

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

In re:	§	
	§	
ASAIG, LLC, <i>et al.</i>,	§	Case No. 20-35600
	§	
Debtors.¹	§	Chapter 11
	§	
	§	(Jointly Administered)

NOTICE OF FILING PLAN SUPPLEMENT

PLEASE TAKE NOTICE that, on November 17, 2020, ASAIG, LLC, *et al.*, the above-captioned debtors and debtors in possession (collectively, the “Debtors”), filed voluntary petitions for relief (the “Chapter 11 Cases”) under chapter 11, title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “Court”).

PLEASE TAKE FURTHER NOTICE that, on July 30, 2021, the Court entered the *Order Approving (I) Adequacy of the Disclosure Statement on a Conditional Basis; (II) Form of Solicitation Materials; and (III) Procedures for Soliciting and Voting on the Joint Chapter 11 Plan* [ECF # 354] (the “Disclosure Statement Approval Order”): (a) authorizing the Debtors to solicit acceptances of the *Joint Combined Chapter 11 Plan and Disclosure Statement* [ECF # 351] (the “Plan”); (b) conditionally approving the disclosure statement (the “Disclosure Statement”) set forth in the Plan as containing “adequate information” pursuant to section 1125 of the Bankruptcy Code; (c) approving the Solicitation Materials to be included in the solicitation packages; and (d) approving procedures for soliciting, tabulating votes on, and filing objections to the Plan and Disclosure Statement.

¹ The debtors and debtors in possession these chapter 11 cases, along with the last four digits of their respective Employer Identification Numbers, are as follows: ASAIG SubCo, LLC f/k/a Aztec / Shaffer, LLC (2038); and ASAIG, LLC (2323). The Debtors’ service address is: 601 W. 6th Street, Houston, Texas 77007.

PLEASE TAKE FURTHER NOTICE that, as contemplated by the Plan and the Disclosure Statement Approval Order, the Debtors hereby file this Plan Supplement in connection with the Solicitation Materials approved by the Court. The Plan Supplement contains the following documents (each as defined in the Plan):

1. Plan Exhibit A – the Settlement Term Sheet attached hereto as **Exhibit A**;
2. Plan Exhibit B – the Retained Causes of Action attached hereto as **Exhibit B**;
3. Plan Exhibit C – the Liquidating Trust Agreement attached hereto as **Exhibit C**; and
4. Plan Exhibit D – the Liquidation Analysis attached hereto as **Exhibit D**.

Dated: August 5, 2021.

OKIN ADAMS LLP

By: /s/ Ryan A. O'Connor
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ATTORNEYS FOR THE DEBTORS

CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2021, a true and correct copy of the foregoing Notice was served via the Court's CM/ECF system to all parties consenting to service through the same.

By: /s/ Ryan A. O'Connor
Ryan A. O'Connor

Exhibit A

Settlement Term Sheet

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

In re: ASAIG, LLC, et al., Debtors.	§ § § § § §	Case No. 20-35600 Chapter 11 (Jointly Administered)
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SETTLEMENT TERM SHEET

Definitions

Accounts Payable means all accounts payable of the Debtors incurred in Ordinary Course of Business since the Petition Date that: (i) remained unpaid as of the Closing Date; and (ii) exceeded the \$340,000 aggregate cap set forth in Section 2.3(h) of the APA.

Buyer's Legal Expense means the amount of \$16,500, which shall be allocated to Buyer to pay Buyer's legal fees related to the transaction contemplated by this Settlement Term Sheet.

Deferred Payroll Taxes means the amount of Taxes deferred by the Debtors in accordance with Section 2302 of the CARES Act for any applicable time period prior to the Closing Date of the APA.

ERC means any Employee Retention Credit for which the Debtors may qualify to receive under applicable Laws.

IRS means the Internal Revenue Service.

Tax* or *Taxes has the meaning set forth in the APA.

Tax Credit means an amount of money, in cash, that may be paid to the Debtors to offset against any outstanding Tax liability of the Debtors, regardless of whether such credit arises under the CARES Act, the Consolidated Appropriations Act of 2021, the American Rescue Plan Act, or any other applicable Law, including those Laws in respect of disaster relief or similar assistance programs of any Government Entity enacted in response to the COVID-19 pandemic which may entitle the Debtors to Relief Proceeds.

Waterfall of Cash Allocation¹

The Debtors shall, at their expense, file the appropriate forms with the applicable Government Entity and apply for available Tax Credits and Employee Retention Credits for the taxable periods ending prior to the Closing Date. Upon receipt of the Tax Credits and/or Employee Retention Credits, the Cash paid to the Debtors by the IRS (or other Government Entity) shall be allocated among the parties in accordance with the following priorities:

1. To the extent not offset by the IRS directly from any Tax Credit or Employee Retention Credit owing to the Debtors, Deferred Payroll Taxes which remain outstanding and payable by the Debtors;
2. Accounts Payable which remain outstanding and payable by the Debtors or that have been paid directly by Buyer;
3. Any Taxes paid by Buyer on behalf of the Debtors to the extent such Taxes did not constitute Assumed Liabilities pursuant to the APA;
4. Buyer's Legal Expense;
5. Allowed Administrative Expense Claims of the Debtors' Estates;
6. Allowed Priority Non-Tax Claims against the Debtors' Estates; and
7. Allowed General Unsecured Claims against the Debtors' Estates.

