

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

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In re: :

SHILOH INDUSTRIES, INC., : Chapter 11

*et al.*,<sup>1</sup> : Case No. 20-\_\_\_\_ (\_\_\_\_)

Debtors. : (Joint Administration Requested)

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**MOTION OF THE DEBTORS FOR INTERIM AND FINAL ORDERS  
(I) ESTABLISHING NOTICE AND OBJECTION PROCEDURES FOR  
TRANSFERS OF EQUITY SECURITIES AND (II) GRANTING RELATED RELIEF**

The above-captioned debtors (collectively, the "Debtors"), pursuant to sections 105(a), 362(a)(3) and 541 of title 11 of the United States Code (the "Bankruptcy Code") and Rules 3001, 6003 and 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") hereby move (the "Motion") for the entry of interim and final orders substantially in the forms attached hereto as Exhibit A (the "Proposed Interim Order") and Exhibit B (the "Proposed Final Order") (i) establishing notice and objection procedures that must be satisfied before certain transfers of beneficial interests in, or declarations of worthlessness in equity securities of, Shiloh Industries, Inc. ("Equity Securities") are deemed effective; and (ii) granting related relief.

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<sup>1</sup> The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

In support of this Motion, the Debtors incorporate the statements contained in the *Declaration of Jeffrey Ficks in Support of First Day Pleadings* (the "First Day Declaration") filed contemporaneously herewith and further respectfully state as follows:

### **Background**

#### **I. The Debtors and the Commencement of These Cases**

1. On the date hereof (the "Petition Date"), each of the Debtors commenced a case under chapter 11 of the Bankruptcy Code.<sup>2</sup> The Debtors are authorized to continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. By a motion filed on the Petition Date, the Debtors have requested that their chapter 11 cases be consolidated for procedural purposes only and administered jointly.

2. The Debtors are a global innovative solutions provider focusing on lightweighting technologies that provide environmental and safety benefits to the mobility market. The Debtors have a global network of manufacturing operations and technical centers in Asia, Europe and North America. The Debtors' multi-material solutions consist of a variety of alloys in aluminum, magnesium and steel grades, along with proprietary lines of noise and vibration reducing acoustic laminate products. The Debtors deliver these solutions in body structure, chassis and propulsion systems to original equipment manufacturers ("OEMs") and "Tier 1" suppliers in the automotive and commercial vehicle markets. For the twelve months ending October 31, 2019, the Debtors generated approximately \$1.045 billion in revenue.

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<sup>2</sup> This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference of the United States District Court for the District of Delaware*, dated February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue for this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

3. Additional detail regarding the Debtors, their businesses and the commencement of these cases is set forth in the First Day Declaration.

## **II. Tax Law and Net Operating Losses**

### **A. The Debtors' Net Operating Losses, Tax Credits and Other Tax Attributes**

4. Shiloh Industries, Inc.'s ("Shiloh") common stock is publicly traded on the Nasdaq Stock Market (ticker symbol: SHLO). As of August 26, 2020, there were approximately 24,222,807 shares of Shiloh common stock outstanding. The shares' total market capitalization was approximately \$27.61 million. As described more fully in the First Day Declaration, as of the Petition Date, Shiloh has approximately \$341.3 million in outstanding secured debt obligations on a consolidated basis and approximately \$130.6 million in outstanding unsecured debt obligations (including unsecured draft debt and lease obligations).

5. As of October 31, 2019 (the close of the Debtors' prior fiscal year), the Debtors estimate that they have incurred net operating losses of approximately \$35 million for federal income tax purposes as a result of past losses from the operation of their businesses. As of the Petition Date, the Debtors estimate they have generated approximately \$50 million of losses for federal income tax purposes in the current fiscal year, and the Debtors expect to generate additional tax losses during the course of these cases. Additionally, the Debtors also have other beneficial federal and state tax attributes, such as state net operating losses, carryforwards of disallowed business interest expense and research and development credits (estimated at approximately \$59.6 million, \$5.2 million and \$6.1 million, respectively, as of October 31, 2019). All of the Debtors' losses and other tax attributes are referred to herein, for the sake of simplicity, collectively as "NOLs." These NOLs are potentially valuable attributes that could materially reduce the Debtors' future tax liabilities, including those that may arise in

connection with the Debtors' proposed sale of substantially all of their assets or any subsequent winding up of the Debtors.

**B. CARES Act Changes to Tax Laws**

6. On March 27, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act"), which made significant changes to certain business tax provisions. Specifically, the CARES Act modified the rules governing the utilization of net operating losses. Prior to the CARES Act, taxpayers generally could not carry back net operating losses incurred in tax years beginning after December 31, 2017 (and could carry back net operating losses incurred in earlier tax years to each of the two years preceding the taxable year of the loss). Under the CARES Act, corporate taxpayers like the Debtors now may carry back their federal net operating losses generated in tax years beginning after December 31, 2017 and before January 1, 2021 to offset taxable income in each of the five taxable years preceding the taxable year of such loss. As a result of these changes, the Debtors have filed, or intend to file, one or more claims for cash refunds of certain prior taxes paid. The Debtors expect, however, that they will be unable to carry back a substantial portion of their federal tax losses due to insufficient taxable income in the relevant prior tax years. Accordingly, any remaining NOLs remain valuable assets that the Debtors may use to offset taxable income or gain incurred during these chapter 11 cases.

**C. Potential Use of the Debtors' Remaining NOLs**

7. Section 172 of the Internal Revenue Code of 1986 (title 26 of the United States Code), as amended (the "IRC"), permits a corporate taxpayer to carry forward net operating losses to offset future income (including income or gain resulting from a sale of assets or winding up activities) to years following the years in which they were incurred, thereby reducing such corporate taxpayer's federal income tax liability. A corporate taxpayer generally

may carry forward net operating losses incurred in tax years beginning after December 31, 2017 indefinitely to offset 80% of its taxable income in a future year (and can carry forward net operating losses incurred in earlier tax years for 20 years without the 80% limitation).

The CARES Act temporarily lifts the 80% limitation, allowing the taxpayer to use their net operating losses to offset 100% of their taxable income for the year, until tax years beginning after December 31, 2020. In addition, when calculating taxable income or loss for the current tax year under the IRC, a corporate taxpayer offsets its current year taxable income with current year tax losses, subject to rules regarding character of income and loss.

**D. Potential Limitation on Debtors' Ability to Use Remaining NOLs**

8. The Debtors' ability to use their NOLs is subject to certain statutory limitations. Sections 382 and 383 of the IRC limit the ability of a corporation to use its NOLs after an "ownership change" occurs. Generally, an "ownership change" occurs if the percentage (by value) of the stock of the corporation owned by one or more 5% shareholders has increased by more than 50 percentage points over the lowest percentage of stock owned by such shareholders at any time during the relevant testing period, which is usually the three-year period ending on the date of the ownership change.<sup>3</sup> IRC § 382(g)(1), (i). For example, an ownership change would occur in the following situation:

Three individuals ("A," "B" and "C") each own 20% of the stock of corporation X ("X"). Each sells 15% to another individual ("D"), who has recently acquired 7%. Under section 382 of the IRC,

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<sup>3</sup> In general, under section 382(g)(4)(A) of the IRC, all shareholders who individually hold less than 5% of the stock of a company are deemed to be a single 5% shareholder throughout the three-year testing period, and transfers between such shareholders are disregarded for purposes of determining whether an ownership change has occurred (sometimes referred to as the "public group rule"). Accordingly, the Debtors do not seek to impose the requested notice and objection procedures on Transfers (as such term is defined below) among shareholders holding less than 4.5% of Shiloh's stock, provided that such shareholders do not have an intent to accumulate a 5% or greater block of stock or add or sell shares to or from such block. To allow for a prudent margin of error and in a good faith effort to avoid underestimating the threshold, the Debtors have calculated the threshold using 4.5% instead of 5%.

an ownership change has occurred because D both became a 5% shareholder and increased his ownership in X by more than 50 percentage points (from 0% to 52%) during the testing period.

9. Additionally, an "ownership change" can occur as a result of a "worthless stock deduction" claimed by a qualifying shareholder. For the purposes hereof, a qualifying shareholder is any shareholder that holds beneficial ownership of 50% or more of a corporation's stock "at any time during the 3-year period ending on the last day of the taxable year" in which the worthless stock deduction is claimed. See IRC § 382(g)(4)(D). If such a qualifying shareholder still owns the corporation's stock at the end of the taxable year in which the worthless stock deduction is claimed, section 382 of the IRC treats the stockholder as having purchased the stock anew in the next taxable year. Accordingly, the deemed purchase of the stock qualifies as an "ownership change" for the purposes of section 382 of the IRC, because such a shareholder would be deemed to have increased its stock ownership by at least 50 percentage points.

