

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:

Chapter 11

CARDINAL HOMES, INC.,

Case No. 19-36275-KRH

Debtor.<sup>1</sup>

**DEBTOR'S APPLICATION TO RETAIN AND EMPLOY  
AMERICAN LEGAL CLAIM SERVICES, LLC AS NOTICING, CLAIMS  
AND BALLOTING AGENT TO THE DEBTOR AND DEBTOR IN POSSESSION**

The above-captioned debtor and debtor in possession (collectively, the “Debtor”) hereby submits this application (this “Application”) for entry of an order, the proposed form of which is attached hereto as Exhibit A (the “Order”), pursuant to 28 U.S.C. § 156(c) authorizing and approving the retention of, and appointing, American Legal Claim Services, LLC (“ALCS”) as noticing, claims and balloting agent in this case *nunc pro tunc* to the Petition Date. In support of this Application, the Debtor relies on the *Declaration of Jeffrey Pirrung in Support of Debtor's Application to Retain and Employ American Legal Claim Services, LLC as Noticing, Claims and*

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<sup>1</sup> The Debtor in this Chapter 11 Case and the last four digits of its taxpayer identification number are as follows: Cardinal Homes, Inc. (9112). The Debtor's headquarters are located at 525 Barnesville Highway, Wylliesburg, VA 23976.

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*Proposed Counsel for the Debtor and  
Debtor in Possession*

*Balloting Agent to the Debtor and Debtor in Possession* (the “Pirrung Declaration”), attached hereto as Exhibit B. In further support of this Application, the Debtor represents as follows:

#### JURISDICTION

1. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief sought herein are 28 U.S.C. § 156(c), sections 363 and 503(b)(1)(A) of the Bankruptcy Code and Bankruptcy Rule 2002.

#### BACKGROUND

3. On the date hereof (the “Petition Date”), the Debtor commenced this case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

4. The factual background relating to the Debtor, including its current and historical business operations and the events precipitating its chapter 11 filings, is set forth in detail in the *Declaration of Bret A. Berneche, President and Chief Executive Officer of Cardinal Homes, Inc. In Support of Chapter 11 Petition and First Day Motions* (the “First Day Declaration”)<sup>2</sup> filed concurrently with this Application and incorporated herein by reference.

5. The Debtor is authorized to continue operating its business and managing its properties as a debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

6. No request has been made for the appointment of a trustee or an examiner in this case, and no official committee has yet been appointed by the Office of the United States Trustee.

RELIEF REQUESTED

7. By this Application, the Debtor seeks entry of an order authorizing and approving the retention of and appointment ALCS, *nunc pro tunc*, to the Petition Date, as noticing, claims and balloting agent in this case (the “Claims Agent”) for the Debtor to, among other things: (i) serve as the Court’s notice agent to mail certain notices to the estate’s creditors and parties-in-interest, (ii) provide computerized claims, claims objections and balloting database services, and (iii) provide expertise, consultation and assistance with claim and ballot processing and with other administrative information related to the Debtor’s bankruptcy case. The Debtor believes it is in the best interests of its estate and creditors to retain ALCS as Claims Agent.

8. The Debtor estimates there will be more than 1000 parties who require notice of various matters in this case, and in particular, the deadline for filing proofs of claim.

9. Pursuant to 28 U.S.C. § 156(c), the Court is authorized to utilize facilities other than the Office of the Clerk of the Bankruptcy Court (the “Clerk”) for the administration of bankruptcy cases, including such matters as giving notice of hearings and orders filed in this chapter 11 case, the meeting of creditors pursuant to section 341 of the Bankruptcy Code, claims bar dates and providing record keeping and claims docketing assistance.

10. Accordingly, the Debtor seeks the entry of an order retaining and appointing ALCS as the agent for the Clerk and as custodian of official court records and to perform such other services as may be required by the Debtor as described below. Additionally, the Debtor seeks authorization to compensate ALCS for services rendered and to reimburse ALCS for expenses

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration.

incurred without further order of this Court upon the Debtor's receipt of reasonably detailed statements of fees and expenses.

11. ALCS is a data processing firm that specializes in chapter 11 administration, consulting, and analysis, including noticing, claims processing and other administrative tasks in Chapter 11 Cases. ALCS has assisted and advised numerous chapter 11 debtors in connection with noticing and claims administration.