¹ Capitalized terms used but not defined in this Settlement Term Sheet have the meanings set forth in the Plan [ECF # 351], the Sale Order [ECF # 296], or the APA attached to the Sale Order, as applicable.

Exhibit B

Schedule of Retained Causes of Action

Schedule of Retained Causes of Action

Pursuant to the *Joint Combined Chapter 11 Plan and Disclosure Statement*, dated July 30, 2021 (as may be further amended, modified, or supplemented, the “Plan”),¹ the Liquidating Trust is being established as a grantor trust for the purpose of liquidating and distributing the Liquidating Trust Assets to the Liquidating Trust Beneficiaries in accordance with the Plan. Liquidating Trust Assets is defined in the Plan to include, among other things, all Retained Causes of Action, Avoidance Actions (to the extent designated as Excluded Actions as defined in the Sale Order and accompanying APA), and the proceeds thereof.

Unless a Retained Cause of Action is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order, the Debtors expressly reserve such Cause of Action (including any counterclaims) for later adjudication by the Liquidating Trustee on behalf of the Liquidating Trust. Therefore, no preclusion doctrine, including the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such Retained Causes of Action (including counterclaims) on or after the Confirmation Date. All Retained Causes of Action shall be preserved for the benefit of the Liquidating Debtors, collectively and individually, and the Liquidating Trust, as appropriate, whether or not brought by the Debtor(s) prior to the Effective Date of the Plan.

Accordingly, unless otherwise agreed among the Debtors and the Committee, and without limiting the generality of Article VIII Section H of the Plan, the following shall constitute Retained Causes of Action under the Plan **solely to the extent such Retained Causes of Action are remaining Assets of the Debtors’ Estates and are not: (a) otherwise released by the Plan, Confirmation Order, or other Final Order of the Bankruptcy Court; or (b) included in the Purchased Assets sold to the Buyer during the Chapter 11 Cases pursuant to the Sale Order and APA:**

1. Causes of Action Designated as “Excluded Actions” in the Sale Order and APA

Retained Causes of Action shall include the following Causes of Action designated and defined as Excluded Actions pursuant to the Sale Order and APA:

“Excluded Actions” means all causes of action, lawsuits, Claims, rights of recovery and other similar rights of any Seller, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, in equity or otherwise (including any derivative Claims asserted or that may be asserted on behalf of any Seller), including those arising under Chapter 5 of the Bankruptcy Code, against (i) any current or former directors, officers or equity holders of any Seller and any other insider of any Seller, other than the current Chief Executive Officer and Chief Operating Officer of the Sellers, (ii) any accountants, auditors, counsel and other professional advisors retained by or on behalf of one or more Sellers, whether prior to or after the Petition Date, and (iii) American Express, Extended Stay, Maui Sea Breeze Vacation Rentals and Kensington Hospitality.

¹ Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Plan.

2. Causes of Action Related to Tax Credits and Refunds

Retained Causes of Action shall include, pursuant to the Settlement Term Sheet, all Causes of Action against or related to all Governmental Units and taxing authorities that owe or may in the future owe money to the Debtors or Liquidating Debtors, as applicable. Furthermore, Retained Causes of Action shall include all Causes of Action against or related to all Governmental Units or taxing authorities who assert or may assert that the Debtors or Liquidating Debtors owe money to them.

3. Causes of Action Related to Avoidance Actions

Retained Causes of Action shall include, to the extent included as Excluded Actions as defined in the Sale Order and APA, all Causes of Action in which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, and/or a transfer is avoidable under sections 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code. Such Causes of Action, specifically include, but are not limited to, any and all potential preference claims under section 547 of the Bankruptcy Code related to transfers made within the ninety (90) days before the Debtors' respective Petition Dates on account of an antecedent debt owed by the respective Debtor as identified by the Debtors in their respective Statement of Financial Affairs.²

Further, Retained Causes of Action specifically include, but are not limited to, any and all potential Insider preference claims under section 547 of the Bankruptcy Code related to transfers to an Insider made between the ninety (90) days and one (1) year before the filing of the Chapter 11 Cases on account of an antecedent debt owed by the respective Debtor as identified by the Debtors in their respective Statement of Financial Affairs.

Further, such Causes of Action specifically include, but are not limited to, any and all potential fraudulent transfer claims as may be asserted under Bankruptcy Code sections 544 and 548, and the applicable state law fraudulent transfer statutes, to transfers made within the applicable lookback time period applicable to the particular fraudulent transfer statute, including any and all transfers identified by the Debtors in their respective Statement of Financial Affairs (specifically including all transfers previously identified in this paragraph) and any transfers made to Insiders.

4. Causes of Action Related to Current or Former Insiders and/or Related Entities

Retained Causes of Action shall include, to the extent included as Excluded Actions as defined in the Sale Order and APA, all Causes of Action against or related to all current or former Insiders (including directors and/or officers) and/or related Entities, including claims or actions, litigation, arbitration, or any other type of adversarial proceeding or dispute resolution proceeding, whether formal or informal, judicial or non-judicial. Such Causes of Action specifically include, but are not limited to: (i) any claims against such parties for mismanagement and/or the breach of any fiduciary duty arising under applicable law, including without limitation, the duties of loyalty

² Reference to documents in the record of the Chapter 11 Cases shall mean that such documents referenced are incorporated herein as if copied *in extenso*.

and care; and (ii) any and all potential claims related to transfers made within the four (4) year period before the filing of the Chapter 11 Cases, specifically including those transfers identified by the Debtors in their respective Statement of Financial Affairs.