10. When an ownership change occurs, the normally applicable rules of sections 382 and 383 of the IRC limit a corporation's use of its "pre-change" NOLs against future taxable income in any taxable year (or a portion thereof) to an annual amount equal to (i) the value of its stock prior to the ownership change, multiplied by (ii) the long-term, tax-exempt interest rate, subject to increase if the corporation is in a "net unrealized built-in gain" position at the time of the change.<sup>4</sup> See IRC § 382(b), (h)(1)(A). For a distressed company especially, this limitation could severely restrict the use of NOLs because the value of

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<sup>4</sup> In general, subject to special rules for consolidated groups, a corporation is in a "net unrealized built-in gain" position where the aggregate fair market value of all of its assets exceeds (by a specified threshold) its aggregate adjusted tax basis in those assets immediately prior to the ownership change.

its stock may be quite low. For example, if a hypothetical corporation were to become distressed such that its equity value was \$10 million, and undergo an ownership change when its equity value was at this depressed level, the annual limitation on the corporation's use of its NOLs resulting from that ownership change would be \$89,000 (based on a 0.89% long-term, tax-exempt rate that would apply under section 382 of the IRC for an ownership change occurring in September 2020), subject to increase if the corporation is in a "net unrealized built-in gain" position. In other words, the corporation would be able to utilize only \$89,000 of its available NOLs in each post-change tax year. Taxable income in excess of this amount generally would be taxable to the company at the federal rate of 21%.

### **III. The Proposed Equity Transfer Procedures**

11. As described above, the Debtors' ability to use their NOLs may be limited if they experience an "ownership change" for federal income tax purposes. To prevent this potential loss of property of the Debtors' estates, the Debtors request Court approval of the procedures detailed herein to govern the transfers of Equity Securities (including the declaration of a worthless stock deduction by holders thereof) during the pendency of these chapter 11 cases.

12. If left unrestricted, transfers of Equity Securities or declarations of a worthless stock deduction during the pendency of these chapter 11 cases could limit the Debtors' ability to use their NOLs, and could have significant negative consequences for the Debtors, their estates and their efforts to maximize value for stakeholders. Specifically, transfers of Equity Securities could adversely affect the Debtors' NOLs if (i) too many 5% or greater blocks of Equity Securities are created or (ii) too many Equity Securities are added to or sold from such blocks, such that, together with previous transfers by or to 5% shareholders during the preceding three-year period (or shorter period where there has been a more recent

ownership change), an ownership change within the meaning of section 382 of the IRC occurs. Additionally, as explained above, there are certain circumstances pursuant to which such an ownership change could also be triggered if a substantial holder of Equity Securities takes a worthless stock deduction with respect thereto as well.

13. Thus, to shelter taxable income or gain, if any, from any sale of their assets through a court-supervised auction process or resulting from any subsequent winding up of the Debtors, the Debtors seek limited relief that will enable them to closely monitor certain Transfers (as defined below) of Equity Securities, and thereby put the Debtors in a position to act expeditiously to prevent or to limit such Transfers if necessary to preserve their NOLs.

14. By establishing procedures for monitoring the transfer of Equity Securities, the Debtors can preserve their ability to seek the necessary relief at the appropriate time, if it appears that transfers of Equity Securities may jeopardize the Debtors' use of their NOLs. Therefore, the Debtors propose the following notice and objection procedures for holding and transferring Equity Securities (the "Equity Transfer Procedures"):

- (a) Certain Defined Terms. For purposes of this Motion, the Proposed Interim Order and the Proposed Final Order sought hereunder: (i) a "Substantial Equityholder" is any person or entity that Beneficially Owns (as defined below) at least 1,090,026 shares (representing approximately 4.5% of the 24,222,807 issued and outstanding shares of common stock)<sup>5</sup> of Shiloh; (ii) "Beneficial Ownership" of Equity Securities shall be determined in accordance with applicable rules under section 382 of the IRC, the regulations promulgated thereunder and Internal Revenue Service rulings, and shall include, without limitation, (a) direct and indirect ownership (e.g., a holding company would be considered to Beneficially Own all shares owned or acquired by its subsidiaries), (b) ownership by such holder's family members and persons or entities acting in concert with such holder to make a coordinated acquisition of stock and (c) ownership of Options (as defined below) to

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<sup>5</sup> To allow for a prudent margin of error and in a good faith effort to avoid underestimating the threshold, the Debtors have calculated the threshold using 4.5% instead of 5%.



acquire stock; (iii) an "Option" to acquire stock includes any contingent purchase, warrant, convertible debt, exchangeable shares, put, stock subject to risk of forfeiture, contract to acquire stock or similar interest, regardless of whether it is contingent or otherwise not currently exercisable; and (iv) a "Transfer" means any transfer of Equity Securities or the taking of a worthless stock deduction with respect to the Equity Securities to the extent described in paragraph 14(c) below and/or paragraph 14(d) below.

- (b) Notice of Substantial Equityholder Status. Any person or entity who currently is or becomes a Substantial Equityholder shall (i) file with the Court and (ii) serve upon: (a) the Debtors, c/o Shiloh Industries, Inc., 880 Steel Drive, Valley City, Ohio 44280 (Attn: Amy Floraday); (b) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Thomas Wearsch); (c) Jones Day, 77 West Wacker Dr., Chicago, Illinois 60601 (Attn: Timothy Hoffmann); and (d) Richards, Layton & Finger, P.A., One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Zachary I. Shapiro), a notice of such status (a "Notice of Substantial Equityholder Status"), in the form attached as Annex 1 to the Equity Transfer Procedures Notice (as defined below), on or before the later of (i) 20 days after entry of the Proposed Interim Order or (ii) 10 days after becoming a Substantial Equityholder.
- (c) Stock Acquisition Notice. At least 14 days prior to any Transfer of Equity Securities (including any transfer of Options to acquire Equity Securities or any exercise thereof) that would result in an increase in the amount of Equity Securities Beneficially Owned by a Substantial Equityholder or would result in a person or entity becoming a Substantial Equityholder, such Substantial Equityholder or potential Substantial Equityholder shall (i) file with the Court and (ii) serve on the Debtors and counsel to the Debtors (at the addresses set forth in paragraph 14(b) above) advance written notice of the intended transfer of Equity Securities (a "Stock Acquisition Notice"), in the form attached as Annex 2 to the Equity Transfer Procedures Notice.
- (d) Stock Disposition Notice. At least 14 days prior to any Transfer (including abandonment) of Equity Securities (including Options to acquire Equity Securities) that would result in a decrease in the amount of Equity Securities Beneficially Owned by a Substantial Equityholder or would result in a person or entity ceasing to be a Substantial Equityholder, or the taking of any worthless stock deduction with respect to the Equity Securities by a Substantial Equityholder, such Substantial Equityholder shall (i) file with the Court and (ii) serve on the Debtors and counsel to the Debtors (at the addresses set forth in paragraph 14(b) above) advance written notice of the intended transfer of Equity Securities (or the taking of any worthless stock deduction with respect to the Equity Securities)

(a "Stock Disposition Notice"), in the form attached as Annex 3 to the Equity Transfer Procedures Notice.

- (e) Objection Procedures. The Debtors shall have 7 days after receipt of a Stock Acquisition Notice or a Stock Disposition Notice (each, a "Transfer Notice") to file with the Court and serve on the party filing the Transfer Notice an objection to the proposed Transfer on the grounds that such Transfer may adversely affect the Debtors' ability to utilize their NOLs. If the Debtors file an objection, the proposed Transfer will not be effective unless and until approved by a final and non-appealable order of this Court. If the Debtors do not object within such 7-day period, the Transfer may proceed solely as set forth in the Transfer Notice. Further Transfers within the scope of this paragraph must comply with the Equity Transfer Procedures set forth in this paragraph 14(e).
- (f) Unauthorized Transfers of Equity Securities. Effective as of the Petition Date and until further order of this Court to the contrary, any acquisition, Transfer or other disposition (including abandonment or the taking of a worthless stock deduction for tax purposes) of Equity Securities (including Options to acquire Equity Securities) in violation of the Equity Transfer Procedures (including notice requirements) shall be null and void ab initio as an act in violation of the automatic stay under sections 362 and 105(a) of the Bankruptcy Code.
- (g) Special Rules. A person acquiring or disposing of Equity Securities in the capacity of agent of another person shall not be treated as a Substantial Equityholder solely to the extent that person is acting in the capacity of an agent, and shall not have an affirmative duty to inquire whether the account, customer, investment fund, principal, trust or beneficiary is subject to any restrictions or requirements under the Proposed Interim Order (or any final order); provided, however, that the account, customer, fund, principal, trust or beneficiary shall not be excluded from the Proposed Interim Order (or any final order) by reason of this subsection. For the avoidance of doubt, any agent that is a Nominee (as defined below) shall be subject to the requirements and obligations set forth in paragraph 17 below.

15. With respect to the Equity Transfer Procedures, the Debtors may waive, in writing, in their sole and absolute discretion, any and all restrictions, stays and notification procedures contained in this Motion or in any order entered with respect hereto.

16. Following entry of the Proposed Interim Order, the Debtors propose to provide a notice in substantially the form attached as Exhibit C hereto (the "Equity Transfer

Procedures Notice") to (i) the Office of the United States Trustee for the District of Delaware (the "United States Trustee"), (ii) creditors holding the 50 largest unsecured claims against the Debtors (on a consolidated basis), (iii) the Securities and Exchange Commission (the "SEC"), (iv) the Internal Revenue Service (the "IRS"), (v) counsel to the Debtors' proposed postpetition secured lenders and (vi) any registered holders of the outstanding Equity Securities (including Options to acquire Equity Securities such as any debt obligations that are convertible into Shiloh's common stock), describing the authorized transfer restrictions and notification requirements with respect to Equity Securities.

