

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

ADVANTAGE HOLDCO, INC., *et al.*,¹

Debtors

Chapter 11

Case No. 20-11259 (CTG)

(Jointly Administered)

Hearing Date: October 27, 2021 at 10:00 a.m. (ET)

Obj. Deadline: October 8, 2021 at 4:00 p.m. (ET)

**MOTION OF THE PLAN PROPONENTS FOR ENTRY
OF AN ORDER (A) APPROVING THE DISCLOSURE STATEMENT ON
AN INTERIM BASIS, (B) ESTABLISHING PROCEDURES FOR SOLICITATION
AND TABULATION OF VOTES TO ACCEPT OR REJECT THE PLAN,
(C) APPROVING THE FORM OF BALLOT AND SOLICITATION MATERIALS,
(D) ESTABLISHING THE VOTING RECORD DATE, (E) SCHEDULING A
COMBINED HEARING AND DEADLINE FOR FILING OBJECTIONS TO
FINAL APPROVAL OF THE DISCLOSURE STATEMENT AND CONFIRMATION
OF THE PLAN, INCLUDING ESTIMATION OF THE VEHICLE CLAIMS RESERVE,
AND (F) APPROVING THE RELATED FORM OF NOTICE**

The debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned cases (the “Chapter 11 Cases”) and the Official Committee of Unsecured Creditors (the “Committee” and together with the Debtors, the “Plan Proponents”), hereby submit this motion (the “Motion”), pursuant to sections 105(a), 1125, 1126, and 1128 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), Rules 2002(b), 3017, 3018, and 3020 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules 2002-1 and 3017-2 of the Local Rules of Bankruptcy Practice and Procedures of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), for entry of an order, substantially in the form attached hereto as **Exhibit A** (the “Interim Approval and Procedures Order”), (a) approving on

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Advantage Holdco, Inc. (4832); Advantage Opco, LLC (9101); Advantage Vehicles LLC (6217); E-Z Rent A Car, LLC (2538); Central Florida Paint & Body, LLC (1183); Advantage Vehicle Financing LLC (7263); and RAC Vehicle Financing, LLC (8375). The Debtors’ address is PO Box 2818, Windermere, Florida 34786.

an interim basis the adequacy of the disclosures set forth in the *Combined Disclosure Statement* (the “Disclosure Statement”) and *Joint Chapter 11 Plan of Liquidation* (the “Plan,” and together with the Disclosure Statement, the “Combined Plan and Disclosure Statement”)² [Docket No. 251], which was filed on September 24, 2021, (b) establishing procedures for solicitation and tabulation of votes to accept or reject the Plan, (c) approving the forms of ballot and solicitation materials, (d) establishing a voting record date, (e) scheduling a joint hearing to consider final approval of the adequacy of the Disclosure Statement and confirmation of the Plan (the “Combined Hearing”) and setting the deadline for objections thereto (the “Plan Confirmation Objection Deadline”), (f) setting the Combined Hearing as the hearing to estimate Vehicle Claims³ arising from October 1, 2021 through the Effective Date for purposes of approving the Vehicle Claims Reserve under the Plan, and (g) approving the related form of notice. In support hereof, the Plan Proponents respectfully state as follows:

JURISDICTION

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2).⁴
2. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.
3. The statutory bases for the relief requested herein are sections 105(a), 1125, 1126, and 1128 of the Bankruptcy Code, Bankruptcy Rules 2002(b), 3017, 3018, and 3020, and Local Rules 2002-1 and 3017-2.

² Capitalized terms not otherwise defined herein shall be given the meanings ascribed to them in the Combined Plan and Disclosure Statement.

³ “Vehicle Claims” has the meaning provided in the *Debtors’ Motion for Entry of an Order (I) Establishing a Supplemental Vehicle Claims Bar Date, (II) Approving The Form, Manner, and Sufficiency of Notice Thereof, and (III) Approving Procedures Regarding Objections to Vehicle Claims* filed contemporaneously herewith.

⁴ Under Local Rule 9013-1(f), the Plan Proponents hereby confirm their consent to the entry of a final order by this Court in connection with the Motion if it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments in connection therewith consistent with Article III of the United States Constitution.

BACKGROUND

I. General Background

4. On May 6, 2020 (the “Petition Date”), the Debtors filed voluntary cases with this Court for relief under chapter 11 of the Bankruptcy Code. The Debtors manage and operate their business as debtors in possession under sections 1107(a) and 1108 of the Bankruptcy Code. On May 29, 2020, this Court entered an order directing joint administration of the Debtors’ chapter 11 cases for procedural purposes only pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1 [Docket No. 48]. No trustee or examiner has been appointed in these chapter 11 cases.

5. On June 9, 2020, the Office of the United States Trustee for the District of Delaware (the “U.S. Trustee”) appointed the Official Committee of Unsecured Creditors (the “Committee”), consisting of the following three members: (i) Safelite Group; (ii) EDS Service Solutions, LLC; and (iii) Exultancy, Inc. [Docket No. 140].

6. The Debtors ceased substantially all of their operations on or about June 30, 2020. On July 1, 2020, the Court entered the *Order (I) Approving Asset Purchase Agreement, (II) Authorizing Sale to Sixt Rent A Car, LLC of Certain Assets Free and Clear of All Liens, Claims, Encumbrances, and Other Interests, (III) Approving the Assumption of and Assignment of Certain Executory Contracts, and (IV) Granting Related Relief* [Docket No. 327] and *Order (A) Approving Sale of Debtors Assets Free and Clear of All Liens, Claims, Interests, and Encumbrances, (B) Authorizing Assumption and Assignment of Unexpired Leases and Executory Contracts, and (C) Granting Related Relief* [Docket No. 330], pursuant to which the Debtors sold certain airport concession agreements and related assets to Sixt Rent A Car, LLC and Orlando Rentco, LLC, respectively.