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Exhibit C

Liquidating Trust Agreement

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

In re: ASAIG, LLC, <i>et al.</i>, Debtors.¹	§ § § § § §	Case No. 20-35600 Chapter 11 (Jointly Administered)
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LIQUIDATING TRUST AGREEMENT

This Liquidating Trust Agreement (this “Agreement”), is made this [●] day of September, 2021 (the “Effective Date”), by and among ASAIG, LLC, *et al.* (collectively, the “Debtors”), as debtors and debtors in possession in the above-captioned bankruptcy cases (the “Chapter 11 Cases”) pending in the United States Bankruptcy Court for the Southern District of Texas, Houston Division (the “Bankruptcy Court”), and Peter Hurwitz, as Liquidating Trustee (in such capacity as Liquidating Trustee of the Liquidating Trust, the “Liquidating Trustee” or “Trustee”), for the benefit of the Liquidating Trust Beneficiaries (as defined in the *Joint Combined Chapter 11 Plan and Disclosure Statement* [ECF # ●] (as may be amended, the “Plan”) entitled to proceeds of the Liquidating Trust Assets (as defined in the Plan).

RECITALS

A. Entry of the Confirmation Order (as defined in the Plan) shall constitute a finding that the Liquidating Trust exists and is a valid entity for purposes of all non-bankruptcy law.

B. This ASAIG Liquidating Trust (the “Trust” or the “Liquidating Trust”) is established, pursuant to the Plan, as a liquidating trust for the sole purpose of liquidating the Liquidating Trust Assets, 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 this Trust and the terms of the Plan.

C. Capitalized terms used in this Agreement and not defined herein have the meanings ascribed to them in the Plan, or if not defined in the Plan, the meanings ascribed to them in the Bankruptcy Code.

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

¹ The debtors and debtors in possession these chapter 11 cases, along with the last four digits of their respective Employer Identification Numbers, are as follows: ASAIG SubCo, LLC *f/k/a* Aztec / Shaffer, LLC (2038); and ASAIG, LLC (2323). The Debtors’ service address is: 601 W. 6th Street, Houston, Texas 77007.

ARTICLE I **DEFINITIONS**

1.01 Definitions.

“Beneficiaries” means the holder of a beneficial interest in this Liquidating Trust, which shall be distributed in accordance with section 5.02 herein.

“Distribution” means a Distribution of property to a Beneficiary pursuant to this Agreement.

ARTICLE II **PURPOSE OF THE TRUST**

2.01 Purpose. The Liquidating Trust shall be established, in accordance with Treasury Regulation Section 301.7701-4(d), only for the purposes of liquidating and distributing the Liquidating Trust Assets, including, but not limited to prosecuting and resolving objections to Disputed Claims against the Debtors, with no objective to continue or engage in the pursuit of a trade or business; *provided, however*, that the Liquidating Trustee shall be authorized to take all actions necessary and appropriate to: (i) pursue and collect any available Tax Credits and Employee Retention Credits owed to the Debtors or Liquidating Debtors, as applicable, in accordance with the terms and conditions of the Settlement Term Sheet; and (ii) take such other actions as are necessary to preserve the value of Tax Credits, Employee Retention Credits, and the Liquidating Trust Assets pending liquidation, subject to the provisions of the Plan. Notwithstanding any other section of the Plan or this Agreement, it is the express intent that the Liquidating Trust shall survive until such purpose is either achieved or determined to be impracticable or impossible.

ARTICLE III **ESTABLISHMENT OF THE TRUST**

3.01 Name of the Trust. The name of the Trust shall be the ASAIG Liquidating Trust.

3.02 Transfer of Liquidating Trust Assets to the Trust. Except as otherwise provided by the Plan or this Agreement, on the Effective Date, the Liquidating Trust Assets shall be deemed transferred to the Trust free and clear of all Claims and Interests, in accordance with Section 1141 of the Bankruptcy Code.

3.03 Title to the Liquidating Trust Assets. The Trustee shall hold title to the Liquidating Trust Assets for the benefit of the Beneficiaries, subject to the terms of the Plan and this Agreement. The Liquidating Trust Assets will be treated for tax purposes as being transferred by the Debtors to the Beneficiaries, and then by such Beneficiaries to the Trust in exchange for interests (the "Liquidating Trust Beneficial Interests") for the benefit of such holders in accordance with the Plan. Accordingly, the holders of the Liquidating Trust Beneficial Interests as of the Effective Date shall be treated for federal income tax purposes as the grantors and owners of their respective shares of the Trust. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local and tax purposes.

3.04 Appointment of the Trustee. Pursuant to the Confirmation Order, Peter Hurwitz has been designated to serve as the Trustee, and the Trustee hereby accepts such appointment and agrees to serve in such capacity, as of the Effective Date. The Trustee shall be deemed to be appointed pursuant to Bankruptcy Code section 1123(b)(3)(B).