17. Upon receipt of such Equity Transfer Procedures Notice, any broker, bank, dealer or other agent or nominee of a beneficial holder (each a "Nominee") of Equity Securities (including Options to acquire Equity Securities) will be required, within five days of receipt of such notice and on at least a quarterly basis thereafter, to send the Equity Transfer Procedures Notice to all beneficial holders of Equity Securities on whose behalf such Nominee holds Equity Securities. To the extent such beneficial holder is also a Nominee, such Nominee must, in turn, promptly provide the Equity Transfer Procedures Notice to any holder for whose account such holder holds Equity Securities, and so on down the chain of ownership.

Additionally, any person, entity, broker or agent acting on behalf of any holder who sells at least 1,090,026 shares (representing approximately 4.5% of the 24,222,807 issued and outstanding shares of common stock) of Shiloh to another person or entity must provide a copy of the Equity Transfer Procedures Notice to such purchaser or any broker or agent acting on such purchaser's behalf.

18. The Equity Transfer Procedures Notice will provide the date and time (the "Objection Deadline") by which parties must file an objection to the Motion

(an "Objection"). If an Objection is timely filed and served, a final hearing will be held at the date and time set forth in the Proposed Interim Order (the "Final Hearing").

### **Basis for Relief**

#### **I. Preservation of the NOLs is Appropriate**

##### **A. The NOLs Are Property of the Debtors' Estates and Are Entitled to Protection**

19. Courts have uniformly held that a debtor's NOLs constitute property of the estate under section 541 of the Bankruptcy Code and, therefore, that courts have the authority to impose measures intended to protect and preserve such NOLs. The seminal case articulating this rule is Official Comm. of Unsecured Creditors v. PSS S.S. Co. (In re Prudential Lines, Inc.), 107 B.R. 832 (Bankr. S.D.N.Y. 1989), aff'd, 119 B.R. 430 (S.D.N.Y. 1990), aff'd, 928 F.2d 565 (2d Cir. 1991).

20. In Prudential Lines, the court enjoined a parent corporation from taking a worthless stock deduction with respect to its wholly owned subsidiary, which was in bankruptcy, on the grounds that allowing the parent to take such a deduction would destroy its debtor subsidiary's NOLs. In issuing the injunction, the court held that the debtor subsidiary's potential ability to utilize NOLs was property of its estate. See Prudential Lines, 107 B.R. at 838. Further, the court held that, because of the effect that it would have on the debtor subsidiary's ability to use its NOLs, the taking of a worthless stock deduction by the parent was an exercise of control over the debtor subsidiary's NOLs and thus over property of the debtor subsidiary's estate. See id. at 842-43. Therefore, such action was properly subject to the automatic stay under section 362 of the Bankruptcy Code. See id.; see also Nisselson v. Drew Indus., Inc. (In re White Metal Rolling & Stamping Corp.), 222 B.R. 417, 424 (Bankr. S.D.N.Y. 1998) ("It is beyond peradventure that NOL carrybacks and carryovers are

property of the estate of the loss corporation that generated them."); In re Southeast Banking Corp., No. 91-14561, 1994 Bankr. LEXIS 2389, at \*2 (Bankr. S.D. Fla. July 21, 1994) (reasoning that debtor's interest in its NOLs "constitutes property of the estate within the scope of 11 U.S.C. § 541(a)(1) and is entitled to the protection of the automatic stay imposed pursuant to 11 U.S.C. § 362(a)(3)"); In re Cumberland Farms, Inc., 162 B.R. 62, 67 (Bankr. D. Mass. 1993) (finding that the Second Circuit's Prudential Lines ruling on NOLs was analogous and persuasive in holding that pass-through losses were property of the estate and were protected by the automatic stay); In re Phar-Mor, Inc., 152 B.R. 924, 927 (Bankr. N.D. Ohio 1993) (carryforward NOLs held to be property of the estate and protected by both the automatic stay and an injunction against the sale of stock causing a reduction of the NOLs).

21. Because the Debtors' NOLs are property of their estates, this Court has the authority under section 362 of the Bankruptcy Code to enforce the automatic stay by restricting any Transfer of Equity Securities that could adversely impact the Debtors' ability to use this valuable asset. Courts ordering such relief generally have done so by imposing notice and objection requirements regarding any proposed transfer of shares of a person whose holdings of such shares exceed (or would exceed as a result of the proposed transfer), a certain threshold amount. See, e.g., In re Pace Indus., LLC, No. 20-10927 (Bankr. D. Del. Apr. 30, 2020) ("Pace Order") (establishing notice and objection procedures for transfers of equity securities); In re Achaogen, Inc., No. 19-10844 (BLS) (Bankr. D. Del. May 7, 2019) ("Achaogen Order") (same); In re Orexigen Therapeutics, Inc., No. 18-10518 (KG)

(Bankr. D. Del. Apr. 10, 2018) ("Orexigen Order") (same); In re Sports Authority Holdings, Inc., No. 16-10527 (MFW) (Bankr. D. Del. Mar. 24, 2016) ("Sports Authority Order") (same).<sup>6</sup>

**B. The Significance of the Debtors' NOLs**

22. The Debtors' NOLs are a valuable asset of their estates, and their availability will facilitate the Debtors' efforts to maximize value for stakeholders. The Debtors' ability to use their NOLs, however, could be severely limited under sections 382 and 383 of the IRC as a result of Transfers of Equity Securities (including Options to acquire Equity Securities) of the Debtors.

23. The Equity Transfer Procedures are designed to protect the Debtors from losing the benefit of all or any portion of their NOLs in connection with Transfers of Equity Securities (including Options to acquire Equity Securities) that may trigger an ownership change that could severely limit the Debtors' ability to use their NOLs to shelter any future taxable income or gain, including taxable income or gain resulting from any sale of assets in the course of these chapter 11 cases or any subsequent winding up of the Debtors. The Debtors require a mechanism to monitor and possibly object to ownership changes resulting from Transfers of Equity Securities (including Transfers of Options to acquire Equity Securities or any declaration of a worthless stock deduction in respect of Equity Securities), in order to be able to ensure they are able to use their NOLs to the fullest extent possible to reduce federal income taxes on their income (including to shelter any taxable income or gain resulting from any sale of assets or any subsequent winding up of the Debtors), thereby maximizing value for all stakeholders.

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<sup>6</sup> The unreported orders cited herein are not attached to this Motion. Copies of these orders are available upon request to proposed counsel to the Debtors.

24. Moreover, it is in the best interests of the Debtors, their estates and their stakeholders to restrict Transfers of Equity Securities (including Options to acquire Equity Securities) that could result in an ownership change. Transfers of Equity Securities are limited only for parties who are or might become 4.5% shareholders.

25. Thus, in all circumstances, it is in the best interests of the Debtors, their estates and their creditors to grant the requested relief so as to prevent an unintended ownership change.

**C. Interim Relief Is Necessary to Avoid Irreparable Harm to the Debtors**

26. Once an NOL is limited under section 382 of the IRC, its use is limited forever, and once an equity interest is transferred, it cannot be undone. The relief sought herein is necessary to avoid an irrevocable limitation on the Debtors' ability to use their NOLs and the irreparable harm that could be caused by unfettered Transfers of Equity Securities, which, unmonitored, could jeopardize the Debtors' ability to offset taxable income with their NOLs, thereby risking the Debtors' ability to maximize the value of their chapter 11 estates.

27. Accordingly, the Debtors submit that, absent the relief granted in the Proposed Interim Order, the Debtors and their estates could suffer immediate and irreparable harm. If the Court does not grant the relief sought in this Motion on an interim basis, holders of Equity Securities could transfer such securities before the protective restrictions herein are implemented by the Court risking the Debtors' ability to use their NOLs to maximize value and benefit their estates. Therefore, the Debtors request that the procedures described herein be approved immediately on an interim basis.

**D. The Equity Transfer Procedures Are Narrowly Tailored**

28. The establishment of the Equity Transfer Procedures will not bar all Transfers of Equity Securities, only those types of Transfers that pose a serious risk to the

Debtors' NOLs under the section 382 ownership change test. Further, the procedures will be in effect only during the pendency of these chapter 11 cases. As such, the requested relief is narrowly tailored to allow the Debtors to preserve their ability to seek substantive relief if it appears that a proposed Transfer will jeopardize the use of their NOLs. The Equity Transfer Procedures would otherwise permit Transfers of Equity Securities to continue unaffected, subject to applicable law.<sup>7</sup>

## **II. Request for Immediate Relief and Wavier of Stay**

29. Pursuant to Bankruptcy Rules 6003(b) and 6004(h), the Debtors seek immediate entry of an order granting the Debtors the relief requested herein.

30. Bankruptcy Rule 6003(b) provides, in relevant part, that "[e]xcept to the extent that relief is necessary to avoid immediate and irreparable harm, the court shall not, within 21 days after the filing of the petition, issue an order granting ... a motion to use, sell, lease or otherwise incur an obligation regarding property of the estate, including a motion to pay all or part of a claim that arose before the filing of the petition." Fed. R. Bankr. P. 6003(b). In other words, where the failure to grant any such requested relief would result in immediate and irreparable harm to the Debtors' estates, the Court may authorize the relief prior to the twenty second day following the Petition Date. Furthermore, Bankruptcy Rule 6004(h) provides that "[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise." Fed. R. Bankr. P. 6004(h).