7. On September 21, 2020, the Court entered the *Order Pursuant to Bankruptcy Code Sections 105(a), 501, 502, 503, and 1111(a), Bankruptcy Rules 2002 and 3003(c)(3), and Local Bankruptcy Rules 1009-2 and 2002-1(e) (I) Establishing Bar Dates for Filing Claims Against the Debtors and (II) Approving Form and Manner of Notice Thereof* [Docket No. 497] (the “Bar Date Order”), pursuant to which the Court established certain deadlines to file proofs of claim against the Debtors. Pursuant to the Bar Date Order, October 23, 2020, 5:00 p.m. (Pacific Time) was established as the “General Bar Date” to file proofs of claim for claims arising before the Petition Date; November 23, 2020 at 5:00 p.m. (Pacific Time) was established as the “Governmental Bar Date” to file proofs of claim for claims by governmental units arising before the Petition Date; and October 23, 2020 at 5:00 p.m. (Pacific Time) was established as the “Administrative Claims Bar Date” to file administrative proofs of claim for claims arising under sections 503(b)(1) through (8) and 507(a)(2) of the Bankruptcy Code after the Petition Date but on or before September 30, 2020.

8. Additional information regarding the Debtors’ businesses, capital structure, and the circumstances leading to the commencement of these Chapter 11 Cases is set forth in the *Declaration of Alfred C. Farrell, Chief Financial Officer of Advantage Holdco, Inc. in Support of Chapter 11 Petitions and First Day Pleadings* [Docket No. 15] and in the Combined Plan and Disclosure Statement.

II. The Combined Plan and Disclosure Statement⁵

9. The Combined Plan and Disclosure Statement is the result of extensive, arms’-length, good faith negotiations among the Debtors, their DIP Lender and the Committee. The

⁵ The following section provides a summary of the Combined Plan and Disclosure Statement. To the extent of any conflict with this Motion, the terms of the Combined Plan and Disclosure Statement shall govern.

Combined Plan and Disclosure Statement creates the framework for the payment of administrative and priority claims and establishes a Liquidating Trust.

10. The Plan provides that, on the Effective Date, the Debtors shall use Cash on hand to fund a Priority Claim Reserve to satisfy in full Allowed Administrative Expense Claims, Professional Fee Claims, Priority Tax Claims, Other Priority Claims, Texas Taxing Authority Claims, Miscellaneous Secured Claims, and Priority Claims Reserve Administrative Costs.

11. On account of its DIP Claim, the DIP Lender shall receive the Residual Assets.⁶

12. Holders of Allowed General Unsecured Claims that do not provide a Release Opt-Out, shall receive a beneficial interest in the Liquidating Trust. The Liquidation Trust Assets shall consist of (a) \$350,000 of Cash contributed by the Debtors or the DIP Lender on the Effective Date; (b) 15% of the proceeds of the Residual Assets from and after July 1, 2020; (c) 15% of any recovery or cash proceeds on account of the sale, settlement or other disposition of litigation pertaining to credit card “swipe fees” or interchange fees up to \$500,000 and 50% of any such recovery or proceeds in excess of \$500,000; (d) all Liquidating Trust Causes of Action,⁷ and, (e) in the event the Debtors finalize an appropriate settlement with certain service providers, the “VM Contracting Parties,” an additional \$100,000 from available Cash or future recoveries from Residual Assets.

⁶ The Plan defines “Residual Assets” as (1) Balance Sheet Cash; (2) estate recoveries of cash collateral from credit card merchant servicers, airport concessions, and bonding/surety providers; (3) amounts returned from the executory contract/unexpired lease cure escrow account; (4) all accounts receivable; (5) any interest of the Debtors in the APAs with Sixt and Orlando Rentco, including earnouts, escrows, claims and causes of action; and (6) claims against the Debtors’ fleet lenders relating to the disposition of the Debtors’ leased or financed vehicles, including but not limited to, liquidation/disposition recoveries in excess of amounts owed to such fleet lenders (i.e., “positive fleet equity”).

⁷ Liquidating Trust Causes of Action exclude (i) Residual Assets; (ii) any Claims or Causes of Action against Released Parties; (iii) any Claims or Causes of Action released pursuant to the Plan, and (iv) claims against credit card processing firms (e.g., Visa and Mastercard) relating to “swipe fees” to the extent that any such claims have not been resolved prior to the Effective Date.

13. The Plan further provides that certain third-parties, including holders of all Claims who vote to either accept or reject the Plan but do not opt out of granting the releases set forth in the Plan, shall release certain claims against certain third-parties associated with Debtors.

14. Section III of the Combined Plan and Disclosure Statement provides a detailed description of, among other things, the Debtors' organizational structure, prepetition capital structure, historical business operations, and summaries of certain material events that have occurred during the Chapter 11 Cases.

15. The Combined Plan and Disclosure Statement is being jointly proposed by the Plan Proponents because the Plan Proponents believe that it provides the most efficient means to maximize value of the Debtors' remaining assets, distribute proceeds thereof to Holders of Allowed Claims, and otherwise wind-down and conclude the Chapter 11 Cases. The Plan Proponents wish to maintain the productive momentum of the Chapter 11 Cases and save meaningful estate resources by responsibly streamlining a chapter 11 plan process.

16. The Plan is a plan of liquidation within the purview of Local Rule 3017-2. In general, the Plan provides, among other things, that the Debtors' remaining assets will be used to pay secured claims, priority claims, and administrative expenses or distributed or vested to the DIP Lender or Liquidating Trust established for the benefit of General Unsecured Creditors. The DIP Lender and Liquidating Trustee will administer the Debtors' remaining assets in their possession and make distributions to Holders of Allowed Claims.