12. Indeed, ALCS has acted as the official claims, noticing and balloting agent in many large bankruptcy cases in districts nationwide. *See, e.g., In re Think Finance, LLC*, Case No. 17-33964 (HDH) (Bankr. N.D. Tx. 2017); *In re Beaulieu Group, LLC*, Case No. 17-41677 (MGD) (Bankr. N.D. Ga. 2017); *In re Noble Environmental Power, LLC*, Case No. 16-12055 (BLS) (Bankr. D. Del. 2016); *In re Life Care St. Johns, Inc.*, Case No. 3:16-bk-1347 (JAF) (Bankr. M.D. Fla. 2016) *In re Santa Fe Gold Corporation*, Case No. 15-11761 (MFW) (Bankr. D. Del. 2015); *In re Health Diagnostic Laboratories, Inc.*, Case No. 15-32919 (KRH) (Bankr. E.D. Va. 2015); *In re Xinergy Ltd.*, Case No. 15-70444 (PMB) (Bankr. W.D. Va. 2015); *In re MacKeyser Holdings, LLC*, Case No. 14-11550 (CSS) (Bankr. D. Del. 2014); *In re Refco Public Commodity Pool, L.P.*, Case No. 14-11216 (BLS) (Bankr. D. Del. 2014); *In re: Dominion Club, L.C.*, Case No. 11-30187 (KRH) (Bankr. E.D. Va. 2011); *In re The Glebe Inc.*, Case No. 10-71553 (RWK) (Bankr. W.D. Va. 2010); *In re BigM, Inc.*, Case No. 13-10233 (MBK) (Bankr. D.N.J. 2013); *In re Journal Register Company*, Case No. 12-13774 (SMB) (Bankr. S.D.N.Y. 2012); *In re Raser Technologies, Inc.*, Case No. 11-11315 (KJC) (Bankr. D. Del. 2011); *In re Alabama Aircraft Industries, Inc.*, Case No. 11-10452 (LSS) (Bankr. D. Del. 2011); *In re RoomStore, Inc.*, Case No. 11-37790 (KLP)

(Bankr. E.D. Va. 2011); *In re Qimonda Richmond, LLC*, Case No. 09-10589 (MFW) (Bankr. D. Del. 2009).

13. By appointing ALCS as the Claims Agent in this Chapter 11 case, creditors of the Debtor's estate will benefit from the ALCS consulting staff's significant experience in chapter 11 bankruptcy administration and the efficient and cost-effective methods that the ALCS consulting staff has developed over the past decade.

SERVICES TO BE PROVIDED

14. ALCS, at the request of the Debtor or the Clerk's office, will provide the following services as the Claims Agent:

- (a) Prepare and serve required notices in this Chapter 11 case, including:
  - (i) notice of the commencement of this Chapter 11 case and the initial meeting of creditors under section 341(a) of the Bankruptcy Code;
  - (ii) notice of the claims bar date;
  - (iii) notice of objection to claims;
  - (iv) notice of any hearings on a motion to establish bidding procedures and approve the sale of substantially all assets of the Debtor; and
  - (v) other miscellaneous notices to any entities, as the Debtor or the Court may deem necessary or appropriate for an orderly administration of this Chapter 11 case;
- (b) After the mailing of a particular notice, file with the Clerk's office a certificate or affidavit of service that includes a copy of the notice involved, a list of persons to whom the notice was mailed and the date and manner of mailing;
- (c) Maintain copies of all proofs of claim filed;

(d) Maintain an official claims register, including, among other things, the following information for each proof of claim;

- (i) the name and address of the claimant and any agent thereof, if the proof of claim was filed by an agent;
- (ii) the date received;
- (iii) claim number assigned; and
- (iii) the asserted amount and classification of the claim;

(e) Maintain an up-to-date mailing list for all entities that have filed a proof of claim or notice of appearance, which list shall be available upon request of a party in interest or the Clerk's office;

(f) Provide access to the public for examination of copies of the proofs of claim without charge during regular business hours;

(g) Record all transfers of claims pursuant to Bankruptcy Rule 3001(e) and provide notice of such transfers as required by Bankruptcy Rule 3001(e);

(h) Provide balloting services in connection with the solicitation process for any chapter 11 plan for which a disclosure statement has been approved by the Court; and

(i) Provide such other claims processing, noticing and related administrative services as may be requested from time to time by the Debtor.

15. The Debtor respectfully submits that ALCS will be responsive to the following constituencies, including without limitation the Court, the Clerk's office and the Debtor's attorney; that ALCS acknowledges that it will perform its duties when retained in a case regardless of

payment subject to its right to seek appropriate relief from the Court to withdraw or for other redress.

16. Although the Debtor does not propose to retain ALCS under section 327 of the Bankruptcy Code, the Pirrung Declaration represents that ALCS does not, by reason of any direct or indirect relationship to, connection with or interest in the Debtor, hold or represent any interest adverse to the Debtor, its estate or any class of creditors with respect to the matters upon which it is to be engaged. Based upon the Pirrung Declaration, ALCS is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code.

17. ALCS’s compensation is set forth in the Services Agreement attached hereto as Exhibit C. The Debtor respectfully submits that the compensation provided for in the Services Agreement is reasonable in light of the services to be performed by ALCS as Claims Agent. Furthermore, the Debtor requests authorization to compensate ALCS for the reasonable fees and expenses incurred in connection with services rendered upon the submission of invoices by ALCS summarizing in reasonable detail the services for which compensation is sought without further order of the Court. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the Debtor hereby requests that the fees to be charged by the Claims Agent, together with its necessary and actual expenses, be allowed as administrative expenses of the Debtor’s estate.

18. As set forth in the Services Agreement, ALCS has not required the payment of a retainer. There are no amounts owed to ALCS as of the Petition Date.

#### NOTICE

19. Notice of this Motion will be given to: (i) the Office of the United States Trustee; (ii) the Office of the United States Attorney for the Eastern District of Virginia, (iii) Internal Revenue Service, (iv) counsel for DIP Lender; (v) the Debtor’s twenty (20) largest unsecured

creditors; (vi) the Debtor's pre-petition secured lenders and its counsel, if known; (vii) all parties that have filed a financing statement asserting a lien in any of the Debtor's assets; and (viii) any party that has filed a request for notice with the Court. The Debtor submits that, under the circumstances, no other or further notice of the Motion is required.