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<sup>7</sup> Nothing herein is intended to excuse compliance with Bankruptcy Rule 3001(e) regarding the transfer of claims or any other applicable law.



31. As set forth above and in the First Day Declaration, the Debtors will suffer immediate and irreparable harm without the Court's authorization to establish procedures for the Transfer (or declaration of worthlessness) of the Equity Securities. If the relief is not granted, the Debtors' ability to use their NOLs may be eliminated or severely limited, which could have negative consequences on the Debtors' estates and their stakeholders. Thus, it is vital that the court grant the relief requested herein and the Debtors submit that ample cause exists to justify: (i) the immediate entry of the Proposed Interim Order granting the relief sought herein pursuant to Bankruptcy Rule 6003(b), to the extent that it applies; and (ii) a waiver of the 14-day stay imposed by Bankruptcy Rule 6004(h) and of the notice requirements of Bankruptcy Rule 6004(a), to the extent that they apply, with respect to the order.

#### **Consent to Jurisdiction**

32. Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtors consent to the entry of a final judgment or order with respect to this Motion if it is determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

#### **Notice**

33. Notice of this Motion will be given to (i) the United States Trustee; (ii) the Debtors' fifty largest unsecured creditors; (iii) the IRS; (iv) the SEC; (v) any Substantial Equityholders; (vi) each person or entity that has filed a Schedule 13D or Schedule 13G in respect of such holder's ownership of Equity Securities since January 1, 2019 and (vii) counsel to the Debtors' proposed postpetition secured lenders. As this Motion is seeking first-day relief, notice of this Motion and any order entered hereon will be served on all parties entitled to notice

pursuant to Local Rule 9013-1(m). Due to the urgency of the circumstances surrounding this Motion and the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

**No Prior Request**

51. No prior request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtors respectfully request that the Court: (i) enter the Proposed Interim Order, substantially in the form attached hereto, granting the relief requested herein; (ii) enter the Proposed Final Order, granting the relief requested herein, if necessary; and (iii) grant such other and further relief to the Debtors as the Court may deem just and proper.

Dated: August 30, 2020  
Wilmington, Delaware

Respectfully submitted,

/s/ Daniel J. DeFranceschi  
Daniel J. DeFranceschi (No. 2732)  
Paul N. Heath (No. 3704)  
Zachary I. Shapiro (No. 5103)  
David T. Queroli (No. 6318)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 N. King Street  
Wilmington, Delaware 19801  
Telephone: (302) 651-7700  
Facsimile: (302) 651-7701

-and-

Thomas M. Wearsch  
T. Daniel Reynolds  
JONES DAY  
North Point  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
Telephone: (216) 586-3939

Timothy W. Hoffmann  
JONES DAY  
77 West Wacker Dr.  
Chicago, Illinois 60601  
Telephone: (312) 782-3939

PROPOSED ATTORNEYS FOR DEBTORS

**Exhibit A**

**Proposed Interim Order**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re:

SHILOH INDUSTRIES, INC.,  
*et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-\_\_\_\_(\_\_\_\_)

(Joint Administration Requested)

Related to Docket No. \_\_\_\_

**INTERIM ORDER (I) ESTABLISHING NOTICE  
AND OBJECTION PROCEDURES FOR TRANSFERS OF  
EQUITY SECURITIES AND (II) GRANTING RELATED RELIEF**

This matter coming before the Court on the *Motion of the Debtors for Interim and Final Orders (I) Establishing Notice and Objection Procedures for Transfers of Equity Securities and (II) Granting Related Relief* (the "Motion");<sup>2</sup> the Court having reviewed the Motion, the First Day Declaration and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); and the Court having found that: (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference of the United States District Court for the District of Delaware*, dated February 29, 2012; (ii) venue is proper before this Court pursuant

<sup>1</sup> The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b); (iv) notice of the Motion and the Hearing was sufficient under the circumstances; and (v) the relief sought in the Motion is in the best interests of the Debtors, their estates, creditors and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion and the First Day Declaration and at the Hearing establish just cause for the relief granted herein;

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on an interim basis as set forth herein.
2. The Equity Transfer Procedures (as such term is defined below) set forth herein are approved in all respects.
3. Any purchase, sale, trade or other Transfer (as defined below) of Equity Securities (including Options (as such term is defined below) to acquire stock) in violation of the Equity Transfer Procedures set forth herein (including the notice requirements set forth herein) shall be null and void ab initio and shall confer no rights on the transferee.
4. The following notice and objection procedures for holding and transferring Equity Securities (the "Equity Transfer Procedures") shall apply in the Debtors' chapter 11 cases:
  - (a) Certain Defined Terms. For purposes of this Interim Order:
    - (i) a "Substantial Equityholder" is any person or entity that Beneficially Owns (as defined below) at least 1,090,026 shares (representing approximately 4.5% of the 24,222,807 issued and outstanding shares of common stock) of Shiloh; (ii) "Beneficial Ownership" of Equity Securities shall be determined in accordance with applicable rules under section 382 of the IRC, the regulations promulgated thereunder and Internal Revenue Service rulings, and shall include, without limitation, (a) direct and indirect ownership (e.g., a holding company would be considered to Beneficially Own all shares owned or acquired by its subsidiaries), (b) ownership by such holder's family members and persons or entities acting in concert with such holder to make a coordinated acquisition of

stock and (c) ownership of Options (as defined below) to acquire stock; (iii) an "Option" to acquire stock includes any contingent purchase, warrant, convertible debt, exchangeable shares, put, stock subject to risk of forfeiture, contract to acquire stock or similar interest, regardless of whether it is contingent or otherwise not currently exercisable; and (iv) a "Transfer" means any transfer of Equity Securities or the taking of a worthless stock deduction with respect to the Equity Securities to the extent described in paragraph 4(c) below and/or paragraph 4(d) below.

- (b) Notice of Substantial Equityholder Status. Any person or entity who currently is or becomes a Substantial Equityholder shall (i) file with the Court and (ii) serve upon: (a) the Debtors, c/o Shiloh Industries, Inc., 880 Steel Drive, Valley City, Ohio 44280 (Attn: Amy Floraday); (b) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Thomas Wearsch); (c) Jones Day, 77 West Wacker Dr., Chicago, Illinois 60601 (Attn: Timothy Hoffmann); and (d) Richards, Layton & Finger, P.A., One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Zachary I. Shapiro), a notice of such status (a "Notice of Substantial Equityholder Status"), in the form attached as Annex 1 to the Equity Transfer Procedures Notice (as defined below), on or before the later of (i) 20 days after entry of the Interim Order or (ii) 10 days after becoming a Substantial Equityholder.
- (c) Stock Acquisition Notice. At least 14 days prior to any Transfer of Equity Securities (including any transfer of Options to acquire Equity Securities or any exercise thereof) that would result in an increase in the amount of Equity Securities Beneficially Owned by a Substantial Equityholder or would result in a person or entity becoming a Substantial Equityholder, such Substantial Equityholder or potential Substantial Equityholder shall (i) file with the Court and (ii) serve on the Debtors and counsel to the Debtors (at the addresses set forth in paragraph 4(b) above) advance written notice of the intended transfer of Equity Securities (a "Stock Acquisition Notice"), in the form attached as Annex 2 to the Equity Transfer Procedures Notice.
- (d) Stock Disposition Notice. At least 14 days prior to any Transfer (including abandonment) of Equity Securities (including Options to acquire Equity Securities) that would result in a decrease in the amount of Equity Securities Beneficially Owned by a Substantial Equityholder or would result in a person or entity ceasing to be a Substantial Equityholder, or the taking of any worthless stock deduction with respect to the Equity Securities by a Substantial Equityholders, such Substantial Equityholder shall (i) file with the Court and (ii) serve on the Debtors and counsel to the Debtors (at the addresses set forth in paragraph 4(b) above) advance written notice of the intended transfer of Equity Securities (or the taking of any worthless stock deduction with respect to the Equity Securities)

(a "Stock Disposition Notice"), in the form attached as Annex 3 to the Equity Transfer Procedures Notice.

- (e) Objection Procedures. The Debtors shall have 7 days after receipt of a Stock Acquisition Notice or a Stock Disposition Notice (each, a "Transfer Notice") to file with the Court and serve on the party filing the Transfer Notice an objection to the proposed Transfer on the grounds that such Transfer may adversely affect the Debtors' ability to utilize their NOLs. If the Debtors file an objection, the proposed Transfer will not be effective unless and until approved by a final and non-appealable order of this Court. If the Debtors do not object within such 7-day period, the Transfer may proceed solely as set forth in the Transfer Notice. Further Transfers within the scope of this paragraph must comply with the Equity Transfer Procedures set forth in this paragraph 4(e).
- (f) Unauthorized Transfers of Equity Securities. Effective as of the Petition Date and until further order of this Court to the contrary, any acquisition, Transfer or other disposition (including abandonment or the taking of a worthless stock deduction for tax purposes) of Equity Securities (including Options to acquire Equity Securities) in violation of the Equity Transfer Procedures (including notice requirements) shall be null and void ab initio as an act in violation of the automatic stay under sections 362 and 105(a) of the Bankruptcy Code.
- (g) Special Rules. A person acquiring or disposing of Equity Securities in the capacity of agent of another person shall not be treated as a Substantial Equityholder solely to the extent that person is acting in the capacity of an agent, and shall not have an affirmative duty to inquire whether the account, customer, investment fund, principal, trust or beneficiary is subject to any restrictions or requirements under this Interim Order; provided, however, that the account, customer, fund, principal, trust or beneficiary shall not be excluded from the Interim Order by reason of this subsection. For the avoidance of doubt, any agent that is a Nominee (as defined below) shall be subject to the requirements and obligations set forth in paragraph 6 below.