17. A summary of the key dates that the Plan Proponents seek to establish by the Interim Approval and Procedures Order are as follows:

Proposed Timetable	
Voting Record Date	October 22, 2021
Solicitation Commencement Date	Within 3 business days following entry of Interim Approval and Procedures Order or as soon as reasonably practicable thereafter
Rule 3018 Motion Deadline	21 days prior to the Combined Hearing
Rule 3018 Objection Deadline	14 days prior to the Combined Hearing
Plan Supplement Deadline	7 days prior to the Voting Deadline
Voting Deadline	10 days prior to the Combined Hearing at 4:00 p.m. (Eastern Time)
Plan Confirmation Objection Deadline	7 days prior to the Combined Hearing at 4:00 p.m. (Eastern Time)
Reply Deadline	2 business days prior to the Combined Hearing at 12:00 p.m. (Eastern Time)
Voting Tabulation Deadline	3 business days prior to the Combined Hearing at 4:00 p.m. (Eastern Time)
Combined Hearing	The later of (i) 10 days after the Supplemental Bar Date ⁸ or (ii) 45 days after entry of the Interim Approval and Procedures Order, or as soon as possible thereafter

⁸ Pursuant to the Debtors' Motion for Entry of an Order (I) Establishing a Supplemental Vehicle Claims Bar Date, (II) Approving The Form, Manner, and Sufficiency of Notice Thereof, and (III) Approving Procedures Regarding Objections to Vehicle Claims (the "Supplemental Bar Date Motion"), filed contemporaneously herewith, the Debtors seek to establish a bar date (the "Supplemental Bar Date") for certain Vehicle Claims (as defined therein). Through that motion, the Debtors request the Court set the Supplemental Bar Date forty-five (45) days after the entry of the order granting the Supplemental Bar Date Motion.

18. The Plan contemplates classifying all Claims against and Interests in the Debtors, other than Administrative Expense Claims, Professional Fee Claims and Priority Tax Claims, as follows:

<u>Class</u>	<u>Type</u>	<u>Status Under Plan</u>	<u>Voting Status</u>	<u>Recovery Estimate</u>
1	Miscellaneous Secured Claims	Unimpaired	Deemed to Accept	100%
2	Other Priority Claims	Unimpaired	Deemed to Accept	100%
3	DIP Claims	Impaired	Entitled to Vote	1% -48%
4	Sponsor Debt Claims	Impaired	Entitled to Vote	0%
5	Texas Taxing Authority Secured Claims	Impaired	Entitled to Vote	15%
6	General Unsecured Claims	Impaired	Entitled to Vote	1% - 2% ⁹
7	Aberdeen Claims	Impaired	Deemed to Reject	0%
8	Holdco Equity Interests	Impaired	Deemed to Reject	0%

19. As set forth above, only Holders of Allowed Claims in Class 3, Class 4, Class 5, and Class 6 are entitled to vote on the Plan. All other Holders of Claims or Interests are not entitled to vote on the Plan because each such Holder either holds (i) a Claim that is unimpaired under the

⁹ This estimate of potential recoveries is based on a preliminary waterfall analysis that takes into consideration trust administration and potential recoveries from Causes of Action. The Liquidation Trust Assets are, in part, a carve out of collateral securing the DIP Loans as a settlement of potential claims against certain Released Parties for Holders of General Unsecured Claims who do not provide a Release Opt-Out. Claims reconciliation may further positively impact the range of potential recoveries. The Plan Proponents reserve the right to amend or supplement this estimate.

Plan and deemed to accept the Plan or (ii) a Claim or Interest that is not entitled to receive or retain any property under the Plan and deemed to reject the Plan.

20. The Plan Proponents respectfully submit that the Disclosure Statement complies with all aspects of section 1125 of the Bankruptcy Code; however, by this Motion, the Plan Proponents seek only interim approval of the adequacy of the Disclosure Statement in accordance with Local Rule 3017-2. At the Combined Hearing, the Plan Proponents will seek final approval of the adequacy of the Disclosure Statement (as well as confirmation of the Plan).

21. The Plan Proponents submit that Local Rule 3017-2 applies here because (a) substantially all of the Debtors' assets have been liquidated under Section 363, (b) the Combined Plan and Disclosure Statement complies with section 1129(a)(9) of the Bankruptcy Code, (c) the Combined Plan and Disclosure Statement does not seek nonconsensual releases/injunctions with respect to claims creditors may hold against non-debtor parties, and (d) the Debtors' combined assets to be distributed under the Plan are estimated, in good faith, to be worth less than \$25 million (excluding Causes of Action). *See* Local Rule 3017-2(a).

HIGHLIGHTED PROVISION UNDER LOCAL RULE 3017-2(c)(ii)

22. Local Rule 3017-2(c)(ii) requires the Plan Proponents to highlight certain provisions included in the Plan and/or Interim Approval and Procedures Order as follows:

(a) Local Rule 3017-2(c)(ii)(A) requires the disclosure of provisions that seek consensual releases/injunctions with respect to claims creditors may hold against non-debtor parties. Section XIV.G of the Combined Plan and Disclosure Statement provides that Holders of Claims who vote to either accept or reject the Plan but do not opt out of granting the releases set forth in the Plan agree to grant a release of certain Released Parties for any act or omission (i) that took place prior to the Petition Date relating to and/or in connection with either of the Debtors, and (ii) in connection with, relating to, or arising out of the Chapter 11 Cases, the negotiation and Filing of this Combined Plan and Disclosure Statement, the Filing of the Chapter 11 Cases, the settlement of Claims or renegotiation of Executory Contracts and leases, the pursuit of confirmation of this Combined Plan and Disclosure Statement, the consummation of this Combined Plan and Disclosure Statement, or

the administration of this Combined Plan and Disclosure Statement, including the solicitation of votes, or the property to be distributed under this Combined Plan and Disclosure Statement, except for Claims related to any act or omission that is determined in a Final Order by a court of competent jurisdiction to have constituted actual fraud or willful misconduct, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to this Combined Plan and Disclosure Statement.