NO PRIOR REQUEST

20. No prior request for the relief sought in this Application has been made to this Court or any other court.

WHEREFORE, the Debtor respectfully requests entry of an order, pursuant to 28 U.S.C. § 156(c), substantially in the form attached to this Application, (i) authorizing and approving the retention and employment of ALCS as Claims Agent for the Clerk, (ii) authorizing and approving the retention of ALCS by the Debtor to perform noticing, claims, balloting and other services as may be required by the Debtor in accordance with this Application, and (iii) granting such other and further relief it deems just and proper.

Dated: December 2, 2019



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Bret A. Berneche, President and CEO of  
Cardinal Homes, Inc.



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

In re:

Chapter 11

CARDINAL HOMES, INC.,

Case No. 19-36275-KRH

Debtor.<sup>1</sup>

**ORDER AUTHORIZING THE DEBTOR TO RETAIN AND EMPLOY  
AMERICAN LEGAL CLAIMS SERVICES, LLC AS NOTICING, CLAIMS AND  
BALLOTING AGENT TO THE DEBTOR AND DEBTOR IN POSSESSION**

This matter came before the Court upon the *Debtor's Application to Retain and Employ American Legal Claims Services, LLC as Noticing, Claims and Balloting Agent to the Debtor and Debtor in Possession* (the "Application").<sup>2</sup> The Court having reviewed (i) the Application and (ii) *Declaration of Jeffrey Pirrung in Support of Debtor's Application to Retain and Employ American Legal Claim Services, LLC as Noticing, Claims and Balloting Agent to the Debtor and Debtor in Possession* (the "Pirrung Declaration"), attached to the Application as Exhibit B; and the Court being satisfied, based on the representations made in the Application, and the Pirrung Declaration that ALCS does not hold or represent any interest adverse to the Debtor or the

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<sup>1</sup> The Debtor in this Chapter 11 Case and the last four digits of its taxpayer identification number are as follows: Cardinal Homes, Inc. (9112). The Debtor's headquarters are located at 525 Barnesville Highway, Wylliesburg, VA 23976.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings set forth in the Application.

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*Proposed Counsel for the Debtor and  
Debtor in Possession*

the Debtor's estate with respect to the matters upon which it is to be engaged, and is disinterested as that term is defined under section 101(14) of the Bankruptcy Code, as modified by section 1107(a) of the Bankruptcy Code, and that the employment of ALCS is in the best interests of the Debtor and the Debtor's estate; and it appearing that the Court has jurisdiction to consider the Application; and it appearing that due notice of the Application has been given and no further notice need be given; and upon the proceedings before the Court; and after due diligence and good and sufficient cause appearing; it is

ORDERED that the Application is granted; and it is further

ORDERED that the Debtor is hereby authorized to retain and employ ALCS as Claims Agent in this chapter 11 case, effective *nunc pro tunc* to the Petition Date, in accordance with the Services Agreement attached to the Application as Exhibit C for the purposes set forth in the Application; and it is further

ORDERED that the terms of the Services Agreement are hereby approved: and it is further

ORDERED that pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of ALCS incurred pursuant to the Services Agreement are to be treated as an administrative expense of the Debtor's estate; and shall be paid by the Debtor in the ordinary course of business after the submission of an invoice in reasonable detail describing the basis for the fees and expenses required to be paid thereto; and it is further

ORDERED that the Debtor and ALCS are authorized and empowered to take all actions necessary to implement the relief granted in this Order; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: \_\_\_\_\_

UNITED STATES BANKRUPTCY JUDGE

Entered on Docket \_\_\_\_\_

WE ASK FOR THIS:

/s/ Michael E. Hastings  
Michael E. Hastings (Virginia Bar No. 36090)  
Brandy M. Rapp (Virginia Bar No. 71385)  
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*Proposed Counsel for the Debtor and Debtor in Possession*

Local Rule 9022-1(C) Certification

The foregoing Order was endorsed by and/or served upon all necessary parties pursuant to Local Rule 9022-1(C).

/s/ Michael E. Hastings  
Michael E. Hastings

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

In re:

Chapter 11

CARDINAL HOMES, INC.,

Case No. 19-36275-KRH

Debtor.

**DECLARATION OF JEFFREY PIRRUNG IN SUPPORT OF  
THE DEBTOR'S APPLICATION TO RETAIN AND EMPLOY  
AMERICAN LEGAL CLAIM SERVICES, LLC AS NOTICING, CLAIMS  
AND BALLOTING AGENT TO THE DEBTOR AND DEBTOR IN POSSESSION**

I, Jeffrey Pirrung, being duly sworn, state the following under the penalty of perjury:

1. My name is Jeffrey Pirrung. I am over the age of 18. I am the Managing Director of American Legal Claims Services, LLC ("ALCS"). I am qualified and authorized to make this declaration on behalf of ALCS in support of the *Debtor's Application to Retain and Employ American Legal Claim Services, LLC as Noticing, Claims and Balloting Agent to the Debtor and Debtor in Possession* (the "Application").