5. Within five days after the entry of this Interim Order, the Debtors shall provide notice in substantially the form attached as Exhibit C to the Motion (the "Equity Transfer Procedures Notice") to (i) the Office of the United States Trustee for the District of Delaware (the "United States Trustee"), (ii) Debtors' 50 largest unsecured creditors, (iii) the Securities and Exchange Commission (the "SEC"), (iv) the Internal Revenue Service (the "IRS"), (v) counsel to the Debtors' proposed postpetition secured lenders



and (vi) any registered holders of the outstanding Equity Securities (including Options to acquire Equity Securities).

6. Upon receipt of such Equity Transfer Procedures Notice, any broker, bank, dealer or other agent or nominee of a beneficial holder (each a "Nominee") of Equity Securities (including Options to acquire Equity Securities) will be required, within five days of receipt of such notice and on at least a quarterly basis thereafter, to send the Equity Transfer Procedures Notice to all beneficial holders of Equity Securities on whose behalf such Nominee holds Equity Securities. To the extent such beneficial holder is also a Nominee, such Nominee must, in turn, promptly provide the Equity Transfer Procedures Notice to any holder for whose account such holder holds Equity Securities, and so on down the chain of ownership.

In addition, any person, entity, broker or agent acting on behalf of any holder of Equity Securities who sells at least 1,090,026 shares (representing approximately 4.5% of the 24,222,807 issued and outstanding shares of common stock) of Shiloh to another person or entity must provide a copy of the Equity Transfer Procedures Notice to such purchaser or any broker or agent acting on such purchaser's behalf.

7. The notice substantially in the form attached to the Motion as Exhibit C (including Annexes 1, 2 and 3 thereto) is approved.

8. Any of the Debtors may waive in writing, and in their sole and absolute discretion, any and all restrictions, stays and notice procedures contained in this Interim Order.

9. A final hearing on the Motion (the "Final Hearing") will be held on \_\_\_\_\_, 2020 at \_\_\_\_\_ .m. (Eastern Time).

10. Any objection to the granting of the relief requested by the Motion on a final basis shall be filed with the Court and served by 4:00 p.m. (Eastern Time), on or before

\_\_\_\_\_, 2020 (the "Objection Deadline"), upon: (i) United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Timothy J. Fox, Jr.); (ii) (A) the Debtors, Shiloh Industries, Inc., 880 Steel Drive, Valley City, Ohio 44280 (Attn: Amy Floraday); (B) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Thomas Wearsch); (C) Jones Day, 77 West Wacker Dr., Chicago, Illinois 60601 (Attn: Timothy Hoffmann); (D) Richards, Layton & Finger, P.A., One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Zachary I. Shapiro); (iii) counsel to the Debtors' proposed postpetition secured lenders, Moore & Van Allen PLLC, 100 N. Tryon Street, Suite 4700, Charlotte, North Carolina 28202 (Attn: James R. Langdon); and (iv) counsel to any official committee appointed in these cases.

11. The requirements set forth in this Interim Order are in addition to the requirements of Bankruptcy Rule 3001(e) and applicable law, and do not excuse compliance therewith.

12. Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Interim Order.

13. The requirements of Rule 6003(b) are satisfied and the requirements of Bankruptcy Rule 6004(a) are waived.

14. Notwithstanding any Bankruptcy Rule (including, but not limited to, Bankruptcy Rule 6004(h)) that might otherwise delay the effectiveness of this Interim Order, the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

15. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Interim Order.

**Exhibit B**

**Proposed Final Order**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re:

SHILOH INDUSTRIES, INC.,  
*et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-\_\_\_\_(\_\_\_\_)

(Joint Administration Requested)

Related to Docket No. \_\_\_\_

**FINAL ORDER (I) ESTABLISHING NOTICE AND OBJECTION PROCEDURES FOR TRANSFERS OF EQUITY SECURITIES AND (II) GRANTING RELATED RELIEF**

This matter coming before the Court on the *Motion of the Debtors for Interim and Final Orders (I) Establishing Notice and Objection Procedures for Transfers of Equity Securities and (II) Granting Related Relief* (the "Motion");<sup>2</sup> the Court having reviewed the Motion, the First Day Declaration and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); and the Court having found that: (i) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference of the United States District Court for the District of Delaware*, dated February 29, 2012; (ii) venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (iii) this is a core proceeding pursuant to 28 U.S.C. § 157(b);

<sup>1</sup> The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

<sup>2</sup> Capitalized terms not otherwise defined herein shall have the meanings given to them in the Motion.

(iv) notice of the Motion and the Hearing was sufficient under the circumstances;  
and (v) the relief sought in the Motion is in the best interests of the Debtors, their estates, creditors and all parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion and the First Day Declaration and at the Hearing establish just cause for the relief granted herein;

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED on a final basis as set forth herein.
2. All objections to the Motion not previously withdrawn are overruled.
3. The Equity Transfer Procedures (as such term is defined below) set forth herein are approved in all respects.
4. Any purchase, sale, trade or other Transfer (as defined below) of Equity Securities (including Options (as such term is defined below) to acquire stock) in violation of the Equity Transfer Procedures set forth herein (including the notice requirements set forth herein) shall be null and void ab initio and shall confer no rights on the transferee.
5. The following notice and objection procedures for holding and transferring Equity Securities (the "Equity Transfer Procedures") shall apply in the Debtors' chapter 11 cases:
  - (a) Certain Defined Terms. For purposes of this Final Order:
    - (i) a "Substantial Equityholder" is any person or entity that Beneficially Owns (as defined below) at least 1,090,026 shares (representing approximately 4.5% of the 24,222,807 issued and outstanding shares of common stock) of Shiloh; (ii) "Beneficial Ownership" of Equity Securities shall be determined in accordance with applicable rules under section 382 of the IRC, the regulations promulgated thereunder and Internal Revenue Service rulings, and shall include, without limitation, (a) direct and indirect ownership (e.g., a holding company would be considered to Beneficially Own all shares owned or acquired by its subsidiaries), (b) ownership by such holder's family members and persons or entities acting in concert with such holder to make a coordinated acquisition of

stock and (c) ownership of Options (as defined below) to acquire stock; (iii) an "Option" to acquire stock includes any contingent purchase, warrant, convertible debt, exchangeable shares, put, stock subject to risk of forfeiture, contract to acquire stock or similar interest, regardless of whether it is contingent or otherwise not currently exercisable; and (iv) a "Transfer" means any transfer of Equity Securities or the taking of a worthless stock deduction with respect to the Equity Securities to the extent described in paragraph 4(c) below and/or paragraph 4(d) below.

- (b) Notice of Substantial Equityholder Status. Any person or entity who currently is or becomes a Substantial Equityholder shall (i) file with the Court and (ii) serve upon: (a) the Debtors, c/o Shiloh Industries, Inc., 880 Steel Drive, Valley City, Ohio 44280 (Attn: Amy Floraday); (b) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Thomas Wearsch); (c) Jones Day, 77 West Wacker Dr., Chicago, Illinois 60601 (Attn: Timothy Hoffmann); and (d) Richards, Layton & Finger, P.A., One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Zachary I. Shapiro), a notice of such status (a "Notice of Substantial Equityholder Status"), in the form attached as Annex 1 to the Equity Transfer Procedures Notice (as defined below).
- (c) Stock Acquisition Notice. At least 14 days prior to any Transfer of Equity Securities (including any transfer of Options to acquire Equity Securities or any exercise thereof) that would result in an increase in the amount of Equity Securities Beneficially Owned by a Substantial Equityholder or would result in a person or entity becoming a Substantial Equityholder, such Substantial Equityholder or potential Substantial Equityholder shall (i) file with the Court and (ii) serve on the Debtors and counsel to the Debtors (at the addresses set forth in paragraph 4(b) above) advance written notice of the intended transfer of Equity Securities (a "Stock Acquisition Notice"), in the form attached as Annex 2 to the Equity Transfer Procedures Notice.
- (d) Stock Disposition Notice. At least 14 days prior to any Transfer (including abandonment) of Equity Securities (including Options to acquire Equity Securities) that would result in a decrease in the amount of Equity Securities Beneficially Owned by a Substantial Equityholder or would result in a person or entity ceasing to be a Substantial Equityholder, or the taking of any worthless stock deduction with respect to the Equity Securities by a Substantial Equityholders, such Substantial Equityholder shall (i) file with the Court and (ii) serve on the Debtors and counsel to the Debtors (at the addresses set forth in paragraph 4(b) above) advance written notice of the intended transfer of Equity Securities (or the taking of any worthless stock deduction with respect to the Equity Securities) (a "Stock Disposition Notice"), in the form attached as Annex 3 to the Equity Transfer Procedures Notice.