(b) Local Rule 3017-2(c)(ii)(B) requires the disclosure of provisions that seek to release any claims the debtors may have against non-debtor parties who are insiders of a debtor. Section XIV.F of the Combined Plan and Disclosure Statement provides for Debtor Releases of certain Released Parties for any act, omission, transaction, event, occurrence, or other circumstance, whether direct or derivative, taking place or existing on or prior to the Effective Date (including prior to the Petition Date) in connection with or related to any of the Debtors or their operations, their respective Assets, the Estates, or the Chapter 11 Cases.

(c) Local Rule 3017-2(c)(ii)(C) requires the disclosure of any provision that seeks an exemption under section 1146 of the Bankruptcy Code. Section X.G of the Combined Plan and Disclosure Statement provides for an exemption from certain taxes and fees pursuant to section 1146(a) of the Bankruptcy Code with respect to the making or delivery of any instrument or transfer from the Debtors to the Liquidating Trust or to any other person pursuant to the Plan.

RELIEF REQUESTED

I. Interim Approval of the Disclosure Statement

23. Pursuant to section 1125(b) of the Bankruptcy Code, a plan proponent must provide holders of impaired claims and interests entitled to vote with “adequate information” regarding the proposed chapter 11 plan. *See* 11 U.S.C. § 1125(b). The Plan Proponents respectfully submit that the Disclosure Statement contains “adequate information” within the meaning of section 1125(a)(1) of the Bankruptcy Code and, thus, should be approved by this Court on an interim basis and, at the Combined Hearing, on a final basis.

24. Section 1125(a)(1) of the Bankruptcy Code provides:

“[A]dequate information” means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition of the debtor’s books and records, including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the Holders of claims or

interests in the case, that would enable such hypothetical investor of the relevant class to make an informed judgment about the plan....

11 U.S.C. § 1125(a)(1). Thus, a debtor's disclosure statement must, as a whole, provide information that is sufficiently detailed, so far as "reasonably practicable," to permit an "informed judgment" by impaired creditors entitled to vote on the plan. *See In re Ryan Operations G.P. v. Santiam-Midwest Lumber Co.*, 81 F.3d 355, 362 (3d Cir. 1996); *see also In re Autobacs Strauss, Inc.*, 473 B.R. 525, 584 (Bankr. D. Del. 2012); *In re Dakota Rail, Inc.*, 104 B.R. 138, 142 (Bankr. D. Minn. 1989). At a minimum, a disclosure statement "must clearly and succinctly inform the average unsecured creditor what it is going to get, when it is going to get it, and what contingencies there are to getting its distribution." *In re Ferretti*, 128 B.R. 16, 19 (Bankr. D.N.H. 1991).

25. The Disclosure Statement contains the necessary information for Holders of claims entitled to vote to make an informed decision about whether to vote to accept or reject the Plan, including, among other things:

- (a) information on the Debtors' business operations, organizational structure, and capital structure;
- (b) an overview of certain events preceding and leading to the commencement of the Chapter 11 Cases;
- (c) an overview of the major events that occurred during the course of the Cases, including the various sales of the Debtors' assets pursuant to section 363 of the Bankruptcy Code;
- (d) a summary of the classification and treatment of all classes of creditors and equity interests;
- (e) the provisions governing distributions under the Plan;
- (f) the means for implementation of the Plan, including the creation of the Liquidating Trust and the transfer of the Liquidating Trust Assets to the Liquidating Trust for the benefit of the Beneficiaries;
- (g) risk factors affecting the Plan; and
- (h) a summary of the Bankruptcy Code and other requirements for confirmation of the Plan.

26. The Plan Proponents respectfully submit that the Disclosure Statement satisfies the requirements of section 1125 of the Bankruptcy Code; however, at the hearing on this Motion, the Plan Proponents seek only interim approval of the Disclosure Statement. At the Combined Hearing, the Plan Proponents will seek final approval of the adequacy of the Disclosure Statement and confirmation of the Plan.

II. The Solicitation Procedures

a. Establishment of Voting Record Date

27. Bankruptcy Rule 3017(d) provides that, for the purposes of soliciting votes in connection with the confirmation of a plan, “creditors and equity security holders shall include holders of stock, bonds, debentures, notes, and other securities of record on the date the order approving the disclosure statement is entered or another date fixed by the court, for cause, after notice and a hearing.” Fed. R. Bankr. P. 3017(d). Bankruptcy Rule 3018(a) contains a similar provision regarding determination of the record date for voting purposes. The Plan Proponents propose that the Court establish the record date as October 22, 2021 (the “Voting Record Date”) for purposes of determining which Holders of Claims are entitled to vote on the Plan.

b. Approving Solicitation Package

28. Bankruptcy Rule 3017(d) sets forth the materials that must be provided to Holders of Claims and Interests entitled to vote for the purpose of soliciting their votes and providing adequate notice of the Combined Hearing.

29. Except as provided below, upon entry of the Interim Approval and Procedures Order, the Plan Proponents propose that the following materials (collectively, the “Solicitation Package”) be distributed by or on behalf of the Plan Proponents to each Holder of a Claim entitled to vote on the Plan:

- (a) Notice of a hearing on, among other things, confirmation of the Plan (the “Combined Hearing Notice”);
- (b) the Committee’s letter to Holder of General Unsecured Claims (the “Committee Letter”);
- (c) an appropriate Ballot (defined below), including voting instructions;
- (d) a return envelope; and
- (e) such other materials as the Court may direct.

The Combined Hearing Notice will contain instructions on how to access a copy of the Combined Plan and Disclosure Statement and the Interim Approval and Procedures Order online. The Combined Hearing Notice will further contain an e-mail address for the Balloting Agent (defined below) in the event any party wants to receive a hard copy of the Combined Plan and Disclosure Statement and/or the Interim Approval and Procedures Order.