3.05 Rights of Debtors. On the Effective Date, the Trustee shall succeed to all of the Debtors' right, title and interest in the Liquidating Trust Assets, but subject to the terms of the Plan and this Agreement, and the Debtors or Liquidating Debtors, as applicable, will have no further interest in or with respect to the Liquidating Trust Assets or this Trust. The Trustee shall be vested with all rights and discretion regarding the Liquidating Trust Assets. In no event shall any part of the Liquidating Trust Assets revert to or be distributed to the Debtors or Liquidating Debtors.

3.06 Grantors. Pursuant to the Plan, the Debtors have agreed to contribute certain property to the Trust and have agreed to the terms of this Agreement solely in their capacity as Grantors.

3.07 Nontransferability. The Liquidating Trust Beneficial Interests shall be nontransferable, except upon the Trustee's written consent, which may be withheld for any reason in the Trustee's sole and absolute discretion.

ARTICLE IV **THE TRUSTEE**

4.01 Authority of the Trustee. The Trustee is hereby empowered to, subject to the limitations set forth in this Agreement, take any and all actions to effectuate the purpose of the Trust. Without limiting the generality of the previous sentence, the Trustee shall have the power to, for the benefit of the Beneficiaries:

(i) receive, hold, manage, sell, prosecute, resolve, invest, supervise, protect and liquidate the Liquidating Trust Assets;

(ii) withdraw, make Distributions or Plan Distributions, as applicable, and pay taxes and other obligations owed by Debtors, Liquidating Debtors, or the Trust from the funds held or otherwise received by the Trust in accordance with the Plan or applicable law;

(iii) execute, deliver, file, and record contracts, instruments, releases, indentures, certificates, and other agreements or documents, and take such actions, as it may deem reasonably necessary or appropriate to effectuate and implement the terms and conditions thereof or of the Plan;

(iv) calculate and implement Distributions to Beneficiaries and other Plan Distributions to Holders of Allowed Claims out of the Liquidating Trust Assets or other Cash received and held by the Trust in accordance with the Plan;

(v) protect, preserve, and enforce the rights to, the Liquidating Trust Assets, and any available Tax Credits and Employee Retention Credits, by any method deemed appropriate, including by judicial proceeding before the Bankruptcy Court or other court of competent jurisdiction;

(vi) compromise, adjust, arbitrate, sue on or defend, abandon, or otherwise resolve or settle, in accordance with the terms hereof, Claims in favor of, or against, the Debtors, Liquidating Debtors, or the Trust;

(vii) determine and satisfy any and all liabilities created, incurred, or assumed by the Liquidating Debtors or the Trust;

(viii) pay all expenses of the Trust and make other payments relating to the Liquidating Trust Assets, and any Tax Credits and Employee Retention Credits pursuant to the Settlement Term Sheet;

(iv) obtain and maintain insurance coverage with respect to the liabilities and obligations of the Trustee and the Trust (in the form of an errors and omissions policy, fiduciary policy, or otherwise);

(x) obtain and maintain insurance coverage with respect to real and personal property which may become Liquidating Trust Assets, if any;

(xi) retain and pay such third parties, including, one or more paying agents or counsel, as the Trustee may deem necessary or appropriate in its sole and reasonable discretion to assist the Trustee in carrying out its powers and duties to the Trust under this Agreement;

(xii) exercise such other powers as may be vested in or assumed by the Liquidating Debtors, the Trust or the Trustee pursuant to the Plan, Confirmation Order, or Final Order of the Bankruptcy Court, or as may be necessary, proper and appropriate to carry out the provisions of the Plan;

(xiii) prosecute and resolve objections to Disputed Claims against the Debtors that are payable from the Liquidating Trust Assets; and

(xiv) file all necessary tax returns and other filings with Governmental Units on behalf of the Liquidating Debtors, the Trust and the Liquidating Trust Assets held therein pursuant to the terms of this Agreement.

4.02 Limitations on Trustee's Authority.

(i) The Trustee is not authorized to engage in any trade or business with respect to the Liquidating Trust Assets, and shall engage only in activity reasonably necessary to, and consistent with, the liquidating purpose of the Trust. All actions taken by the Trustee shall be consistent with the expeditious but orderly liquidation of the Liquidating Trust Assets as is required by applicable law and consistent with the treatment of the Trust as a liquidating trust under Treasury Regulation Section 301.7701-4(d).

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

(iii) The Trustee shall liquidate and convert to Cash the Liquidating Trust Assets in an expeditious but orderly manner, make timely Distributions, and not unduly prolong the duration of the Trust.

(iv) Any investments of the Cash portion of the Liquidating Trust Assets by the Trustee must be permitted investments for a liquidating trust within the meaning of Treasury Regulation Section 301.7701-4(d), or under applicable Internal Revenue Service guidelines, rulings, or other controlling authority.

4.03 Discretion. Subject to express provisions of this Agreement and the Plan, the Trustee shall have absolute discretion to pursue, or not pursue, any and all claims, rights, or Causes of Action, as it determines is in the best interests of the Beneficiaries and consistent with the purposes of the Trust, and shall not have liability for the outcome of his decisions. The Trustee may incur any reasonable and necessary expenses in liquidating and converting the Liquidating Trust Assets to Cash.

