

## Debtor-in-Possession

business in Horry County, South Carolina.

**RELIEF REQUESTED**

4. This Application is made pursuant to 28 U.S.C. §§ 156(c), section 105(a) of the Bankruptcy Code, Local Bankruptcy Rule 2018-1 for an order appointing Claims and Noticing Agent to act as the claims and noticing agent in order to assume full responsibility for the distribution of notices and the maintenance, processing and docketing of proofs of claim filed in this Chapter 11 case. The Debtor's investigated and reviewed engagement proposals from at least two (2) other reputable claims and noticing agents with experience in Bankruptcy Courts throughout the country to ensure selection through a competitive process. Moreover, the Debtor submits, based on all engagement proposals obtained and reviewed, that Claims and Noticing Agent's rates are competitive and reasonable given Claims and Noticing Agent's quality of services and expertise. The terms of retention are set forth in the Engagement Agreement annexed hereto as Exhibit A ("Engagement Agreement"); provided, however, that Claims and Noticing Agent is seeking approval solely of the terms and provisions as set forth in this Application and the proposed order attached hereto.

5. The Debtor has filed its schedules of assets and liabilities and believes that there will be in excess of five (500) hundred entities to be noticed. In view of the number of anticipated claimants and the complexity of the Debtor's business, the Debtor submits that the appointment of a claims and noticing agent is both necessary and in the best interests of both the Debtor's estate and its creditors.

6. Claims and Noticing Agent has acted as the claims and noticing agent in numerous cases of comparable size throughout the country, including cases filed in this Circuit as

indicated in documents described in more detail herein.

7. By appointing Claims and Noticing Agent as the claims and noticing agent in this Chapter 11 case, the distribution of notices and the processing of claims will be expedited, and the Clerk's office will be relieved of the administrative burden of processing what may be an overwhelming number of claims. In support of this Application, the Debtor submits the Claims and Noticing Agent's affidavit attached hereto as Exhibit B ("Claims and Noticing Agent Affidavit").

8. This Application pertains only to the work to be performed by Claims and Noticing Agent under the Clerk's delegation of duties permitted by 28 U.S.C. § 156(c) and Local Bankruptcy Rule 2081-1, and any work to be performed by Claims and Noticing Agent outside of this scope is not covered by this Application or by any Order granting approval hereof. Specifically, Claims and Noticing Agent will perform the following tasks in its role as claims and noticing agent (the "Claims and Noticing Services"), as well as all quality control relating thereto:

- (a) Prepare and serve required notices and documents in the Chapter 11 case in accordance with the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") in the form and manner directed by the Debtor and/or the Court, including (i) notice of the commencement of the Chapter 11 case and the initial meeting of creditors under Bankruptcy Code § 341(a), (ii) notice of any claims bar date, (iii) notices of transfers of claims, (iv) notices of objections to claims and objections to transfers of claims, (v) notices of any hearings on a

disclosure statement and confirmation of the Debtor' plan of reorganization, including under Bankruptcy Rule 3017(d), (vi) notice of the effective date of any plan and (vii) all other notices, orders, pleadings, publications and other documents as the Debtor or Court may deem necessary or appropriate for an orderly administration of the chapter 11 cases.

- (b) Maintain an official copy of the Debtor's schedules of assets and liabilities and statement of financial affairs (collectively, "Schedules"), listing the Debtor's known creditors and the amounts owed thereto;
- (c) Maintain (i) a list of all potential creditors, equity holders and other parties-in-interest; and (ii) a "core" mailing list consisting of all parties described in sections 2002(i), (j) and (k) and those parties that have filed a notice of appearance pursuant to Bankruptcy Rule 9010; update said lists and make said lists available upon request by a party-in-interest or the Clerk;
- (d) Furnish a notice to all potential creditors of the last date for the filing of proofs of claim and a form for the filing of a proof of claim, after such notice and form are approved by this Court, and notify said potential creditors of the existence, amount and classification of their respective claims as set forth in the Schedules, which may be effected by inclusion of such information (or the lack thereof, in cases where the Schedules

indicate no debt due to the subject party) on a customized proof of claim form provided to potential creditors;