30. The Plan Proponents expect that they will be able to commence distribution of the Solicitation Packages within three (3) business days after the date on which the Interim Approval and Procedures Order is entered (the “Solicitation Commencement Date”). All other Holders of Claims or Interests not entitled to vote on the Plan and all parties requesting notice pursuant to Bankruptcy Rule 2002, will receive a copy of the Combined Hearing Notice.

31. Although the Plan Proponents have made, and will make, every effort to ensure that the Solicitation Packages described are in final form, the Plan Proponents nonetheless request authority to make non-substantive changes to the Combined Plan and Disclosure Statement and related documents without further order of the Court, including ministerial changes to correct typographical and grammatical errors, and to make conforming changes among the Combined Plan and Disclosure Statement and any other materials in the Solicitation Packages following entry of the Interim Approval and Procedures Order and prior to mailing.

32. In order to reduce costs, the Plan Proponents request relief from Bankruptcy Rule 3017 that would otherwise require the Combined Plan and Disclosure Statement to be mailed to holders of claims and equity interests. Because of the cost of printing and mailing the Combined Plan and Disclosure Statement and Plan (or making CDs and mailing them to all creditors), the Plan Proponents propose to make the Combined Plan and Disclosure Statement available in electronic format online at <https://dm.epiq11.com/advantage>. The Plan Proponents request authority to notify parties of the location of such documents by mailing the Combined Hearing Notice that contains the address to the Debtors' case website with a link directly to the Combined Plan and Disclosure Statement. The website will contain a copy of the Combined Plan and Disclosure Statement, which can be reviewed online or downloaded and printed. If a party desires a paper copy of the Combined Plan and Disclosure Statement, such party can request that a paper copy be mailed to them if such request is made at least three (3) business days before the Voting Deadline. Such request can be made in writing to Advantage Holdco Inc. et al., c/o Epiq Corporate Restructuring, LLC, 10300 SW Allen Blvd., Beaverton, OR 97005, by email to AdvantageInfo@epiqglobal.com.

33. The Plan Proponents request that the Court determine that the Plan Proponents are not required to distribute paper copies of the Combined Plan and Disclosure Statement to Holders of Claims and Interests, unless a party makes a specific written request for copies of such documents as set forth herein. This court and other bankruptcy courts have granted such relief in order to reduce the significant costs of soliciting votes to accept or reject a plan, and authorized the provision of electronic copies of the plan and disclosure statement on a website instead of including copies of those documents in the solicitation package. See *In re Draw Another Circle*, Case No. 16-11452 (Bankr. D. Del. Dec. 19, 2016) [Docket No. 1067]; *In re Dune Energy, Inc.*,

Case No. 15-10336 (Bankr. W.D. Tex. Aug. 18, 2015) [Docket No. 453]; *In re Borders Group, Inc., et al.*, Case No. 11-10614 (Bankr. S.D.N.Y. Nov. 14, 2011) [Docket No. 2122].

c. Approval of Form of Ballots

34. Bankruptcy Rule 3017(d) requires that a debtor mail a form of ballot to “creditors and equity security holders entitled to vote on the plan.” Fed. R. Bankr. P. 3017(d). The Plan Proponents propose to distribute to holders of Class 3, Class 4, Class 5, and Class 6 Claims, the only classes entitled to vote on the Plan, one or more ballots (each a “Ballot” and collectively, the “Ballots”), substantially in the forms attached hereto as **Exhibit B**, applicable to each such creditor. The form of Ballot is based on Official Form No. B-314, but has been modified to address the particular aspects of the Chapter 11 Cases, and to include certain additional information that the Plan Proponents believe to be relevant and appropriate to holders of Class 3, Class 4, Class 5, and Class 6 Claims.

d. Voting Deadline and Procedures

i. Establishment of Voting Deadline

35. Bankruptcy Rule 3017(c) provides that, in connection with or before approval of a disclosure statement, a court shall fix a time within which the holders of claims or equity security interests may accept or reject the relevant chapter 11 plan. *See* Fed. R. Bankr. P. 3017(c). Local Rule 3017-2(d)(ii) provides that the Voting Deadline shall be no more than ten (10) days prior to the plan confirmation hearing.

36. In accordance with Bankruptcy Rule 3017(c), the Plan Proponents request that the Court enter an order requiring that, in order to be counted as a vote to accept or reject the Plan, any Ballot accepting or rejecting the Plan be properly executed, completed, have only one box checked to accept or reject, and **the original** of which shall be delivered so as to be actually

received by Epiq Corporate Restructuring, LLC (the “Balloting Agent”), not later than 4:00 p.m. (prevailing Eastern time) on the date that is ten (10) days prior to the Combined Hearing (the “Voting Deadline”). Ballots are to be delivered to the Balloting Agent at one of the following addresses: (i) if by First Class mail, Advantage Holdco Inc. Ballot Processing, c/o Epiq Corporate Restructuring, LLC, P.O. Box 4422, Beaverton, OR 97076-4422; (ii) if by hand delivery or overnight delivery, Advantage Holdco Inc. Ballot Processing, c/o Epiq Corporate Restructuring, LLC, 10300 SW Allen Blvd., Beaverton, OR 97005; or (iii) if by electronic ballot, by using the electronic balloting service available at <https://dm.epiq11.com/advantage>. For the avoidance of doubt, a Ballot submitted using the e-balloting platform shall constitute an original Ballot. Any Ballot received by the Balloting Agent by facsimile, e-mail or other electronic communication will not be counted.