- (e) Objection Procedures. The Debtors shall have 7 days after receipt of a Stock Acquisition Notice or a Stock Disposition Notice (each, a "Transfer Notice") to file with the Court and serve on the party filing the Transfer Notice an objection to the proposed Transfer on the grounds that such Transfer may adversely affect the Debtors' ability to utilize their NOLs. If the Debtors file an objection, the proposed Transfer will not be effective unless and until approved by a final and non-appealable order of this Court. If the Debtors do not object within such 7-day period, the Transfer may proceed solely as set forth in the Transfer Notice. Further Transfers within the scope of this paragraph must comply with the Equity Transfer Procedures set forth in this paragraph 4(e).
- (f) Unauthorized Transfers of Equity Securities. Effective as of the Petition Date and until further order of this Court to the contrary, any acquisition, Transfer or other disposition (including abandonment or the taking of a worthless stock deduction for tax purposes) of Equity Securities (including Options to acquire Equity Securities) in violation of the Equity Transfer Procedures (including notice requirements) shall be null and void ab initio as an act in violation of the automatic stay under sections 362 and 105(a) of the Bankruptcy Code.
- (g) Special Rules. A person acquiring or disposing of Equity Securities in the capacity of agent of another person shall not be treated as a Substantial Equityholder solely to the extent that person is acting in the capacity of an agent, and shall not have an affirmative duty to inquire whether the account, customer, investment fund, principal, trust or beneficiary is subject to any restrictions or requirements under this Final Order; provided, however, that the account, customer, fund, principal, trust or beneficiary shall not be excluded from the Final Order by reason of this subsection.

6. Within five days after the entry of this Final Order, the Debtors shall provide notice in substantially the form attached as Exhibit C to the Motion (the "Equity Transfer Procedures Notice") to (i) the Office of the United States Trustee for the District of Delaware (the "United States Trustee"); (ii) Debtors' 30 largest unsecured creditors; (iii) the Securities and Exchange Commission (the "SEC"); (iv) the Internal Revenue Service (the "IRS"); (v) counsel to the Debtors' proposed postpetition secured lenders; and (vi) any registered holders of the outstanding Equity Securities (including Options to acquire Equity Securities).

7. Any of the Debtors may waive in writing, and in their sole and absolute discretion, any and all restrictions, stays and notice procedures contained in this Final Order.

8. The requirements set forth in this Final Order are in addition to the requirements of Bankruptcy Rule 3001(e) and applicable law, and do not excuse compliance therewith.

9. This Final Order shall be immediately effective and enforceable upon its entry.

10. Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Final Order.

11. This Court shall retain jurisdiction over any and all matters arising from or related to the implementation or interpretation of this Final Order.



**Exhibit C**

**Equity Transfer Procedures Notice**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re:

SHILOH INDUSTRIES, INC.,  
*et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-\_\_\_\_(\_\_\_\_)

(Joint Administration Requested)

Related to Docket No. \_\_\_\_

**NOTICE OF (A) ENTRY OF ORDER ESTABLISHING  
EQUITY TRANSFER PROCEDURES AND (B) HEARING TO  
CONSIDER ENTRY OF FINAL ORDER ON EQUITY TRANSFER PROCEDURES**

**TO ALL PERSONS OR ENTITIES WITH  
EQUITY INTERESTS IN SHILOH INDUSTRIES, INC.:**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. On \_\_\_\_ \_\_, 2020 (the "Petition Date"), Shiloh Industries, Inc. ("Shiloh") and its debtor affiliates commenced voluntary cases under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

2. On the Petition Date, the above-captioned debtors (collectively, the "Debtors") filed their *Motion of the Debtors for Interim and Final Orders (I) Establishing Notice and Objection Procedures for Transfers of Equity Securities and (II) Granting Related Relief* (the "Motion").

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<sup>1</sup> The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

3. On \_\_\_\_\_, 2020, the United States Bankruptcy Court for the District of Delaware (the "Court") entered an interim order (the "Interim Order") approving the procedures set forth below (the "Equity Transfer Procedures") with respect to transfers of equity securities in Shiloh (such securities, the "Equity Securities") to assist the Debtors in preserving certain tax benefits, including net operating losses (collectively, "NOLs").

4. **Any purchase, sale, trade or other Transfer (as defined below) of Equity Securities (including Options (as such term is defined below) to acquire stock) in Shiloh in violation of the Equity Transfer Procedures set forth below shall be null and void ab initio as an act in violation of the automatic stay under section 362 of the Bankruptcy Code, and shall confer no rights on the transferee.**

5. A final hearing to consider the relief requested in the Motion and the entry of an order (the "Final Order") implementing the Equity Transfer Procedures on a final and permanent basis will be held on \_\_\_\_\_, 2020 at \_\_\_\_\_ .m. (Eastern Time) before the Honorable \_\_\_\_\_ in the United States Bankruptcy Court for the Eastern District of Delaware, Courtroom \_\_\_\_\_, [ \_\_\_\_\_ ].

6. Any objection to the granting of the relief requested by the Motion on a final basis shall be filed with the Court and served by 4:00 p.m. (Eastern Time), on or before \_\_\_\_\_, 2020 (the "Objection Deadline") upon: (i) United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Timothy J. Fox, Jr.); (ii) (A) the Debtors, Shiloh Industries, Inc., 880 Steel Drive, Valley City, Ohio 44280 (Attn: Amy Floraday); (B) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Thomas Wearsch); (C) Jones Day, 77 West Wacker Dr., Chicago, Illinois 60601 (Attn: Timothy Hoffmann); (D) Richards, Layton & Finger, P.A., One Rodney Square, 920 N.

King Street, Wilmington, Delaware 19801 (Attn: Zachary I. Shapiro); (iii) counsel to the Debtors' proposed postpetition secured lenders, Moore & Van Allen PLLC, 100 N. Tryon Street, Suite 4700, Charlotte, North Carolina 28202 (Attn: James R. Langdon); and (iv) counsel to any official committee appointed in these cases.

7. Pursuant to the Interim Order, the following Equity Transfer Procedures shall apply to holding and transferring beneficial interests in Equity Securities in Shiloh:

- (a) Certain Defined Terms. For purposes of the Interim Order:
- (i) a "Substantial Equityholder" is any person or entity that Beneficially Owns (as defined below) at least 1,090,026 shares (representing approximately 4.5% of the 24,222,807 issued and outstanding shares of common stock)<sup>2</sup> of Shiloh; (ii) "Beneficial Ownership" of Equity Securities shall be determined in accordance with applicable rules under section 382 of the IRC, the regulations promulgated thereunder and Internal Revenue Service rulings, and shall include, without limitation, (a) direct and indirect ownership (e.g., a holding company would be considered to Beneficially Own all shares owned or acquired by its subsidiaries), (b) ownership by such holder's family members and persons or entities acting in concert with such holder to make a coordinated acquisition of stock and (c) ownership of Options (as defined below) to acquire stock; (iii) an "Option" to acquire stock includes any contingent purchase, warrant, convertible debt, exchangeable shares, put, stock subject to risk of forfeiture, contract to acquire stock or similar interest, regardless of whether it is contingent or otherwise not currently exercisable; and (iv) a "Transfer" means any transfer of Equity Securities or the taking of a worthless stock deduction with respect to the Equity Securities to the extent described in paragraph 7(c) below and/or paragraph 7(d) below.
- (b) Notice of Substantial Equityholder Status. Any person or entity who currently is or becomes a Substantial Equityholder shall (i) file with the Court and (ii) serve upon: (a) the Debtors, c/o Shiloh Industries, Inc., 880 Steel Drive, Valley City, Ohio 44280 (Attn: Amy Floraday); (b) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Thomas Wearsch); (c) Jones Day, 77 West Wacker Dr., Chicago, Illinois 60601 (Attn: Timothy Hoffmann); and (d) Richards, Layton & Finger, P.A., One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Zachary I. Shapiro), a notice of such status

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<sup>2</sup> To allow for a prudent margin of error and in a good faith effort to avoid underestimating the threshold, the Debtors have calculated the threshold using 4.5% instead of 5%.

(a "Notice of Substantial Equityholder Status"), in the form attached as Annex 1 to the Equity Transfer Procedures Notice (as defined below), on or before the later of (i) 20 days after entry of the Interim Order or (ii) 10 days after becoming a Substantial Equityholder.