- (e) Maintain a post office box or address for the purpose of receiving claims and returned mail, and process all mail received;
- (f) For *all* notices, motions, orders or other pleadings or documents served, prepare and file or caused to be filed with the Clerk an affidavit or certificate of service within seven (7) business days of service which includes (i) either a copy of the notice served or the docket numbers(s) and title(s) of the pleading(s) served, (ii) a list of persons to whom it was mailed (in alphabetical order) with their addresses, (iii) the manner of service, and (iv) the date served;
- (g) Process all proofs of claim received, including those received by the Clerk's Office, and check said processing for accuracy, and maintain the original proofs of claim in a secure area;
- (h) Maintain the official claims register for each Debtor (the "Claims Registers") on behalf of the Clerk; upon the Clerk's request, provide the Clerk with certified, duplicate unofficial Claims Registers; and specify in the Claims Registers the following information for each claim docketed:
  - (i) the claim number assigned, (ii) the date received, (iii) the name and address of the claimant and agent, if applicable, who filed the claim, (iv) the amount asserted, (v) the asserted classification(s) of the claim (*e.g.*, secured, unsecured, priority, *etc.*), and (vi) any disposition of the claim;

- (i) Implement necessary security measures to ensure the completeness and integrity of the Claims Registers and the safekeeping of the original claims;
- (j) Record all transfers of claims and provide any notices of such transfers as required by Bankruptcy Rule 3001(e);
- (k) Relocate, by messenger or overnight delivery, all of the court-filed proofs of claim to the offices of Claims and Noticing Agent, not less than weekly;
- (l) Upon completion of the docketing process for all claims received to date for each case, turn over to the Clerk copies of the claims register for the Clerk's review (upon the Clerk's request);
- (m) Monitor the Court's docket for all notices of appearance, address changes, and claims-related pleadings and orders filed and make necessary notations on and/or changes to the claims register;
- (n) Assist in the dissemination of information to the public and respond to requests for administrative information regarding the case as directed by the Debtor or the Court, including through the use of a case website and/or call center.
- (o) If the case is converted to Chapter 7, contact the Clerk's Office within three (3) days of the notice to Claims and Noticing Agent of entry of the order converting the case;
- (p) Thirty (30) days prior to the close of these cases, to the extent practicable, request that the Debtor submit to the Court a proposed Order dismissing

the Claims and Noticing Agent and terminating the services of such agent upon completion of its duties and responsibilities and upon the closing of these cases;

- (q) Within seven (7) days of notice to Claims and Noticing Agent of entry of an order closing the Chapter 11 cases, provide to the Court the final version of the claims register as of the date immediately before the close of the Chapter 11 case; and
- (r) At the close of this case, box and transport all original documents, in proper format, as provided by the Clerk's Office, to (i) the Federal Archives Record Administration, or (ii) any other location requested by the Clerk's Office.

9. The Claims Registers shall be opened to the public for examination without charge during regular business hours and on a case-specific website maintained by Claims and Noticing Agent.

10. Claims and Noticing Agent shall not employ any past or present employee of the Debtor for work that involves the Debtor's bankruptcy case.

11. The Debtor respectfully requests that the undisputed fees and expenses incurred by Claims and Noticing Agent in the performance of the above services be treated as administrative expenses of the Debtors' Chapter 11 estates pursuant to 28 U.S.C. § 156(c) and 11 U.S.C. § 503(b)(1)(A) and be paid in the ordinary course of business without further application to or order of the Court. Claims and Noticing Agent agrees to maintain records of all services showing dates, categories of services, fees charged and expenses incurred. If any dispute arises

relating to the Engagement Agreement or monthly invoices, the parties shall meet and confer in an attempt to resolve the dispute; if resolution is not achieved, the parties may seek resolution of the matter from the Court.