2. As agent and custodian of the Court records pursuant to 28 U.S.C. § 156(c), ALCS will perform, at the request of the Office of the Clerk of the Court (the "Clerk's Office"), the notice and claims related services specified in the Application and the Services Agreement. In addition, at the Debtor's request, ALCS will perform such other noticing, claims, administrative, technical and support services specified in the Application and the Services Agreement.

3. ALCS is a data processing firm that specializes in chapter 11 administration, consulting, and analysis, including noticing, claims processing and other administrative tasks in Chapter 11 Cases. ALCS has assisted and advised numerous chapter 11 debtors in connection with noticing and claims administration.

4. Indeed, ALCS has acted as the official claims, noticing and balloting agent in many large bankruptcy cases in districts nationwide. *See, e.g., In re Think Finance, LLC*, Case No. 17-33964 (HDH) (Bankr. N.D. Tx. 2017); *In re Beaulieu Group, LLC*, Case No. 17-41677 (MGD) (Bankr. N.D. Ga. 2017); *In re Noble Environmental Power, LLC*, Case No. 16-12055 (BLS) (Bankr. D. Del. 2016); *In re Life Care St. Johns, Inc.*, Case No. 3:16-bk-1347 (JAF) (Bankr. M.D. Fla. 2016); *In re Santa Fe Gold Corporation*, Case No. 15-11761 (MFW) (Bankr. D. Del. 2015); *In re Health Diagnostic Laboratories, Inc.*, Case No. 15-32919 (KRH) (Bankr. E.D. Va. 2015); *In re Xinergy Ltd.*, Case No. 15-70444 (PMB) (Bankr. W.D. Va. 2015); *In re MacKeyser Holdings, LLC*, Case No. 14-11550 (CSS) (Bankr. D. Del. 2014); *In re Refco Public Commodity Pool, L.P.*, Case No. 14-11216 (BLS) (Bankr. D. Del. 2014); *In re: Dominion Club, L.C.*, Case No. 11-30187 (KRH) (Bankr. E.D. Va. 2011); *In re The Glebe Inc.*, Case No. 10-71553 (RWK) (Bankr. W.D. Va. 2010); *In re BigM, Inc.*, Case No. 13-10233 (MBK) (Bankr. D.N.J. 2013); *In re Journal Register Company*, Case No. 12-13774 (SMB) (Bankr. S.D.N.Y. 2012); *In re Raser Technologies, Inc.*, Case No. 11-11315 (KJC) (Bankr. D. Del. 2011); *In re Alabama Aircraft Industries, Inc.*, Case No. 11-10452 (LSS) (Bankr. D. Del. 2011); *In re RoomStore, Inc.*, Case No. 11-37790 (KLP) (Bankr. E.D. Va. 2011); *In re Qimonda Richmond, LLC*, Case No. 09-10589 (MFW) (Bankr. D. Del. 2009).

5. The services ALCS proposes to render as claims and noticing agent are described in the Application and set forth in the Services Agreement, which is attached as **Exhibit C** to the Application.

6. Subject to the Court's approval, in performing the services of claims and noticing agent, ALCS will charge the Debtor the rates set forth in the Services Agreement.

7. ALCS represents, among other things, that:

- (a) ALCS is not a creditor of the Debtor as of the Petition Date.
- (b) It will not consider itself employed by the United States government and shall not seek any compensation from the United States government in its capacity as claims and noticing agent;
- (c) By accepting employment in this bankruptcy case, ALCS waives any right to receive compensation from the United States government, with respect to these cases;
- (d) In its capacity as claims and noticing agent, ALCS may be an agent of the United States Bankruptcy Court and may act on behalf of the United States Bankruptcy Court to the extent prescribed by the Bankruptcy Code; and
- (e) ALCS will not employ any past or present employees of the Debtor in connection with its work as claims and noticing Agent in these Chapter 11 cases.

8. Although, pursuant to the Application, the Debtor does not propose to retain ALCS under section 327 of the Bankruptcy Code, to the best of my knowledge, neither ALCS, nor any employee thereof, has any materially adverse connection to the Debtor, its creditors or other relevant parties. ALCS may have relationships with certain of the Debtor's creditors as vendors or in connection with cases in which ALCS serves or has served in a neutral capacity as the claims and noticing agent for another chapter 11 debtor. Such relationships are, to the best of my knowledge, completely unrelated to these chapter 11 cases.

9. In addition, ALCS personnel may have relationships with some of the Debtor's creditors or other parties in interest. However, to the best of my knowledge, such relationships, to the extent they exist, are of a personal nature and completely unrelated to these chapter 11 cases. ALCS has and will continue to represent clients in matters unrelated to these chapter 11 cases.

10. ALCS also has had and will continue to have relationships in the ordinary course of its business with certain vendors, professionals and other parties in interest that may be involved

in the Debtor's case in matters unrelated to these cases. ALCS may also provide professional services to entities or persons that may be creditors or parties in interest in this chapter 11 case, which services do not directly relate to, or have any direct connection with, this chapter 11 case or the Debtor.

11. Should ALCS discover any new relevant facts or relationships bearing on the matters described herein during the period of its retention, ALCS will use reasonable efforts to file promptly a supplemental declaration.

12. Accordingly, to the best of my knowledge, neither ALCS, nor any employees thereof, represents any interest materially adverse to the Debtor's estate with respect to any matter upon which ALCS is to be engaged. Based on the foregoing, I believe that ALCS is a "disinterested person" as that term is defined in section 101(14) of the Bankruptcy Code.