37. The Plan Proponents submit that a solicitation period of at least thirty-five (35) days provides sufficient time for holders of Class 3, Class 4, Class 5, and Class 6 Claims entitled to vote to make informed decisions to accept or reject the Plan and submit timely Ballots. Therefore, the Voting Deadline should be approved.

ii. Temporary Allowance of Claims for Voting Purposes

38. Bankruptcy Rule 3018(a) provides that “[n]otwithstanding objection to a claim or interest, the court after notice and hearing may temporarily allow the claim or interest in an amount that the court deems proper for the purposes of accepting or rejecting a plan.” Fed. R. Bankr. P. 3018(a); *see also* 11 U.S.C. §§ 502, 1126. The Plan Proponents respectfully request the Court set a deadline of thirty (30) days prior to the Combined Hearing for the Plan Proponents to file and serve objections to filed proofs of claim for purposes of voting on the Plan. If a creditor wants to file a motion seeking to have its Claim temporarily allowed for voting purposes (any such motion,

a “3018 Motion”), the Plan Proponents submit that the Court should set the deadline for filing and serving (i) the 3018 Motion as the date that is twenty-one (21) days prior to the Combined Hearing (the “3018 Motion Deadline”) and (ii) any objection to a 3018 Motion as the date that is fourteen (14) days prior to the Combined Hearing (the “3018 Objection Deadline”).

iii. Approval of Procedures for Vote Tabulation

39. Section 1126(c) of the Bankruptcy Code provides:

A class of claims has accepted a plan if such plan has been accepted by creditors, other than any entity designated under subsection (e) of this section, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class held by creditors, other than any entity designated under subsection (e) of this section, that have accepted or rejected such plan.

11 U.S.C. § 1126(c).

40. The Plan Proponents propose, solely for purposes of voting to accept or reject the Plan and not for purposes of allowance or distribution on account of a Claim and without prejudice to the rights of the Debtors or the Liquidating Trust in any other context, that the amount of a Claim used to tabulate acceptance or rejection of the Plan be one of the following alternatives:

- (a) if no proof of Claim was timely filed, the Claim amount listed in the *Schedules of Assets and Liabilities* filed with the Court by the Debtors on January 20, 2020 [Docket Nos. 113, 114 and Case No. 19-12671 Docket No. 7] and *Amended Schedules of Assets and Liabilities* filed with the Court by the Debtors on January 24, 2020 [Docket No. 140 and Case No. 19-12671 Docket No. 8], February 7, 2020 [Docket Nos. 152 and 153], February 13, 2020 [Docket Nos. 159 and 160] and March 2, 2020 [Docket Nos. 208, 209 and 210] (together, the “Schedules”), if any, provided that such Claim is not scheduled as contingent, disputed, or unliquidated;
- (b) the liquidated amount specified in a proof of Claim timely filed with the Court or submitted to Epiq Corporate Restructuring, LLC, as the Debtors’ claims agent (or otherwise deemed timely filed by the Court under applicable law), to the extent that the proof of Claim is not the subject of an objection and has not been expunged, disallowed, disqualified, withdrawn, or superseded prior to the Voting Record Date;
- (c) if a Claim for which a proof of Claim has been timely filed for unknown or undetermined amounts, or is wholly unliquidated, or contingent (as determined

on the face of the claim or after a reasonable review of the supporting documentation by the Balloting Agent) and such claim has not been allowed, such Claim shall be temporarily allowed for voting purposes only, and not for purposes of allowance or distribution, at \$1.00;

- (d) the liquidated amount of a Claim specified in any agreement or stipulation resolving any disputes relating to such Claim Filed with the Court as of the Voting Record Date regardless of whether the Court has approved the agreement or stipulation as of the Voting Deadline;
- (e) proofs of Claim filed for \$0.00 are not entitled to vote;
- (f) the liquidated amount specified in an Order entered by the Court; or
- (g) the amount temporarily allowed by the Court for voting purposes, pursuant to Bankruptcy Rule 3018(a), after notice and a hearing at or before the Combined Hearing.

41. If a Claim Holder casts a Ballot and the entirety of such creditor's Claim is the subject of an objection filed before the Voting Deadline, the Plan Proponents request that such creditor's Ballot not be counted. If a creditor casts a Ballot and part of such creditor's Claim is the subject of an objection filed before the Voting Deadline, the Plan Proponents request that such creditor's Ballot be treated as a Claim for voting purposes only to the extent of the remaining amount of the Claim not subject to any objection. In either case, if a creditor desires to vote in a higher amount, the creditor may seek authority from the Court to do so following notice and a hearing, pursuant to Bankruptcy Rule 3018(a).

42. Notwithstanding anything to the contrary contained herein, any creditor who has filed a proof of Claim that is duplicative of another Claim(s) within the same Class of Claims entitled to vote to accept or reject the Plan, as determined by the Plan Proponents, shall be provided with only one Solicitation Package and one Ballot for voting a single Claim in such Class, regardless of whether the Debtors have objected to such duplicate Claim(s).

43. If a proof of claim has been amended by a later proof of Claim that is filed on or prior to the Voting Record Date, the later filed amending Claim shall be entitled to vote in a manner

consistent with these tabulation rules, and the earlier filed Claim shall be disallowed for voting purposes, regardless of whether the Debtors have objected to such amended Claim. Except as otherwise ordered by the Court, any amendments to proofs of Claim after the Voting Record Date shall not be considered for purposes of these tabulation rules.

44. Any creditor who holds multiple Claims within a single Class shall have such Claims aggregated for purposes of the numerosity requirement of section 1126(c) of the Bankruptcy Code, as if such creditor held one Claim in such Class, the creditor will receive a single Ballot with respect to all of its Claims in each such Class, and the votes related to such Claims will be treated as a single vote to accept or reject the Plan.