12. Prior to the Petition Date, the Debtors provided Claims and Noticing Agent a retainer in the amount of \$7,500.00. Claims and Noticing Agent seeks to first apply the retainer to all pre-petition invoices, and thereafter, to have the retainer replenished to the original retainer amount, and thereafter, to hold the retainer under the Engagement Agreement during the Chapter 11 cases as security for the payment of fees and expenses incurred under the Engagement Agreement.

13. In connection with its retention as claims and noticing agent, Claims and Noticing Agent represents in the Claims and Noticing Agent Affidavit, among other things, that:

- (a) Claims and Noticing Agent 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 the claims and noticing agent in the Chapter 11 Case;
- (b) By accepting employment in the Chapter 11 Case, Claims and Noticing Agent waives any rights to receive compensation from the United States government in connection with the Debtor's Chapter 11 Case;
- (c) In its capacity as the claims and noticing agent in the Chapter 11 Case, Claims and Noticing Agent will be an agent of the United States



Bankruptcy Court and will act on behalf of the United States to the extent prescribed by the Bankruptcy Code; and

- (d) It is a “disinterested person” as that term is defined in § 101(14) of the Bankruptcy Code with respect to the matters upon which it is to be engaged.

14. To the extent that there is any inconsistency between this Application, the Retention Order and the Engagement Agreement, the Retention Order shall govern.

15. The Debtor has provided copies of this Application to the Clerk of Court and to the United States Trustee and submits that no further notice is necessary under the circumstances.

WHEREFORE, the Debtor requests entry of an order, in the form annexed hereto as Exhibit C, authorizing American Legal Claim Services, LLC, to act as claims and noticing agent for the maintenance and processing of claims and the distribution of notices.

Columbia, South Carolina

May 22, 2019

s/ Julio E. Mendoza, Jr.  
Julio E. Mendoza, Jr. (3365)  
NEXSEN PRUET, LLC  
1230 Main Street, Suite 700 (29201)  
Post Office Drawer 2426  
Columbia, South Carolina 29202  
Telephone: 803-540-2026  
E-mail: [rmendoza@nexsenpruet.com](mailto:rmendoza@nexsenpruet.com)

s/ J. Ronald Jones, Jr.  
J. Ronald Jones, Jr. (5874)  
NEXSEN PRUET, LLC  
205 King Street, Suite 400 (29401)  
Post Office Box 486  
Charleston, SC 29402  
Telephone: (843) 720-1740  
Facsimile: (843) 414-8220  
Email: [rjones@nexsenpruet.com](mailto:rjones@nexsenpruet.com)

*Attorneys for Sand Castle Timeshare Owners  
Association, Inc.*

## SERVICES AGREEMENT

This Services Agreement is entered into this 22nd day of May, 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 Sand Castle South Timeshare Owners Association, Inc., 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 provide ALCS with an advance deposit retainer of \$7,500 which ALCS will hold as security for the payment of fees and expenses incurred in rendering the ALCS Services hereunder. In the event the Client doesn't comply with the 30 day payment terms outlined herein, ALCS will apply the deposit retainer to invoices that have been submitted to the Client and are outside of the 30 day payment terms. If the deposit retainer is applied against an invoice then the Client will replenish the retainer so that ALCS holds a deposit sum of \$7,500 while this Agreement remains in force.]

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 in circumstances where fees or expenses are expected to be higher than the deposit.

#### **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:**

**Attention: Catherine Claussen, Esq.**  
**General Counsel**  
**Zealandia Holding Company, Inc.**  
**One Vance Gap Road**  
**Asheville, North Carolina 28805**  
**828-348-2505 x4344**

## **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


Sand Castle South Timeshare Owners Association, Inc.

By: Jeffrey L. Pirrung

By: Herbert H. Patrick, Jr.