13. ALCS will comply with all requests of the Clerk's Office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c).

14. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief.

Dated: December 2, 2019

/s/ Jeffrey Pirrung  
Jeffrey Pirrung, Managing Director  
American Legal Claims Services, LLC

## SERVICES AGREEMENT

This Services Agreement is entered into this 2nd day of December, 2019 (the “Effective Date”) between American Legal Claim Services, LLC, a Florida limited liability company, 8021 Philips Highway, STE 1, Jacksonville, FL 32256, hereinafter referred to as (“ALCS”), and Cardinal Homes, Inc., 525 Barnesville Highway, Wylliesburg, VA 23976, hereinafter referred to as (“Client”). ALCS shall mean ALCS, its servants, agents, employees, licensees, subsidiaries, affiliates and subcontractors of ALCS. “Agreement” shall mean this agreement in its entirety.

In consideration of the mutual promises contained in this Agreement, Client and ALCS agree as follows:

### I. SERVICES

ALCS agrees to provide the services set forth in the “Statement of Work” attached hereto as Exhibit A or any additional services requested by Client. The services to be rendered by ALCS shall commence on the date hereof and continue until either party exercises its rights of suspension or termination as set forth below:

### II. ACCESS TO ALCS DATABASE SYSTEM

#### A. Rights of Ownership

The parties understand that the software programs and other materials (including the name “ALCS”) furnished by ALCS pursuant to the Agreement and/or developed during the course of this Agreement by ALCS are the sole property of ALCS. The term “programs” shall include, without limitation, data processing programs, check printing programs, specifications, applications, routines, sub-routines, procedural manuals and documentation. Client further agrees that any ideas, concepts, know-how or techniques relating to the claims management software or ALCS’s performance of its services developed during the course of this Agreement by ALCS shall not be treated as “work made for hire” and shall be the exclusive property of ALCS.



### **B. Non-Exclusive License**

Pursuant to the terms and conditions of this Agreement, ALCS grants to Client a personal, non-exclusive, non-transferable license to use the Web Client Access version of ALCS's claims management software for access to the claims database. Client's license to use the ALCS software is limited to employees and/or contractors of Client under Client's authorization and control. Client's use of the ALCS software is limited solely to Client's own internal business use with respect to the current data which is the subject of the engagement.

Each authorized user shall access the ALCS software using a logon identifier and password. Client and each Authorized User shall be responsible for maintaining and protecting the user logon identifier and password. Client shall be solely responsible for informing ALCS in writing that a terminated Authorized User's access to the ALCS software is terminated.

### **III. CONFIDENTIALITY**

In order for ALCS to effectively provide services to the Client, it is necessary and desirable for the Client to disclose to ALCS confidential information relating to the Client's past, present or future business. Since it is difficult to separate confidential information from that which is not, ALCS agrees to regard all information gained as a result of services hereunder as confidential; provided, however, if any such information is publicly available, was already in ALCS's possession or known to it, or was rightfully acquired by ALCS from a third party, ALCS shall have no liability for any disclosure of such information.

ALCS further agrees to safeguard the Client's confidential information in a prudent business manner. Except as required in the performance of its duties under the Statement of Work attached hereto as Exhibit A, ALCS agrees to keep confidential and not to disclose to any ALCS employee or employees or any third party, without the express written authorization of Client, the confidential information received from Client. ALCS

agrees not to use the information received from Client for ALCS's own business or commercial purposes.

However, Client hereby agrees that ALCS shall not be liable beyond the limits provided in Section VII herein for damages or losses of any nature whatsoever arising out of the disclosure or use of any material supplied by Client to ALCS in the performance of this Agreement.

#### **IV. PRICES, CHARGES AND PAYMENT**

ALCS agrees to charge and Client agrees to pay ALCS for its services at the rates or prices as set forth in the "Fee Schedule" attached hereto as Exhibit B. ALCS will bill Client in quarter-hour increments for charges based on hourly rates.

Client agrees to pay ALCS for any reasonably incurred out-of-pocket expenses for long distance charges, postage, supplies, transportation, lodging, meals and related items. ALCS may, at its discretion, pre-bill for anticipated out-of-pocket expenses.

ALCS agrees to submit its invoice to Client on a monthly basis. Client agrees that the amounts invoiced are due and payable thirty (30) days after its receipt of the invoice or at such practicable time after proceeds of sale are made available for payment of Chapter 11 administration. If any payment is not made within such thirty (30) day period, interest will accrue, at the rate of 1.5% per month, on such past-due amount, commencing on the thirty-first (31<sup>st</sup>) day and continuing until the invoice is paid in full.

ALCS reserves the right to reasonably increase its prices, rates and charges annually on January 2<sup>nd</sup> following the second anniversary of this Agreement; provided, however, that any such increase is limited to 5%.

In addition to all charges for services and materials hereunder, Client shall pay to ALCS all taxes levied, however designated, that are applicable to the Agreement or are measured directly by payments made under it and are required to be collected by ALCS

or paid by ALCS to tax authorities. This provision includes, but is not limited to, sales, use and excise taxes, but does not include personal property taxes or taxes based on net income.