4.04 Retention of Professionals. The Trustee may retain and reasonably compensate counsel and other professionals to assist in his duties as Trustee on such terms as the Trustee deems appropriate without Bankruptcy Court approval. The Trustee may retain any professional who represented parties in interest in the Chapter 11 Cases. The Trustee shall be entitled to rely, in good faith, on the advice of his or her retained professionals.

4.05 Liability of Trustee and His or Her Agents. Neither the Trustee, nor the employees, professionals, agents, and representatives of the Trust or the Trustee (collectively the “Covered Persons”), shall be held liable for actions taken or omitted in its capacity as, or on behalf of, the Trust or Trustee, except to the extent that such actions taken or not taken after the Effective Date by the Covered Persons are determined by Final Order to be solely due to such Covered Person’s gross negligence, fraud, or willful misconduct. All Persons or Entities dealing with the Trustee shall look only to the Liquidating Trust Assets to satisfy any liability incurred by the Trustee in carrying out the terms of this Agreement, and, subject to the preceding portions of this section, none of the Covered Persons shall have any personal obligation to satisfy any such liability.

4.06 Compensation of the Trustee and Other Employees. The Trustee shall be compensated at a rate of \$10,000.00 per month for the twelve (12) month period following the Effective Date, and a rate of \$9,000.00 per month thereafter until the Chapter 11 Cases are dismissed or closed, and shall be entitled to reimbursement of all reasonable expenses incurred by the Trustee in discharging his duties hereunder. The Trustee may pay his or her compensation and other costs and expenses of the Trust before approving or making any Distributions to the Beneficiaries.

4.07 Exculpation; Indemnification. All of the Covered Persons shall be, and hereby are, exculpated by all Persons and Entities, including the Beneficiaries, 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 them by the Plan, this Agreement, or any Final Order of the Bankruptcy Court entered pursuant to, or in furtherance of, the Plan, or by applicable law, except for actions or omissions that are determined by a Final Order to have arisen out of its or their own willful misconduct, fraud, or gross negligence. No Person or Entity shall have, or be permitted to pursue, any claim or Cause of Action against any of the Covered Persons for making payments

in accordance with the Plan, or for implementing any other provision of the Plan. To the fullest extent permitted by applicable law, the Trust shall indemnify, defend, and hold harmless the Covered Persons from and against any and all losses, claims, damages, liabilities and expenses, including, without limitation, reasonable attorneys' fees, disbursements, and related expenses that the Covered Persons may incur or to which the Covered Persons may become subject in connection with any actions or inactions in their capacity as such, except for actions or inactions involving willful misconduct, fraud, or gross negligence. The Covered Persons shall be entitled to obtain advances from the Trust to cover their reasonable fees and expenses incurred in defending any such actions or inactions. The foregoing indemnity in respect of any Covered Person shall survive the termination of such Covered Person from the capacity for which they are indemnified.

4.08 Termination. The duties, responsibilities and powers of the Trustee shall terminate on the date the Trust is dissolved; *provided, however*, that Sections 4.05-4.07 shall survive such termination and dissolution.

4.09 Resignation, Death, or Removal. The Trustee or any successor trustee may resign upon thirty (30) days' notice by an instrument in writing signed by the Trustee and filed with the Bankruptcy Court. The Trustee or any successor may be removed at any time with or without cause by the Bankruptcy Court. Any party in interest may apply to the Bankruptcy Court for an order removing the Trustee for cause, with the determination of cause left to the reasonable discretion of the Bankruptcy Court. In the event of the removal of the Trustee, the Trustee shall be entitled to immediate payment of all compensation earned through and including the effective date of such removal.

4.10 Successor Trustee. In the event of resignation, death, or removal, as provided herein, any party in interest, any professional for the Trustee, the Trustee, or the United States Trustee may seek to designate a successor trustee and the Bankruptcy Court shall appoint a successor trustee to perform the duties, functions, and obligations, and to exercise the rights and authority of Liquidating Trustee, as described in the Plan. Any successor to the initial Trustee shall execute an instrument accepting such appointment and shall file such acceptance with the Trust records and with the Bankruptcy Court.

ARTICLE V

DISTRIBUTIONS

5.01 Distributions to Beneficiaries. The Trustee shall distribute Cash in accordance with the Liquidating Trust Agreement, beginning on the Effective Date or as soon thereafter as is practicable, from the Liquidating Trust Assets on hand (including any Cash received from the Debtors on the Effective Date), except such amounts (i) as would be distributable to a holder of a Disputed Claim if such Disputed Claim had been Allowed, prior to the time of such Distribution (but only until such Claim is resolved), (ii) as are reasonably necessary to meet contingent liabilities and to maintain the value of the Liquidating Trust Assets during litigation, (iii) to pay reasonable expenses (including, but not limited to, any taxes imposed on the Trust or in respect of the Liquidating Trust Assets), and (iv) to satisfy other liabilities incurred by the Trust in accordance with the Plan or this Agreement. The timing and amount of each Distribution by the

Trustee shall be determined by the Trustee and shall be consistent with the terms set forth in the Plan, any applicable order of the Bankruptcy Court, and this Agreement.