  
Title: Managing Director

Date: 5/22/2019

  
Title: President

Date: 5/22/2019

- 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 on a quarterly basis or more regularly if 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.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF SOUTH CAROLINA

IN RE:

SAND CASTLE SOUTH TIMESHARE  
OWNERS ASSOCIATION, INC.,

Debtor-in-Possession

Case No. 19-

CHAPTER 11

**AFFIDAVIT OF JEFFREY PIRRUNG IN SUPPORT OF APPLICATION OF DEBTOR  
AND DEBTOR IN POSSESSION FOR ORDER APPOINTING AMERICAN LEGAL  
CLAIMS SERVICES, LLC AS CLAIMS AND NOTICING AGENT**

I, Jeffrey Pirrung, being first duly sworn, state as follows:

1. I am the Managing Director of American Legal Claims Services, LLC ("ALCS").

I am over the age of 18 and competent to testify. I am authorized to make this Affidavit (the "Affidavit") on behalf of ALCS. Except as otherwise noted, I have personal knowledge of the matters set forth herein.

2. This Affidavit is made in support of the Application of the Debtor to Retain American Legal Claims Services, LLC as Claims and Noticing Agent (the "Application"), which was filed by the above-captioned debtor and debtor in possession (the "Debtor") contemporaneously herewith.

3. 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 Motion 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 Motion and the Services Agreement.



4. 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.

5. 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).



6. 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.

7. Subject to the Court's approval, in performing the services of claims and noticing agent, ALCS will charge the Debtors the rates set forth in the Services Agreement. The Debtors have provided to ALCS a \$7,500 advance deposit retainer to be held under the Services Agreement during the Debtor's Chapter 11 case as security for the payment of fees and expenses incurred in rendering the services described hereunder in the Chapter 11 case, with any remainder to be held as security for the payment of other approved fees and expenses incurred in rendering other services under the Services Agreement.

8. ALCS represents, among other things, that:

- (a) ALCS is not a creditor of the Debtor as of the Petition Date.
- (b) ALCS 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.

9. Although, pursuant to the Application, the Debtor does not propose to retain ALCS under §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, their 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 this Chapter 11 case.

10. 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 this Chapter 11 case. ALCS has and will continue to represent clients in matters unrelated to this Chapter 11 cases.

11. 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 this case. 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 Debtors.

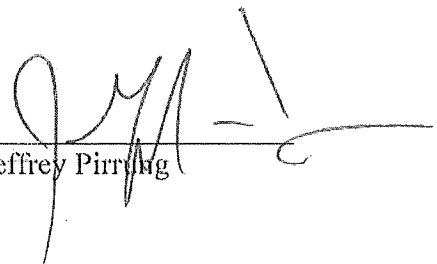
12. Should ALCS discover any new relevant facts or relationships bearing on the matters described herein during the period of its retention, ALCS will use reasonable efforts to file promptly a supplemental Affidavit.

13. Accordingly, to the best of my knowledge, neither ALCS, nor any employees thereof, represents any interest materially adverse to the Debtor's estates 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 §101(14) of the Bankruptcy Code.

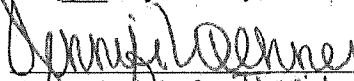
14. ALCS will comply with all requests of the Clerk's Office and the guidelines promulgated by the Judicial Conference of the United States for the implementation of 28 U.S.C. § 156(c).

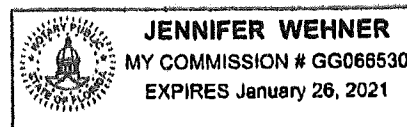
15. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief.

Dated: May 21, 2019

  
Jeffrey Pirring

Sworn to and subscribed before me  
this 21<sup>st</sup> day of May, 2019.