In addition to all other charges for services and materials hereunder, Client shall pay to ALCS any actual charges relating to, arising out of or as a result of any Client error or omission. Such charges shall include, but are not limited to, supplies, re-runs, and any additional administrative, systems development, data processing, clerical, over-time, or other charges billed at the then prevailing ALCS standard rates. ALCS can pre-bill the Client for anticipated costs if the majority of the amount to be billed is made up of out of pocket expense such as notice publication, excessive postage, etc.

## **V. WARRANTIES AND LIABILITIES**

Accuracy and adequacy of Client's information are the responsibility of Client. ALCS shall have no liability to Client for any act or inaction with respect to Client's written directions or in accordance with the terms of this Agreement, except for ALCS's willful misconduct or gross negligence ("Willful Misconduct-Gross Negligence Cause"). ALCS shall have no implied duties or obligations and shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth in this Agreement, a written direction or similar written notice, or order of the court. ALCS may rely upon any instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein which ALCS shall in good faith believe to be genuine, which is in the form of a written direction, similar written notice or order of the court.

ALCS shall not be liable for non-performance or delay of performance hereunder should such non-performance or delay arise out of causes beyond its reasonable control. Such causes may include, but are not limited to, acts of God or a public enemy, fire, electrical failure, strike, lockout, governmental order or regulation or any other cause, whether similar or dissimilar. For purposes of this Section V, "willful misconduct" shall mean an

act by ALCS, done, or omitted to be done, not in good faith and without reasonable belief that its action or inaction was in the best interest of the Client.

## **VI. SUSPENSION OF SERVICE AND TERMINATION**

This Agreement shall remain in force until such time as ALCS has fulfilled all of its duties under this Agreement, or upon express written notice from the Client, which notice shall be effective on receipt. Client's obligation to pay all charges which shall accrue up to and including said notification date shall survive any termination hereof. Within thirty (30) days after termination of this Agreement, ALCS shall deliver to Client copies of all requested records and reports (other than ALCS's confidential records and reports) concerning this Agreement.

If Client is in default under any term hereof and such default is not cured within thirty (30) days after ALCS notifies Client in writing of such default, then ALCS may terminate this Agreement. Client's obligation to pay all charges which shall accrue up to and including said termination shall survive any termination hereof.

Upon termination of this Agreement for any reason whatsoever, Client data files in the possession of ALCS shall, at the request of the Client, be returned to Client in the form of a diskette or other acceptable magnetic media; provided, however, that all amounts due and payable by Client pursuant to this Agreement shall be paid prior to such return.

ALCS shall store all returned mail, claims, correspondence and other case documents (collectively "Case Documents") until the last day of the month in which the services set forth herein have been completed and billing to the Client is no longer required. Prior to the cessation of services ALCS shall notify Client of the following options:

- (1) ALCS shall continue to store Case Documents at a monthly storage fee as set forth in ALCS's then current storage rates, payable in advance on a monthly basis. In the event Client does not pay ALCS the monthly storage fee for

more than 2 consecutive months, ALCS shall have the right to destroy Case Documents without further liability.

- (2) ALCS shall ship all Case Documents to Client, or its designee, at such address as directed by Client. All shipping costs and expenses incurred are to be paid by Client.
- (3) Upon direction by Client, ALCS shall arrange to destroy all Case Documents. All costs and expenses incurred for destruction of documents are to be paid by Client.

## VII. INDEMNIFICATION

With respect to performance of ALCS's duties pursuant to this Agreement, written directions or similar written notice, or order of the Court, Client shall, to the fullest extent permitted by law and to the extent provided herein, indemnify and hold harmless ALCS and each of its officers, directors, employees, attorneys, agents and affiliates (collectively referred to in this Agreement as the "Indemnified Party" or "Indemnified Parties" against any and all claims (whether or not valid), demands, suits, actions, proceedings (including any inquiry or investigation), losses, damages liabilities, costs, and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees) incurred by or asserted against any of the Indemnified Parties from and after the date of the Agreement, by any person, whether direct, indirect, or consequential, whether threatened or initiated, as a result of or arising from or in any way relating to the negotiation, preparation, execution, performance or failure of performance of the Agreement or any transactions contemplated herein, whether or not any such Indemnified Party is a party to any such suit, action, or proceeding, or the target of any such inquiry or investigation; provided, however, that the Indemnified Party shall not have the right to be indemnified hereunder for any liability finally determined by a court of competent jurisdiction, subject to no further appeal, to have resulted solely from the gross negligence or willful misconduct ("Gross Negligence-Willful Misconduct Clause") of such Indemnified Party. If any such action or claim shall be brought against any Indemnified Party, such Indemnified Party may, in its sole discretion, retain separate counsel (who may be selected by such Indemnified Party in its sole discretion) in any such action and to

participate in the defense thereof. Client shall be liable to pay the reasonable fees and expenses of counsel retained by the Indemnified Party pursuant to the preceding sentence, subject to the foregoing Gross Negligence-Willful Misconduct Clause. All such fees and expense payable by Client pursuant to the foregoing sentence shall be paid from time to time as incurred, both in advance of and after the final disposition of such claim or action. The obligations of Client under this Section VII shall survive any termination of this Agreement and the resignation or removal of ALCS. For purposes of this Section VII, “willful misconduct” shall mean an act by either Party, done, or omitted to be done, not in good faith and without reasonable belief that its action or inaction was in the best interest of the other Party.