45. In addition, the Plan Proponents request that the following voting procedures and standard assumptions (“Tabulation Rules”) be used in tabulating Ballots:

- (a) any Ballot that is timely received, that contains sufficient information to permit the identification of the claimant and that is cast as an acceptance or rejection of the Plan will be counted and cast as an acceptance or rejection, as the case may be, of the Plan. Except as otherwise ordered by the Bankruptcy Court or with the consent of the Plan Proponents, a claimant may not change its vote once a Ballot is submitted to the Balloting Agent;
- (b) any Ballot that is illegible or contains insufficient information to permit the identification of the claimant will not be counted;
- (c) any Ballot cast by a Person or Entity that does not hold a Claim in a Class that is entitled to vote to accept or reject the Plan will not be counted;
- (d) any Ballot timely received that is cast in a manner that indicates neither acceptance nor rejection of this Plan or that indicates both acceptance and rejection of this Plan (including simultaneous duplicative Ballots voted inconsistently) will not be counted;
- (e) any Ballot received by the Balloting Agent after the Voting Deadline will not be counted, unless the Plan Proponents agree in writing to an extension of such deadline;
- (f) any Ballot not bearing an original signature will not be counted (for the avoidance of doubt, the electronic signature on a Ballot submitted and signed

electronically by using the electronic balloting service established by the Balloting Agent shall constitute an original signature); and

- (g) any Ballot received by the Balloting Agent by facsimile, e-mail or other electronic communication will not be counted unless agreed to by the Plan Proponents in their discretion, provided however that a Ballot may be submitted electronically by using the electronic balloting service established by the Balloting Agent.

46. The Plan Proponents further propose that, subject to any contrary order of the Court and except as otherwise set forth herein, they may waive any defects or irregularities as to any particular Ballot at any time, either before or after the Voting Deadline, and any such waivers shall be documented in the vote tabulation certification prepared by the Balloting Agent.

47. The Plan Proponents submit that the proposed Tabulation Rules and other related vote tabulation procedures set forth above will establish a fair and equitable voting process and, therefore, should be approved.

III. Combined Hearing

a. The Combined Hearing and Notice Thereof

48. Bankruptcy Rule 3017(c) provides that “[o]n or before approval of the disclosure statement, the court shall fix a time within which the holders of claims and equity interests may accept or reject the plan and may fix a date for the hearing on confirmation.” Fed. R. Bankr. P. 3017(c). In accordance with Local Rule 3017-2(f), the Plan Proponents request that the Combined Hearing be scheduled on the later of (i) 10 days after the Supplemental Bar Date or (ii) 45 days after entry of the Interim Approval and Procedures Order, or as soon as possible thereafter. The Plan Proponents also propose that the Combined Hearing may be adjourned or continued from time to time by the Court or the Plan Proponents without further notice other than adjournments announced in open Court or as indicated in any notice of agenda of matters scheduled for hearing filed with the Court. The proposed date for the Combined Hearing is in compliance with the

Bankruptcy Rules and the Local Rules and will enable the Plan Proponents to pursue confirmation of the Plan in a timely fashion.

49. The Plan Proponents propose to serve (i) all known parties in interest, (ii) all parties who have filed a notice of appearance pursuant to Bankruptcy Rule 2002, (iii) all parties whose rights will be affected by the Plan, (iv) the U.S. Trustee, (v) state and local taxing authorities for jurisdictions in which the Debtors conduct business, and (vi) the Internal Revenue Service¹⁰ a copy of the Combined Hearing Notice, a form of which is attached hereto as **Exhibit C**, setting forth: (i) the Voting Deadline, (ii) the Plan Confirmation Objection Deadline, (iii) procedures for filing objections and responses to the final approval of the adequacy of the Disclosure Statement or to confirmation of the Plan, and (iv) the time, date, and place for the Combined Hearing.

b. Objection Procedures

50. In accordance with Local Rule 3017-2(f), the Plan Proponents propose that the Plan Confirmation Objection Deadline be set for **4:00 p.m. (Eastern Time) on the date that is 7 days prior to the Combined Hearing**. Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules, must set forth the name of the objector, the nature and amount of Claims or Interests held or asserted by the objector against the Debtors, the basis for the objection and the specific grounds of the objection, and must be filed with the Bankruptcy Court, with a copy to chambers, together with proof of service thereof, and served by no later than the Plan Confirmation Objection Deadline upon: (i) Counsel to the Debtors: Cole Schotz, P.C., 500 Delaware Avenue, Suite 1410, Wilmington, DE 19801, Attn: Justin R. Alberto and Norman L. Pernick (jalberto@coleschotz.com, npernick@coleschotz.com); (ii) Counsel to the

¹⁰ The Debtors shall not be required to serve the Combined Hearing Notice on any party previously served for whom the Debtors or the Balloting Agent received returned mail, with no forwarding address.

DIP Lender: Brown Rudnick LLP, 7 Times Square, New York, NY 10036, Attn: Bennett S. Silverberg and Sharon I. Dwoskin (bsilverberg@brownrudnick.com, sdwoskin@brownrudnick.com); (iii) Counsel to the Committee: BakerHostetler LLP, 200 S. Orange Avenue, Suite 2300, Orlando, FL 32801, Attn: Andrew V. Layden and Elizabeth A. Green (alayden@bakerlaw.com, egreen@bakerlaw.com), and Morris James LLP, 500 Delaware Avenue, Suite 1500, Wilmington, DE 19801, Attn: Brya M. Keilson and Eric J. Monzo (bkeilson@morrisjames.com, emonzo@morrisjames.com); (iv) the Office of the United States Trustee for Region 3, J. Caleb Boggs Federal Building, 844 N. King Street, Room 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Benjamin A. Hackman (benjamin.a.hackman@usdoj.gov); and (v) such other parties as the Bankruptcy Court may order. The Plan Proponents submit that if there are objections, it will assist the Court and may expedite the Combined Hearing if the Plan Proponents are given an opportunity to reply to any such objections. Accordingly, the Plan Proponents request authorization to file and serve replies or an omnibus reply to any such objections no later than 12:00 p.m. (ET) two (2) business days prior to the Combined Hearing.

51. The Plan Confirmation Objection Deadline and reply schedule proposed will afford the Plan Proponents and other parties in interest sufficient time to consider the objections and file any replies, while leaving the Court sufficient time to consider any such objections and replies before the Combined Hearing.