  
Notary Public for Florida  
My Commission Expires:  
January 26, 2021



**IN THE UNITED STATES BANKRUPTCY COURT**

**FOR THE DISTRICT OF SOUTH CAROLINA**

Case Number: 19-02764-jw

**ORDER, PURSUANT TO 28 U.S.C. §156(c) AND 11 U.S.C. §105(c) and LOCAL  
RULE 2018-1, AUTHORIZING THE DEBTOR TO RETAIN AMERICAN LEGAL  
CLAIM SERVICES, LLC AS CLAIMS AND NOTICING AGENT FOR THE DEBTOR  
*NUNC PRO TUNC* TO THE PETITION DATE**

The relief set forth on the following pages, for a total of 6 pages including this page, is hereby  
**ORDERED.**

UNITED STATES BANKRUPTCY COURT

DISTRICT OF SOUTH CAROLINA

IN RE:	)	
	)	Case No. 19-02764-jw
	)	
SAND CASTLE SOUTH TIMESHARE	)	CHAPTER 11
OWNERS ASSOCIATION, INC.,	)	
	)	
Debtor-in-Possession	)	
_____	)	

**ORDER, PURSUANT TO 28 U.S.C. §156(c) AND 11 U.S.C. §105(c) and LOCAL  
RULE 2018-1, AUTHORIZING THE DEBTOR TO RETAIN AMERICAN LEGAL  
CLAIM SERVICES, LLC AS CLAIMS AND NOTICING AGENT FOR THE DEBTOR  
*NUNC PRO TUNC* TO THE PETITION DATE**

THIS MATTER came before the Court on the Application of the Debtor and Debtor in Possession in the above-captioned case (“Debtor”) pursuant to 28 U.S.C. §156(c) and 11 U.S.C. §105(c) and Local Rule 2018-1 authorizing the Debtor to retain and employ American Legal Claim Services, LLC as Claims and Noticing Agent (“ALCS”), *nunc pro tunc* to the Petition Date (“Application”), filed by the Debtor in the above-captioned case, to, among other things, (i) distribute required notices to parties in interest, (ii) receive, maintain, docket and otherwise administer the proofs of claim filed in the Debtor’s Chapter 11 case, and (iii) provide such other administrative services – as required by the Debtor – that would fall within the purview of services to be provided by the Clerk’s Office;

Now, therefore, the Court having reviewed the Application, the terms set forth in the Engagement Agreement attached to the Application, the Affidavit of Jeffrey Pirrung filed in support of the Application and having considered the statements of counsel with respect to the Application, and the Court having found that (a) the Court has jurisdiction over this matter pursuant to 11 U.S.C. §§157 & 1334, (b) venue is proper in this District pursuant to 28 U.S.C. §§1408 & 1409, and (c) this is a core proceeding pursuant to 28 U.S.C. §157(b); and the Debtor

having estimated that there are more than five hundred (500) creditors and parties in interest in this Chapter 11 case, many of which are expected to file proofs of claim, and it appearing that the numerous notices will be required in this case together with the receiving, docketing and maintaining of proofs of claim would be unduly time consuming and burdensome to the Clerk; and the Court being authorized under 28 U.S.C. §156(c) to utilize, at the Debtor's expense, outside agents and facilities to provide notices to parties in title 11 cases and to receive, docket, maintain, photocopy and transmit proofs of claim; and the Court being satisfied that American Legal has the capability and experience to provide such services and that ALCS does not hold an interest adverse to the Debtor or its estate respecting matters upon which it is to be engaged; and good and sufficient notice of the Application and the hearing having been given and no other or further notice being required; and it appearing that the employment of ALCS is in the best interests of the Debtor, its estate and creditors; and sufficient cause appearing therefore;

IT IS HEREBY ORDERED that:

1. The Application is GRANTED as set forth herein.
2. Notwithstanding the terms of the Engagement Agreement attached to the Application, the Application is approved solely as set forth in this Order.
3. The Debtor is authorized to retain ALCS as its Claims and Noticing Agent in this Chapter 11 case, in accordance with 28 U.S.C. §156(c), §105(c) of the Bankruptcy Code and Local Bankruptcy Rule 2081-1 on the terms and conditions set forth in the Application and Engagement Agreement, *nunc pro tunc*, to the Petition Date, and ALCS Claims, LLC is authorized and directed to perform noticing services and to receive, maintain, record and otherwise administer the proofs of claim filed in this Chapter 11 case, and all related tasks, as described in the Application as the ALCS services.
4. ALCS shall serve as the custodian of court records and shall be designated as the