#### **VIII. PAYMENT OF ATTORNEY’S FEES**

If, at any time during the course of this engagement, or thereafter as a result of this engagement, ALCS engages its own outside counsel for any reason related to this engagement, including, but not limited to 1) being named a witness in any matter related to this engagement; 2) receiving and/or responding to a subpoena of itself, or one of its vendors or related parties, for appearance, documents, deposition, or otherwise; or 3) responding to any official request which is related to this engagement and for which ALCS reasonably believes the assistance of outside counsel to be necessary, ALCS may engage its own counsel after giving notice to the Client of ALCS’ intent to hire counsel, and Client shall pay the resulting legal expenses directly to ALCS’ legal counsel within the time period required by the invoice from ALCS’ counsel.

#### **IX. BANK ACCOUNTS**

At the Client’s request, ALCS shall be authorized to establish accounts with financial institutions in the name of and as agent for the Client. To the extent certain financial products are provided to the Client pursuant to ALCS’s agreement with certain institutions, ALCS may receive compensation from such financial institution for the services ALCS provides pursuant to such agreement.

## **X. NOTICES**

Written notice to a party to this Agreement shall be deemed to have been given on the date of delivery when deposited in U.S. Mail, postage prepaid or sent by overnight courier service and addressed as follows:

**If to ALCS:**

**ATTN: Jeffrey Pirrung**  
**American Legal Claim Services, LLC**  
**8021 Philips Highway, STE 1**  
**Jacksonville, FL 32256**

**If to Client:**

**ATTN: Bret A. Berneche**  
**Cardinal Homes, Inc.**  
**525 Barnesville Highway**  
**Wylliesburg, VA 23976**

## **XI. GOVERNING LAW; VENUE; ATTORNEYS' FEES.**

This Agreement shall be construed in accordance with the laws of the State of Florida without respect to its principles of conflicts of laws. The exclusive venue for any action or proceeding arising under or relating to this Agreement shall be [the United States Bankruptcy Court for the Western District of Virginia while the Client's chapter 11 proceeding is ongoing and, upon termination of the chapter 11 proceeding,] Duval County, Florida. In the event there is any action or proceeding to enforce the terms of this Agreement, the prevailing party, in addition to any other remedy, shall be entitled to recover reasonable attorney's fees and paralegal fees and all other costs associated with any such action or proceeding, at all trial and appellate levels.

## **XII. SEVERABILITY**

To the extent any provision of this Agreement is prohibited by (or deemed invalid under) applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

### **XIII. ENTIRE AGREEMENT**

This Agreement constitutes the entire Agreement between the parties with respect to the services to be provided hereunder and incorporates all undertakings and representations relied upon in reaching such Agreement. This Agreement shall not be modified, amended, abridged, or otherwise varied except by written instrument duly executed by an authorized representative of Client and an officer of ALCS.

### **XIV. WAIVER**

No failure or delay on the part of either party in exercising any right or remedy with respect to a breach of this Agreement by the other party shall operate as a waiver thereof or of any prior or subsequent breach of this Agreement by the breaching party, nor shall the exercise of any such right or remedy preclude any other or future exercise thereof or exercise of any other right or remedy in connection with this Agreement. Any waiver must be in writing and signed by the waiving party.

### **XV. COUNTERPARTS**

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed to be an original instrument, but all such counterparts together shall constitute one and the same instrument.

### **XVI. ASSIGNMENT**

Neither party may assign this Agreement or any rights or duties under this Agreement without the prior written consent of the other. Any attempted assignment not in accordance with this Section XV shall be null and void.

### **XVII. BINDING EFFECT**

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal representatives, successors, and assigns.



### **XVIII. CONSTRUCTION**

Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular and the singular includes the plural. Wherever the context so requires, the masculine shall refer to the feminine, the feminine shall refer to the masculine, the masculine or the feminine shall refer to the neuter, and the neuter shall refer to the masculine or the feminine. The captions of the Agreement are for convenience and ease of reference only and in no way define, describe, extend, or limit the scope or intent of the Agreement or the intent of any of its provisions. In the event of any conflict between this Agreement and any schedules or exhibits attached to this Agreement, the terms of this Agreement shall control.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective as of the day and year first hereinabove written.

American Legal Claim Services, LLC


CLIENT: Cardinal Homes, Inc.

By: Jeffrey L. Pirrung

By: Bret A. Berneche

\_\_\_\_\_  
Title: Managing Director

Date:

  
\_\_\_\_\_  
Title: President and CEO  
Date: 12-2-19

- I. **Provide certain noticing, claims processing and balloting** administration services, including, without limitation:
- a. Prepare and serve required notices in this Chapter 11 case, Including:
    - i. Notice of commencement and the initial meeting of creditors under §341
    - ii. Notice of claims bar date
    - iii. Notices of objection to claims and objections to transfers of claims
    - iv. Notices of hearings
    - v. Notices of transfer of claims
    - vi. Documents related to sales
    - vii. Documents related to the Disclosure Statement of Plan of Reorganization if applicable
    - viii. Notice of Effective Date if applicable
    - ix. Such other notices as the Debtors or Court may deem necessary or appropriate for an orderly administration of this bankruptcy case.
  - b. Within five days after mailing of a particular notice, file with the Court a proof of service including a service list with the names and addresses of each party served and the manner of service.
  - c. Receive, examine, and maintain copies of all proofs of claim and proofs of interest filed in this bankruptcy case.
  - d. Maintain the official register of claims and interests by docketing all claims and interests in a claims database which includes at least:
    - i. the name and address of the claimant or interest holder and any agent thereof if applicable;
    - ii. the date the proof of claim or interest was received by ALC or the Court;
    - iii. the official number assigned to the proof of claim or interest;
    - iv. the asserted amount and classification of the claim.
  - e. Record all transfers of claim pursuant to Bankruptcy Rule 3001(e).
  - f. Revising the creditor matrix if necessary.
  - g. Record any order entered by the Court, which may affect a proof of claim or interest, in the claim register.
  - h. Monitor the Court's docket for any pleading related to a claim or interest and adjusting the claim register accordingly.
  - i. File a complete claim register with the Court as requested by the Clerk's office.
  - j. Maintain an up-to-date mailing list of all creditors and all entities who have filed proofs of claim or proofs of interest and/or requests for notices in the case and providing such list to the Court or any other requesting party within 48 hours.
  - k. Provide access to the public for examination of claims and the claims register during the hours of 9:00 a.m. and 4:30 p.m. prevailing Eastern Time, Monday through Friday at no charge.
  - l. Create and maintain an informational website.

- m. Forward all claims, an updated claims register and an updated mailing list to the Court within 10 days of an entry of an order converting the case to chapter 7 or within 30 days of entry of a final decree.
- n. Implement necessary security measures to ensure the completeness and integrity of the claims register.
- o. Comply with applicable federal, state, municipal and local statutes, ordinances, rules, regulations, orders, and other requirements.
- p. Provide temporary employees to assist in any aspect of employment requirements.
- q. Promptly comply with such further conditions and requirements as the Clerk's Office or the Court may at any time prescribe.
- r. Provide such other claims processing, noticing, and administrative services as may be requested from time to time by the Debtors.
- s. Assist with plan solicitation and balloting.
- t. Provide assistance relating to disbursements under the Debtors' plan.



**American Legal**  
Claim Services LLC

### Hourly Consulting Rates\*

<u>Position</u>	<u>Hourly Rate</u>
Clerical	\$ 45.00
Analyst	\$ 90.00
Consultant	\$140.00
SR Consultant	\$165.00

### Case Administration

<u>Function</u>	<u>Rate</u>
Case Database Creation & Setup	Waived
Creditor Database Use	\$.07/Record/Month (waived first 2 months)
Public Website(Case Specific) Hosting	\$100/ month
Imports	\$.10/Record
Manual Data Entry	Hourly Rates
Proof of Claim Entry	Hourly Rates
Reporting	Hourly Rates
Ballot Tabulation	Hourly Rates

### Noticing & Document Imaging Functions\*\*

<u>Function</u>	<u>Rate</u>
Setup	Waived
Printing/Copying non-personalized documents	\$.08/Side
Email Notices	Hourly Rates
Fax Service	Domestic-\$.10/ page ~ Foreign-(quoted as needed)
Acknowledgement Post Card	\$.10/Card
Merging Personalized Data into Documents	\$.02/Page Plus Setup at Hourly Rates
Folding and Inserting Machinable Notices That Fit Into #10 Business Envelopes	\$.10/Package(1-3 sheets)~ \$.25/Package (4-6 sheets)
Manual Inserting	Hourly Rates
Tape Binding	\$ .50/Booklet (in-line) ~ \$1.25 (off-line)
Electronic Imaging of Claims and Documents to Make Available On Line	\$ .10/Image
CD-ROM Creation(batches >5)	Quote Prior to Production
Envelopes	\$.07/#10 Bus. Envelope ~ \$.35/9x13 Bus. Envelope
Notice Publication***	Quote Provided Prior To Publishing



*Schedule of Fees and Expenses-page 2*

**Call Center Services**

<u>Function</u>	<u>Rate</u>
Voice Mail For Creditor Inquiries	Waived
Live Operator	Hourly Rates
Maintenance	Waived
Call Center Management and Oversight	Hourly Rates

**Ancillary Functions and Expenses\*\*\*\***

<u>Function</u>	<u>Rate</u>
CD Creation (1-5)	\$15.00
Postage	US Postal Service Posted (non-discounted)First-Class Rates
Address Labels	\$.05/Label
Travel	Actual Costs
Fedex/UPS/Courier	Posted Rates
Travel via Personal Auto	\$.55/mile
Out of Pocket Expenses	Actual Costs

\*Rates apply to all services provided by American Legal Claim Services, as well as most outsourced services performed under ALCS direction and control. Rates also apply to any additional services performed that are not specifically covered as a line item in this fee schedule. Managing Director time, when necessary, is \$225 per hour.

\*\*American Legal Claim Services reserves the right to discount any project based on volume or any other qualification at their sole discretion. Time associated with managing print production and manual inserting will be charged at hourly rates.

\*\*\*Payment for publication of legal notices is required prior to ad submission deadline (as defined by agency or publication)

\*\*\*\*\$50 will be added to each invoice under \$1,500 and \$150 will be added to each invoice above \$1,500 as partial allocation of the incidental costs associated with the case administration such as telephone lines, Internet service, etc.