5.02 Priority of Distribution of Liquidating Trust Assets. The Liquidating Trust, through the Liquidating Trustee, shall be responsible for distributing Liquidating Trust Assets, or the proceeds thereof, on account of the following Claims or Interests in the order of priority shown: (i) to satisfy outstanding Allowed Priority Non-Tax Claims, if any; then (ii) to satisfy outstanding Other Secured Claims, if any; then (iii) to satisfy outstanding Allowed General Unsecured Claims, *provided, however*, that (a) the first \$200,000 of Plan Distributions shall be made to Holders of Allowed General Unsecured Claims other than Holders of the Deficiency Claim, and then (b) thereafter, Plan Distributions to Class 3 shall be made *Pro Rata* to Holders of Allowed Class 3 Claims until fully satisfied; then (iv) to satisfy Allowed Subordinated Claims, if any; and finally, (v) to satisfy Allowed Equity Interests in accordance with such preferences or priorities as provided in this Plan. For the avoidance of doubt, all expenses of the Liquidating Trust that are directly related to the administration of the Liquidating Trust Assets shall be taxed against the gross proceeds of the Liquidating Trust Assets and shall be satisfied prior to any subsequent Plan Distributions. Other than the enumerated Claims, no other Claims against the Debtors or their Estates shall be charged against the Liquidating Trust.

Notwithstanding anything to the contrary in the foregoing paragraph, Plan Distributions of Cash received from the IRS or other Governmental Units on account of Tax Credits and Employee Retention Credits (each as defined in the Settlement Term Sheet) shall be allocated among the parties in accordance with the priorities set forth in the Settlement Term Sheet. The Liquidating Trustee shall be responsible for distributing such Cash in accordance with the Settlement Term Sheet on behalf of the Liquidating Debtors to the extent received on or after the Effective Date of the Plan.

5.03 Administration of Distributions.

(i) Manner of Payment. At the option of the Trustee, any Cash payment to be made hereunder may be made by a check or wire transfer.

(ii) No Fractional Payments. Whenever a payment of a fraction of a dollar would otherwise be called for, the actual payment shall reflect a rounding down to the nearest whole dollar.

(iii) De Minimis Distributions. Notwithstanding anything to the contrary contained in the Plan or this Agreement, the Trustee shall not be required to distribute Cash to a Beneficiary if the amount of Cash to be distributed on account of such Claim is less than \$50. Any Holder of an Allowed Claim on account of which the amount of Cash to be distributed is less than \$50 shall have such Claim discharged and shall be forever barred from asserting any such Claim against the Liquidating Debtors, the Trust, or their respective property. Any Cash not distributed pursuant to this provision shall be the property of the Trust, free of any restrictions thereon. The Trustee may, in his or her sole discretion, remit any Cash not distributed or otherwise utilized by the Trust pursuant to this section of Agreement to the State of Texas and/or pay such Cash into the registry of the Bankruptcy Court.

(iv) Setoffs. The Trustee may set off against any Distributions to be made to a Beneficiary hereunder, claims, rights and Causes of Action of any nature that the Trustee may at any time hold against such Beneficiary; provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim under or in accordance with the Plan shall constitute a waiver or release by the Trustee of any such claim, right and Causes of Action that the Trustee may at any time possess against such Beneficiary.

(v) Disputed Payments. If any dispute arises as to the identity of a Beneficiary who is to receive any Distribution, the Trustee may, in lieu of making such Distribution to such Person, make reserve for such Distribution. Such Distribution shall be held in reserve until the disposition thereof shall be determined by order of the Bankruptcy Court or other court of competent jurisdiction or by written agreement among the interested parties to such dispute.

(vi) Unclaimed Distributions. In the event any Distribution to any Beneficiary is returned as undeliverable, the Trustee shall use commercially reasonable efforts to determine the current address of such Beneficiary. No additional Distribution shall be made to such Beneficiary until the Trustee has notified in writing of such Beneficiary's then-current address, at which time the Distribution shall be made to such Beneficiary. The Trustee shall file a Notice of Distribution within ten (10) Business Days of the date on which Distributions are made under the Plan, which notice shall also identify any Beneficiaries having failed to return an executed Request for Tax Form. All Claims for undelivered or undeliverable Distributions must be made no later than sixty (60) days following the date that the Notice of Distribution is filed. After such date, all unclaimed Distributions will revert to the Trust for distribution in accordance with this the Plan and this Agreement, and the Claim or Equity Interest of any Beneficiary with respect to such Distribution will be discharged and forever barred. Checks issued in respect of Allowed Claims or Equity Interests will be null and void if not negotiated within ninety (90) days after the date of issuance thereof.

(vii) Abandonment. The Trustee may abandon, in any commercially reasonable manner, any property that the Trustee reasonably concludes is of no benefit to the Beneficiaries.

ARTICLE VI **DISSOLUTION OF TRUST**

6.01 Dissolution. The Trust shall terminate upon the date on which all of the following events (each, a "Termination Condition," and, collectively, the "Termination Conditions") have occurred: (i) the dissolution of the Liquidating Debtors pursuant to the Plan; (ii) the Liquidating Trust Assets, including Retained Causes of Action transferred and assigned to the Trust, are fully resolved, abandoned or liquidated in accordance with the Plan and this Agreement; (iii) all Cash has been completely distributed in accordance with the Plan, Settlement Term Sheet, and this Agreement; (iv) all tax returns and any other filings or reports have been filed with the appropriate state or federal regulatory authorities; and (v) the order closing the Chapter 11 Cases is a Final Order. Upon the occurrence of each of the foregoing events, the duties, responsibilities and powers of the Trustee shall terminate, and the Trustee shall be discharged. Except in the circumstances set forth below, the Trustee shall dissolve the Trust in accordance with the provisions of this section no later than five (5) years after the Effective Date in accordance with applicable IRS revenue procedures.