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Proposed Order Page 4 of 6  
authorized repository for all proofs of claim filed in this Chapter 11 case and is authorized and directed to maintain official claims registers for this case and to provide the Clerk of Court with a certified duplicate thereof upon request of the Clerk.

5. ALCS is authorized and directed to obtain a post office box or address for the receipt of proofs of claim.

6. ALCS is authorized to take such other action to comply with all duties set forth in the Application.

7. The Debtor is authorized to compensate ALCS in the ordinary course of business in accordance with the terms of the Engagement Agreement upon the receipt of reasonably detailed invoices setting forth the services provided by ALCS and the rates charged for each, and to reimburse ALCS for all reasonable and necessary expenses it may incur, upon the presentation of appropriate documentation, without the need for ALCS to file a fee application or otherwise seek Court approval for the compensation of its services and reimbursement of expenses.

8. ALCS shall maintain records of all services performed, showing dates, categories of services, fees charged and expenses incurred, and shall serve monthly invoices on the Debtor, the US. Trustee, counsel for the Debtor, counsel for any official committee monitoring the expenses of the Debtor and any party-in-interest who specifically requests service of the monthly invoices.

9. The parties shall meet and confer in an attempt to resolve any dispute that may arise relating to the Engagement Agreement or monthly invoices; provided, however, that the parties may seek resolution from the Court if resolution is not achieved.

10. Pursuant to 11 U.S.C. §503(b)(1)(A), the fees and expenses of ALCS under this Order shall be an administrative expense of the Debtor's estate.

11. ALCS may apply its retainer to all prepetition invoices, which retainer shall be

Engagement Agreement during the Chapter 11 case as security for the payment of fees and expenses incurred under the Engagement Agreement.

12. The Debtor shall indemnify ALCS under the terms of the Engagement Agreement, as modified pursuant to this Order.

13. All requests by ALCS for payment of indemnification as set forth in the Engagement Agreement shall be made by means of an application to the Court and shall be subject to review by the Court to ensure that payment of such indemnity conforms to the terms of the Engagement Agreement and is reasonable under the circumstances of the litigation or settlement in respect of which indemnity is sought, provided, however, that in no event shall ALCS be indemnified in the case of its own bad faith, self-dealing, breach of fiduciary duty (if any), gross negligence or willful misconduct.

14. In the event that ALCS seeks reimbursement from the Debtor for attorney's fees and expenses in connection with the payment of an indemnity claim pursuant to the Engagement Agreement, the invoices and supporting time records for the attorney's fees and expenses shall be included in ALCS's own applications, both interim and final, but determined by the Court after notice and a hearing.

15. In the event that ALCS is unable to provide the services set out in this Order, ALCS will immediately notify the Clerk and the Debtor's attorneys and, upon approval of the Court, cause all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and the Debtor's attorneys.

16. The Debtor may submit a separate retention application, pursuant to 11 U.S.C. §327 and or any applicable law, for work that is performed by ALCS but is not specifically authorized by this Order.



17. The Debtor and ALCS are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Application.

18. ALCS shall not cease providing claims processing services during the Chapter 11 case for any reason, including nonpayment, without an Order of the Court.

19. In the event of any inconsistency between the Engagement Agreement, the Application and the Order, the Order shall govern.

20. Notwithstanding the possible applicability of Bankruptcy Rule 6004(h), this Order shall be immediately enforceable upon its entry.

21. Notwithstanding any term in the Engagement Agreement to the contrary, the Court shall retain jurisdiction to hear and determine all matters arising from or related to this Order.

IT IS SO ORDERED.