- (c) Stock Acquisition Notice. At least 14 days prior to any Transfer of Equity Securities (including any transfer of Options to acquire Equity Securities or any exercise thereof) that would result in an increase in the amount of Equity Securities Beneficially Owned by a Substantial Equityholder or would result in a person or entity becoming a Substantial Equityholder, such Substantial Equityholder or potential Substantial Equityholder shall (i) file with the Court and (ii) serve on the Debtors and counsel to the Debtors (at the addresses set forth in paragraph 7(b) above) advance written notice of the intended transfer of Equity Securities (a "Stock Acquisition Notice"), in the form attached as Annex 2 to the Equity Transfer Procedures Notice.
- (d) Stock Disposition Notice. At least 14 days prior to any Transfer (including abandonment) of Equity Securities (including Options to acquire Equity Securities) that would result in a decrease in the amount of Equity Securities Beneficially Owned by a Substantial Equityholder or would result in a person or entity ceasing to be a Substantial Equityholder, or the taking of any worthless stock deduction with respect to the Equity Securities by a Substantial Equityholders, such Substantial Equityholder shall (i) file with the Court and (ii) serve on the Debtors and counsel to the Debtors (at the addresses set forth in paragraph 7(b) above) advance written notice of the intended transfer of Equity Securities (or the taking of any worthless stock deduction with respect to the Equity Securities) (a "Stock Disposition Notice"), in the form attached as Annex 3 to the Equity Transfer Procedures Notice.
- (e) Objection Procedures. The Debtors shall have 7 days after receipt of a Stock Acquisition Notice or a Stock Disposition Notice (each, a "Transfer Notice") to file with the Court and serve on the party filing the Transfer Notice an objection to the proposed Transfer on the grounds that such Transfer may adversely affect the Debtors' ability to utilize their NOLs. If the Debtors file an objection, the proposed Transfer will not be effective unless and until approved by a final and non-appealable order of this Court. If the Debtors do not object within such 7-day period, the Transfer may proceed solely as set forth in the Transfer Notice. Further Transfers within the scope of this paragraph must comply with the Equity Transfer Procedures set forth in this paragraph 7(e).
- (f) Unauthorized Transfers of Equity Securities. Effective as of the Petition Date and until further order of this Court to the contrary, any acquisition, Transfer or other disposition (including abandonment or the taking of a worthless stock deduction for tax purposes) of Equity Securities (including

Options to acquire Equity Securities) in violation of the Equity Transfer Procedures (including notice requirements) shall be null and void ab initio as an act in violation of the automatic stay under sections 362 and 105(a) of the Bankruptcy Code.

- (g) Special Rules. A person acquiring or disposing of Equity Securities in the capacity of agent of another person shall not be treated as a Substantial Equityholder solely to the extent that person is acting in the capacity of an agent, and shall not have an affirmative duty to inquire whether the account, customer, investment fund, principal, trust or beneficiary is subject to any restrictions or requirements under the Interim Order; provided, however, that the account, customer, fund, principal, trust or beneficiary shall not be excluded from the Interim Order by reason of this subsection.

**FAILURE TO FOLLOW THE PROCEDURES SET FORTH IN THIS NOTICE AND IN THE INTERIM ORDER SHALL CONSTITUTE A VIOLATION OF THE AUTOMATIC STAY UNDER SECTION 362 OF THE BANKRUPTCY CODE. ANY PROHIBITED PURCHASE, SALE, TRADE OR OTHER TRANSFER OF EQUITY SECURITIES (INCLUDING OPTIONS TO ACQUIRE EQUITY SECURITIES) OF SHILOH IN VIOLATION OF THE INTERIM ORDER WILL BE NULL AND VOID AB INITIO AND MAY RESULT IN THE IMPOSITION OF SANCTIONS BY THE BANKRUPTCY COURT.**

8. Any of the Debtors may waive in writing, and in their sole and absolute discretion, any and all restrictions, stays and notice procedures contained in the Interim Order.

9. Complete copies of the Motion and the Interim Order are available via PACER via the Court's website at <https://ecf.deb.uscourts.gov> for a fee or through the Debtors' claims and noticing agent, Prime Clerk LLC, by accessing their website at <https://cases.primeclerk.com/shiloh/>, or by calling (877) 462-4380 (toll-free) or (347) 817-4091 (international). If the Final Order is entered, such Final Order will also be available as described in the preceding sentence.

10. The requirements set forth in this Notice are in addition to the requirements of Rule 3001(e) of the Federal Rules of Bankruptcy Procedure and applicable law, and do not excuse compliance therewith.

Dated: [ ], 2020  
Wilmington, Delaware

Respectfully submitted,

/s/

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Daniel J. DeFranceschi (No. 2732)  
Paul N. Heath (No. 3704)  
Zachary I. Shapiro (No. 5103)  
David T. Queroli (No. 6318)  
RICHARDS, LAYTON & FINGER, P.A.  
One Rodney Square  
920 N. King Street  
Wilmington, Delaware 19801  
Telephone: (302) 651-7700  
Facsimile: (302) 651-7701

-and-

Thomas M. Wearsch  
T. Daniel Reynolds  
JONES DAY  
North Point  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
Telephone: (216) 586-3939

Timothy W. Hoffmann  
JONES DAY  
77 West Wacker Dr.  
Chicago, Illinois 60601  
Telephone: (312) 782-3939

PROPOSED ATTORNEYS FOR DEBTORS

**ANNEX 1 TO EQUITY TRANSFER PROCEDURES NOTICE**

**Notice of Substantial Equityholder Status**



UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re:

SHILOH INDUSTRIES, INC.,  
*et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20 \_\_\_\_\_ (\_\_\_\_)

(Joint Administration Requested)

Related to Docket No. \_\_\_\_

**NOTICE OF SUBSTANTIAL EQUITYHOLDER STATUS**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. **[Name of Equityholder]** is/has become a Substantial Equityholder<sup>2</sup> with respect to the common stock (the "Common Stock") in Shiloh Industries, Inc. ("Shiloh"), a debtor in Case No. 20-[\_\_\_\_], pending in the United States Bankruptcy Court for District of Delaware (the "Court").

<sup>1</sup> The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

<sup>2</sup> For purposes of this Notice: (A) a "Substantial Equityholder" is any person or entity that Beneficially Owns (as defined below) at least 1,090,026 shares (representing approximately 4.5% of the 24,222,807 issued and outstanding shares of common stock) of Shiloh; (ii) "Beneficial Ownership" of Equity Securities shall be determined in accordance with applicable rules under section 382 of the Internal Revenue Code of 1986, as amended, the regulations promulgated thereunder and Internal Revenue Service rulings, and shall include, without limitation, (a) direct and indirect ownership (e.g., a holding company would be considered to Beneficially Own all shares owned or acquired by its subsidiaries), (b) ownership by such holder's family members and persons or entities acting in concert with such holder to make a coordinated acquisition of stock and (c) ownership of Options (as defined below) to acquire stock; (iii) an "Option" to acquire stock includes any contingent purchase, warrant, convertible debt, exchangeable shares, put, stock subject to risk of forfeiture, contract to acquire stock or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

2. As of \_\_\_\_\_, 2020, **[Name of Equityholder]** Beneficially Owns \_\_\_\_\_ shares of the Common Stock of Shiloh. The following table sets forth the date(s) on which **[Name of Equityholder]** acquired or otherwise became the Beneficial Owner of such Common Stock:

NUMBER OF SHARES OF COMMON STOCK	DATE ACQUIRED

(Attach additional page if necessary)

3. The last four digits of the taxpayer identification number of **[Name of Equityholder]** are \_\_\_\_\_.

4. Under penalty of perjury, **[Name of Equityholder]** hereby declares that it has examined this Notice and accompanying attachments (if any) and, to the best of its knowledge and belief, this Notice and any attachments that purport to be part of this Notice are true, correct and complete.

5. Pursuant to the **[Interim/Final]** Order establishing the Equity Transfer Procedures (as defined in the **[Interim/Final]** Order), this Notice is being (i) filed with the Court and (ii) served upon: (a) the Debtors, c/o Shiloh Industries, Inc., 880 Steel Drive, Valley City, Ohio 44280 (Attn: Amy Floraday); (b) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Thomas Wearsch); (c) Jones Day, 77 West Wacker Dr., Chicago, Illinois 60601 (Attn: Timothy Hoffmann); and (d) Richards, Layton & Finger, P.A., One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Zachary I. Shapiro).

Dated: \_\_\_\_\_, 2020  
Wilmington, Delaware

Respectfully submitted,

\_\_\_\_\_  
(Name of Equityholder)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

**ANNEX 2 TO EQUITY TRANSFER PROCEDURES NOTICE**

**Stock Acquisition Notice**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE**

In re:

SHILOH INDUSTRIES, INC.,  
*et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-\_\_\_\_\_(\_\_\_\_)

(Joint Administration Requested)

Related to Docket No. \_\_\_\_

**STOCK ACQUISITION NOTICE**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. **[Name of Prospective Acquirer]** hereby provides notice of its intention to purchase, acquire or otherwise accumulate one or more shares of, or an Option (as such term is defined below) with respect to (or to exercise such an Option) (any such action, a "Proposed Transfer"), the common stock (the "Common Stock") of Shiloh Industries, Inc. ("Shiloh"), a debtor in Case No. 20-[\_\_\_\_\_] pending in the United States Bankruptcy Court for the District of Delaware (the "Court").

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<sup>1</sup> The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

2. If applicable, on **[Prior Date(s)]**, **[Name of Prospective Acquirer]** filed a Notice of Substantial Equityholder Status<sup>2</sup> with the Court and served copies thereof on the above-captioned debtors (collectively, the "Debtors") and the Debtors' counsel.

