covenants set forth or incorporated by reference in the definitive documentation, (iii) assignment for the benefit of creditors or bankruptcy, (iv) a default under the A&R Credit Facility that results in acceleration of the amounts owed under the A&R Credit Facility, or (v) such other customary defaults as may be included in the definitive documentation.
Negative Covenants:	Until the Note is satisfied in accordance with its terms, each of the Company and the Guarantors agree not to undertake any of the following actions: (i) creating, incurring, assuming, or permitting to exist any indebtedness for borrowed money (including all obligations evidenced by loans, bonds, debentures, notes or similar instruments, or upon which interest payments are customarily paid) or any other indebtedness other than indebtedness constituting the Note, the A&R Credit Facility, the Permitted Sunbelt Deferred Payables Debt (as defined in the term sheet for the A&R Credit Facility), or permitted letters of credit, and the other exceptions on indebtedness under the A&R Credit Facility; (ii) creating, incurring, assuming, or permitting to exist to exist any mortgage, deed of trust, lien, pledge, option, levy, execution, attachment, garnishment, hypothecation, assignment for security, deposit arrangement, encumbrance, charge, security interest or other preferential arrangement in the nature of a security interest of any kind or nature whatsoever, on or of any property (a "Lien") other than Liens securing indebtedness under the the Note, the A&R Credit Facility, the Permitted Sunbelt Deferred Payables Debt, and other Liens that are "Permitted Liens" under the A&R Credit Facility Documents; or (iii) declare or make, directly or indirectly, any Restricted Payment (as defined below). "Restricted Payment" shall mean, with respect to any Person and subject to the exceptions on restricted payments under the A&R Credit Facility (which exceptions shall include (i) dividends by subsidiaries of the Company to the Company or any other subsidiary of the Company, (ii) payments pursuant to the tax sharing agreement dated as of January 1, 2017 by and among the Company and its subsidiaries party thereto, (iii) amounts distributed to any direct or indirect parent of the Company to pay costs and expenses related to the Company's insurance program, including, for the avoidance of doubt, any amounts transferred pursuant to the insurance cost sharing agreement dated as of January 1, 2012, and (iv) purchases of Equity Interests or Equity Rights (both as defined below) held by employees, directors or consultants upon the termination of their employment or services), any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of or issued by such Person, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Equity Interest or Equity Right of or issued by such Person.

	"Equity Interests" means shares of the capital stock (including common and preferred shares), partnership interests, membership interest in a limited liability company, beneficial interests in a trust, or other equity interests. "Equity Rights" means, with respect to any Person, any subscriptions, options, warrants, commitments, preemptive rights or agreements of any kind (including any shareholders' or voting trust agreements) for the issuance, sale, registration or voting of, or securities convertible into, any additional Equity Interests in such Person. Other negative covenants under the A&R Credit Facility as in effect on the effective date of the A&R Credit Facility (other than financial covenants) to be deemed incorporated by reference.
Information Rights:	The GUC Trust, as Holder of the Note, shall have the right to receive the same annual and quarterly financial statements to be delivered to the Administrative Agent under the A&R Credit Facility. The GUC Trustee shall be selected by the Committee and be reasonably acceptable to the Debtors.
Representations and Warranties	Representations and warranties under the A&R Credit Facility as in effect on the effective date of the A&R Credit Facility to be deemed incorporated by reference.
Affirmative Covenants	Affirmative covenants to include notices, payment of obligations, preservation of existence, maintenance of properties, maintenance of insurance, compliance with laws, books and records, additional guarantors, compliance with environmental laws, designation as senior debt and compliance with ERISA
Governing Law:	Texas