The Bankruptcy Court may extend the term of the Trust one or more times (not to exceed a total of four (4) extensions, unless the Trustee receives a favorable ruling from the IRS that any further extension would not adversely affect the status of the Trust as a liquidating trust for federal income tax purposes) for a finite period upon a showing of good cause and based on the particular circumstance at issue. Each such extension must be approved by the Bankruptcy Court with notice thereof to all unpaid Beneficiaries.

Notwithstanding any other section of the Plan or this Agreement, it is the express intent that the Trust shall survive until each of the Termination Conditions have either occurred or be determined to be impracticable or impossible. To the extent that the Trust shall be deemed terminated pursuant to applicable law at any time prior to the occurrence of each Termination Condition, the Trustee shall not be discharged, but shall have such “wind-up” powers, both express and implied, as are necessary to achieve all outstanding Termination Conditions, including, but, not limited to the authority to: (i) continue prosecuting any Causes of Action belonging to the Trust; (ii) continue Claim administration responsibilities set forth in the Plan; (iii) distribute the Cash proceeds of the Liquidating Trust Assets in a manner consistent with this Agreement; and (iv) distribute the Cash proceeds of any available Tax Credits and Employee Retention Credits, as defined and provided in the Settlement Term Sheet. In no event shall the Liquidating Trust Beneficiaries be entitled to receive in-kind distributions of the Liquidating Trust Assets.

6.02 Post-Dissolution. Upon liquidation and distribution of all the Liquidating Trust Assets, the Trustee shall retain the books, records and files that shall have been created by the Trustee; *provided, however*, that at his or her sole discretion, all of such records and documents may be destroyed at any time following the date of final Distribution of Liquidating Trust Assets as the Trustee deems appropriate (unless the records and documents are necessary to fulfill the Trustee’s obligations pursuant to this Agreement).

ARTICLE VII

AMENDMENT AND WAIVER

7.01 Amendment; Waiver. The Trustee may amend, supplement, or waive any non-substantive provision of this Agreement, without notice to or the consent of any Beneficiary or the approval of the Bankruptcy Court, in order to: (i) cure any nonmaterial or non-substantive ambiguity, omission, defect, or inconsistency in this Agreement, provided that such amendments, supplements or waivers shall not adversely affect (a) the Distributions to any of the Beneficiaries, (b) Plan Distributions to the Buyer or other Holders of Allowed Claims in accordance with the Settlement Term Sheet, or (c) adversely affect the U.S. federal income status of the Trust as a “liquidating trust”; or (ii) comply with any requirements in connection with the U.S. federal income tax status of the Trust as a “liquidating trust.” Any substantive provision of this Agreement may be amended, supplemented, or waived by the Trustee, with the approval of the Bankruptcy Court; *provided, however*, that no change may be made to this Agreement that would: (i) adversely affect (a) the Liquidating Debtors (absent such party or parties’ consent), (b) the Distributions to any of the Beneficiaries, (c) Plan Distributions to the Buyer or other Holders of Allowed Claims in accordance with the Settlement Term Sheet, or (d) the U.S. federal income tax status of the Trust as a “liquidating trust”; or (ii) expand, add to, or modify the original stated purpose of the Trust. Notwithstanding anything to the contrary in this section, any amendments,

supplements, or waivers of the provisions of this this Agreement shall not be inconsistent with the purpose and intention of the Trust to liquidate in an expeditious but orderly manner the Liquidating Trust Assets in accordance with Treasury Regulation Section 301.7701-4(d).

ARTICLE VIII

MISCELLANEOUS PROVISIONS

8.01 Intention to Establish Grantor Trust. This Agreement is intended to create a grantor trust for federal income tax purposes and, to the extent provided by applicable law, shall be governed and construed in all respects as such a trust. Any ambiguity herein shall be construed consistent with that intent and, if necessary, this Agreement may be amended to comply with such federal income tax laws, which amendments may apply retroactively.

8.02 Laws as to Construction. Except as to formation of the Trust, which shall be deemed effective upon the Effective Date, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to the rules governing the conflict of law which would require the application of the law of another jurisdiction.

8.03 Severability. If any provision of this Agreement or application thereof to any Person, Entity, or circumstance shall be 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, Entities, or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

8.04 Notices. Any notice of other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office box, or transmitted by telex, facsimile or other telegraphic means, or sent by a nationally recognized overnight delivery service, addressed to the person for whom such notice is intended at the appropriate address set forth below, or such other address as may be provided to the other parties in writing.