3. **[Name of Prospective Acquirer]** currently Beneficially Owns \_\_\_\_\_ shares of Common Stock of Shiloh.

4. Pursuant to the Proposed Transfer, **[Name of Prospective Acquirer]** proposes, as applicable, to purchase, acquire or otherwise accumulate \_\_\_\_\_ shares of Common Stock or an Option (or to exercise such an Option) with respect to \_\_\_\_\_ shares of Common Stock. If the Proposed Transfer is permitted to occur, **[Name of Prospective Acquirer]** will Beneficially Own \_\_\_\_\_ shares of Common Stock after the transfer becomes effective.

5. The last four digits of the taxpayer identification number of **[Name of Prospective Acquirer]** are \_\_\_\_\_.

6. Under penalty of perjury, **[Name of Prospective Acquirer]** hereby declares that it has examined this Notice and accompanying attachments (if any) and, to the best of its knowledge and belief, this Notice and any attachments which purport to be part of this Notice are true, correct and complete.

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<sup>2</sup> For purposes of this Notice: (A) a "Substantial Equityholder" is any person or entity that Beneficially Owns (as defined below) at least 1,090,026 shares (representing approximately 4.5% of the 24,222,807 issued and outstanding shares of common stock) of Shiloh; (ii) "Beneficial Ownership" of Equity Securities shall be determined in accordance with applicable rules under section 382 of the Internal Revenue Code of 1986, as amended, the regulations promulgated thereunder and Internal Revenue Service rulings, and shall include, without limitation, (a) direct and indirect ownership (e.g., a holding company would be considered to Beneficially Own all shares owned or acquired by its subsidiaries), (b) ownership by such holder's family members and persons or entities acting in concert with such holder to make a coordinated acquisition of stock and (c) ownership of Options (as defined below) to acquire stock; (iii) an "Option" to acquire stock includes any contingent purchase, warrant, convertible debt, exchangeable shares, put, stock subject to risk of forfeiture, contract to acquire stock or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

7. Pursuant to that certain **[Interim/Final]** Order establishing the Equity Transfer Procedures (as defined in the **[Interim/Final]** Order), this Notice is being (i) filed with the Court and (ii) served upon: (a) the Debtors, c/o Shiloh Industries, Inc., 880 Steel Drive, Valley City, Ohio 44280 (Attn: Amy Floraday); (b) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Thomas Wearsch); (c) Jones Day, 77 West Wacker Dr., Chicago, Illinois 60601 (Attn: Timothy Hoffmann); and (d) Richards, Layton & Finger, P.A., One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Zachary I. Shapiro).

8. The Debtors have 7 days after receipt of this Notice to object to the Proposed Transfer described herein. If the Debtors file an objection, such Proposed Transfer will not be effective unless approved by a final and nonappealable order of the Court. If the Debtors do not object within such 7-day period, then after expiration of such period the Proposed Transfer may proceed solely as set forth in this Notice.

9. The undersigned Prospective Acquirer understands that any further transactions that may result in **[Name of Prospective Acquirer]** purchasing, acquiring, or otherwise accumulating additional shares of Common Stock or an Option (or exercising such an Option) will each require an additional notice to be filed with the Court and served in the same manner as this Notice.

Dated: \_\_\_\_\_, 2020  
Wilmington, Delaware

Respectfully submitted,

\_\_\_\_\_  
(Name of Equityholder)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_



**ANNEX 3 TO EQUITY TRADING PROCEDURES NOTICE**

**Stock Disposition Notice**

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF DELAWARE

In re:

SHILOH INDUSTRIES, INC.,  
*et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20- \_\_\_\_ (\_\_\_\_)

(Joint Administration Requested)

Related to Docket No. \_\_\_\_

**STOCK DISPOSITION NOTICE**

PLEASE TAKE NOTICE OF THE FOLLOWING:

1. **[Name of Prospective Seller]**, a Substantial Equityholder,<sup>2</sup> hereby provides notice of its intention to sell, trade or otherwise transfer (including by abandonment) one or more shares of the common stock (the "Common Stock"), or an Option with respect thereto (any such action, a "Proposed Transfer"), of Shiloh Industries, Inc. ("Shiloh"), a debtor

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<sup>1</sup> The Debtors are the following nineteen entities (the last four digits of their respective taxpayer identification numbers, if any, follow in parentheses): Shiloh Industries, Inc. (7683), Greenfield Die & Manufacturing Corp. (8114), Jefferson Blanking Inc. (7850), Shiloh Automotive, Inc. (1339), Shiloh Corporation (5101), Shiloh Industries, Inc. Dickson Manufacturing Division (5835), Shiloh Holdings International, Inc. (1446), C & H Design Company (9432), Liverpool Coil Processing, Incorporated (0571), Medina Blanking, Inc. (0707), The Sectional Die Company (3562), VCS Properties, LLC (1094), Shiloh Die Cast LLC (5814), Shiloh Manufacturing Holdings LLC (0853), FMS Magnum Holdings LLC (6471), Sectional Stamping, Inc. (8967), Albany-Chicago Company LLC (4687), Shiloh Die Cast Midwest LLC (4114), and Shiloh Manufacturing LLC (1628). The noticing address of each of the Debtors in these chapter 11 cases is 880 Steel Drive, Valley City, Ohio 44280.

<sup>2</sup> For purposes of this Notice: (A) a "Substantial Equityholder" is any person or entity that Beneficially Owns (as defined below) at least 1,090,026 shares (representing approximately 4.5% of the 24,222,807 issued and outstanding shares of common stock) of Shiloh; (ii) "Beneficial Ownership" of Equity Securities shall be determined in accordance with applicable rules under section 382 of the Internal Revenue Code of 1986, as amended, the regulations promulgated thereunder and Internal Revenue Service rulings, and shall include, without limitation, (a) direct and indirect ownership (e.g., a holding company would be considered to Beneficially Own all shares owned or acquired by its subsidiaries), (b) ownership by such holder's family members and persons or entities acting in concert with such holder to make a coordinated acquisition of stock and (c) ownership of Options (as defined below) to acquire stock; (iii) an "Option" to acquire stock includes any contingent purchase, warrant, convertible debt, exchangeable shares, put, stock subject to risk of forfeiture, contract to acquire stock or similar interest, regardless of whether it is contingent or otherwise not currently exercisable.

in Case No. 20-[\_\_\_\_\_] pending in the United States Bankruptcy Court for the District of Delaware (the "Court").

2. If applicable, on [**Prior Date(s)**], [**Name of Prospective Seller**] filed a Notice of Substantial Equityholder Status with the Court and served copies thereof on the above-captioned debtors (collectively, the "Debtors") and the Debtors' counsel.

3. [**Name of Prospective Seller**] currently Beneficially Owns \_\_\_\_\_ shares of Common Stock of Shiloh and/or Options with respect to \_\_\_\_\_ shares of Common Stock of Shiloh.

4. Pursuant to the Proposed Transfer, [**Name of Prospective Seller**] proposes to sell, trade or otherwise transfer \_\_\_\_\_ shares of Common Stock or an Option with respect to \_\_\_\_\_ shares of Common Stock (or take a worthless stock deduction with respect thereto). If the Proposed Transfer is permitted to occur, [**Name of Prospective Seller**] will Beneficially Own \_\_\_\_\_ shares of Common Stock after the transfer becomes effective.

5. The last four digits of the taxpayer identification number of [**Name of Prospective Seller**] are \_\_\_\_\_.

6. Under penalty of perjury, [**Name of Prospective Seller**] hereby declares that it has examined this Notice and accompanying attachments (if any) and, to the best of its knowledge and belief, this Notice and any attachments that purport to be part of this Notice are true, correct and complete.

7. Pursuant to that certain [**Interim/Final**] Order establishing the Equity Transfer Procedures (as defined in the [**Interim/Final**] Order), this Notice is being (i) filed with the Court and (ii) served upon: (a) the Debtors, c/o Shiloh Industries, Inc., 880 Steel Drive,

Valley City, Ohio 44280 (Attn: Amy Floraday); (b) Jones Day, North Point, 901 Lakeside Avenue, Cleveland, Ohio 44114 (Attn: Thomas Wearsch); (c) Jones Day, 77 West Wacker Dr., Chicago, Illinois 60601 (Attn: Timothy Hoffmann); and (d) Richards, Layton & Finger, P.A., One Rodney Square, 920 N. King Street, Wilmington, Delaware 19801 (Attn: Zachary I. Shapiro).

8. The Debtors have 7 days after receipt of this Notice to object to the Proposed Transfer described herein. If the Debtors file an objection, such Proposed Transfer will not be effective unless approved by a final and nonappealable order of the Court. If the Debtors do not object within such 7-day period, then after expiration of such period the Proposed Transfer may proceed solely as set forth in this Notice.

9. The undersigned Prospective Seller understands that any further transactions that may result in [**Name of Prospective Seller**] selling, trading, or otherwise transferring shares of Common Stock (or an Option with respect thereto), or taking a worthless stock deduction with respect thereto, will each require an additional notice to be filed with the Court and served in the same manner as this Notice.

Dated: \_\_\_\_\_, 2020  
Wilmington, Delaware

Respectfully submitted,

\_\_\_\_\_  
(Name of Equityholder)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_