52. The Plan Proponents respectfully request that the Court approve these procedures for filing objections to final approval of the adequacy of the Disclosure Statement and confirmation of the Plan and replies thereto pursuant to Bankruptcy Rules 2002, 3017, and 3020 and Local Rule 3017-2.

IV. The Debtors Request the Court Set the Combined Hearing as the Hearing for Estimating the Vehicle Claims Reserve for Vehicle Claims Arising from October 1, 2021 through the Effective Date

53. As part of a process to efficiently determine, reconcile, and treat Vehicle Claims, the proposed Plan would establish a “Vehicle Claims Reserve.” “Vehicle Claims,” as fully defined in the Plan, are claims held by tolling authorities and governmental units and arising from (i) road tolls, (ii) moving or parking violations or citations, (iii) towing services, or (iv) state vehicle registrations related to the Debtors’ former fleet of rental cars.

54. By the end of June 2020, a little more than a month after the Petition Date, the Debtors had ceased substantially all operations and entered into Court-approved agreements pursuant to which the Debtors surrendered their vehicle fleet. Well over a year later, however, the Debtors continue to receive mail from various entities asserting Vehicle Claims.

55. On September 21, 2020, the Court entered an order establishing an initial bar date for all post-petition claims, including Vehicle Claims, incurred through September 30, 2020. [Docket No. 497] Contemporaneously with the Motion, the Debtors filed the *Debtors’ Motion for Entry of an Order (I) Establishing a Supplemental Vehicle Claims Bar Date, (II) Approving The Form, Manner, and Sufficiency of Notice Thereof, and (III) Approving Procedures Regarding Objections to Vehicle Claims* (the “Supplemental Bar Date Motion”), which seeks to establish a Supplemental Bar Date for Vehicle Claims incurred through September 30, 2021.

56. The proposed “Vehicle Claims Reserve” would reserve funds for Vehicle Claims that (i) arise from October 1, 2021 through the Effective Date and (ii) are allowed as Administrative Expense Claims. The Plan would also provide a further bar date to assert such claims.

a. The Standards for Estimation

57. Section 502(c) of the Bankruptcy Code allows for estimation of “any contingent or unliquidated claim.” 11 U.S.C. § 502(c) (emphasis added). The purpose of this section is “to avoid undue delay in the administration of the case.” *In re Porter*, 50 B.R. 510, 517 (Bankr. E.D. Va. 1985); *In re Curtis*, 40 B.R. 795, 801 n.7 (Bankr. D. Utah 1984) (“The language of Section 502(c) is mandatory, not permissive, and imposes upon the court an affirmative duty to estimate any unliquidated claim where the actual liquidation of the claim would unduly delay closing of the case.”). As the Bankruptcy Code does not prescribe a method to estimate a claim, the process is “committed to the reasonable discretion of the court, which should employ whatever method is best suited to the circumstances of the case.” *In re Ralph Lauren Womenswear, Inc.*, 197 B.R. 771, 775 (Bankr. S.D.N.Y. 1996). Estimation for purposes of establishing a funded reserve, and ensuring plan feasibility, is appropriate in many circumstances, including for administrative expenses. *See, e.g., In re Chemtura Corp.*, 448 B.R. 635, 649 n.45 (Bankr. S.D.N.Y. 2011) (establishing a claim reserve for disputed claims and noting that “[r]eserves are frequently established to permit distributions to creditors and other stakeholders with undisputed claims and interests, to avoid prejudice to them resulting from having to wait for distributions that otherwise could be materially delayed by residual litigation on the disputed claims, or by needs to hold back value in reserve that could far exceed the likely distributions on the contested claims.”); *In re Spansion, Inc.*, 426 B.R. 114, 146 (Bankr. D. Del. 2010); *In re Adelpia Business Solutions, Inc.*, 341 B.R. 415, 423 (Bankr. S.D.N.Y. 2003). Moreover, courts have broad discretion to estimate groups of claims instead of estimating claims on an individual basis. *In re Cont’l Airlines, Inc.*, 57 B.R. 842, 844–45 (Bankr. S.D. Tex. 1985); *In re A.H. Robins Co., Inc.*, 88 B.R. 742, 746–47 (E.D. Va. 1988).

b. Estimation for Reserve Purposes is Appropriate for Vehicle Claims Arising After the Supplemental Claims Period

58. Under the circumstances, the Debtors submit that \$5,000 is a sufficient reserve for Vehicle Claims that may arise during what will likely be a short period between the end of the Supplemental Bar Date (proposed as September 30, 2021) and the Effective Date. First, the Debtors submit that no Vehicle Claim that arises after the Supplemental Bar Date will be entitled to treatment as an Administrative Expense Claim because holders of such claims will likely be unable to meet the requirements of section 503(b) of the Bankruptcy Code. Second, based on the number of new Vehicle Claims received over the last two months, the Debtors anticipate that during the period between the Supplemental Bar Date and the Effective Date they will receive a minimal number of additional Vehicle Claims.

59. The Debtors respectfully request that the Court set the Combined Hearing as the hearing to determine the appropriateness of the Vehicle Claim Reserve.

NOTICE

60. Notice of this Motion has been provided to (i) the Office of the U.S. Trustee, (ii) Internal Revenue Service; (iii) the Securities and Exchange Commission; (iv) the United States Attorney for the District of Delaware; and (v) all parties that have requested notice pursuant to Bankruptcy Rule 2002. The Plan Proponents submit that, under the circumstances, no other or further notice is required.

CONCLUSION

WHEREFORE, the Plan Proponents respectfully request that this Court enter the Interim Approval and Procedures Order, attached hereto as **Exhibit A** and grant such other and further relief as the Court deems just and proper.

Dated: September 24, 2021

COLE SCHOTZ, P.C.

/s/ Andrew J. Roth-Moore

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