If to the Liquidating Debtors:

ASAIG, LLC and ASAIG SubCo, LLC
Attn: Peter Hurwitz
40 Half Moon Lane
Irvington, New York 10533
[Telephone]
[Email]

If to the Trustee:

Attn: Peter Hurwitz
40 Half Moon Lane
Irvington, New York 10533
[Telephone]
[Email]

8.05 Notices if to a Beneficiary. Subject to any transfer recognized by the Trustee as set forth in Section 3.06 of this Agreement, any notice or other communications hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office box, or transmitted by telex, facsimile or other telegraphic means, or sent by a nationally recognized overnight delivery service, addressed to the person for whom such notice is intended to the name and address set forth in the case of a Beneficiary, on such Beneficiary's Proof of Claim, or if no Proof of Claim is filed, the address listed on the Debtors' Schedules or as listed in any other notice filed with the Bankruptcy Court and, if applicable, the Trust or such other means reasonably calculated to apprise the Beneficiary.

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

8.07 Plan. The terms of this Agreement are intended to supplement the terms provided by the Plan and the Confirmation Order. However, in the event of any direct conflict or inconsistency between any provision of this Agreement, on the one hand, and the provisions of the Plan and the Confirmation Order, on the other hand, the provisions this Agreement shall govern and control.

10.08 Entire Agreement. This Agreement contains the entire agreement between the parties and supersedes all prior and contemporaneous agreements or understanding between the parties with respect to the subject matter hereof.

10.09 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same instrument. A facsimile or electronic mail signature of any party shall be considered to have the same binding legal effect as an original signature.

[Signature Page Follows]

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 written above.

ASAIG, LLC & ASAIG SUBCO, LLC

Signature: _____

Name: Brian A. Williams _____

As its: Chief Restructuring Officer _____

ASAIG LIQUIDATING TRUST

Signature: _____

Name: Peter Hurwitz _____

As its: Liquidating Trustee _____

Exhibit D

Liquidation Analysis

ASAIG, LLC, et al.
Liquidation Analysis

Current Assets	Notes	Net Book Value 7/31/2021	Adjustment	Estimated Value 8/31/2021	Recovery Estimate (%)		Recovery Estimate (\$)	
					Low	High	Low	High
Current Assets								
Cash and Cash Equivalents	(1)	125,336	(4,755)	120,581	100%	100%	120,581	120,581
Accounts Receivable	(2)	-	-	-	n/a	n/a	-	-
Total Current Assets		125,336	(4,755)	120,581	100%	100%	120,581	120,581
Other Non-Current Assets								
Chapter 5 Causes of Action	(3)	736,612		736,612	10%	30%	73,661	220,983
ERC Credit (Q1)	(4)	1,392,655	(488,278)	904,377	90%	100%	813,940	904,377
ERC Credit (Q2)	(5)	340,427		340,427	90%	100%	306,384	340,427
Total Other Non-Current Assets		2,469,693	(488,278)	1,981,416	60%	74%	1,193,985	1,465,788
Total Assets		2,595,030	(493,033)	2,101,997	63%	75%	1,314,566	1,586,368
Less Liquidation/Administrative Costs								
Post-Petition Vendor Payments	(6)						(3,000)	(4,000)
State Tax Claims	(7)						TBD	TBD
Wrinkle Gardner	(8)						(40,000)	(35,000)
NewCo ERC Settlement	(9)						(249,000)	(249,000)
Okin Adams (Debtor Professional)	(10)						(50,000)	(50,000)
Carl Marks Advisors (Debtor Professional)							(80,000)	(70,000)
Greenberg Traurig (UCC Professional)							(50,000)	(50,000)
Dundon Advisers (UCC Professional)							(30,000)	(30,000)
Donlin Recano (Administrative Agent)							(26,000)	(23,000)
Chapter 11 U.S. Trustee Fees							(50,000)	(45,000)
Liquidating Trust Professional Fees							TBD	TBD
Liquidating Trust U.S. Trustee Fees							TBD	TBD
Estate Wind-Down Costs							TBD	TBD
Total Liquidation/Administrative Costs							(578,000)	(556,000)
Net Liquidation Proceeds Available for Distribution							736,566	1,030,368
		Claim Estimate	Adjustment	Claim Estimate	Recovery Estimate (%)		Recovery Estimate (\$)	
					Low	High	Low	High
Unsecured Claims (ex-AIG)	(11)	14,886,144	(1,800,000)	13,086,144	2.6%	3.2%	341,674	419,250
Unsecured Claims (AIG)		36,475,200	-	36,475,200	1.1%	1.7%	394,891	611,119
Total Estimated Claims & Recoveries		51,361,344	(1,800,000)	49,561,344	1.5%	2.1%	736,566	1,030,368

ASAIG, LLC, *et al.*
Liquidation Analysis Notes

- (1) Cash in bank on 7/31 less payment in transit.
- (2) Assumed by Buyer pursuant to Sale Order and APA.
- (3) See Retained Causes of Action and corresponding amounts in the Debtors' Schedules.
- (4) Estimated Q1 2021 Employee Retention Credit less deferred and unpaid payroll taxes.
- (5) Estimated Q2 2021 Employee Retention Credit.
- (6) Hartford Insurance & Wrinkle Gardner.
- (7) Texas, NJ
- (8) For tax preparation services.
- (9) Per term sheet settlement with NewCo related to ERC Credit.
- (10) Includes outstanding retainer of \$36,000.
- (11) Assumes 90% reduction of Jesus Alvarez Claim. Non-AIG creditors receive first \$200,000 of recovery then share remaining cash pro rata.