

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re)	
)	Chapter 11
BSI HOLDING CO., INC.,)	
f/k/a BOB'S STORES, INC., et al. ¹)	Case No. 03-13254
)	through 03-13258 (LHK)
Debtors.)	(Jointly Administered)
)	

**DISCLOSURE STATEMENT FOR MODIFIED CONSOLIDATED JOINT PLAN OF LIQUIDATION
OF THE DEBTORS TOGETHER WITH THE OFFICIAL COMMITTEE OF UNSECURED
CREDITORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE, DATED JUNE 10, 2004**

IMPORTANT DATES

- Date by which Ballots must be received: July 1, 2004 at 4:00 p.m. Eastern Time.
- Date by which objections to Confirmation of the Plan must be filed and served: July 1, 2004, 4:00 p.m. Eastern Time.
- Hearing on Confirmation of the Plan: July 8, 2004 at 9:30 a.m. Eastern Time.

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DATED: June 10, 2004

¹ The Debtors are the following entities: BSI Holding Co., Inc., f/k/a Bob's Stores, Inc.; BSC Holding Co., Inc., f/k/a Bob's Stores Center, Inc.; Wind Down Corporation, f/k/a Bob's H.C., Inc.; BI Retail, Inc., f/k/a Bob's Inc.; and BNCO, Inc., f/k/a Bob's Non-Connecticut Operating Co.

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THIS DISCLOSURE STATEMENT AND ITS RELATED DOCUMENTS ARE THE ONLY DOCUMENTS AUTHORIZED BY THE COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES.

THIS DISCLOSURE STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN, AND IS NOT INTENDED TO REPLACE A CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE PLAN, BUT TO AID AND SUPPLEMENT SUCH REVIEW. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED PROVISIONS SET FORTH IN THE PLAN (WHICH IS INCLUDED AS EXHIBIT A TO THIS DISCLOSURE STATEMENT). IN THE EVENT OF A CONFLICT BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE PROVISIONS OF THE PLAN WILL GOVERN. ALL HOLDERS OF CLAIMS ARE ENCOURAGED TO REVIEW THE FULL TEXT OF THE PLAN AND TO READ CAREFULLY THIS ENTIRE DISCLOSURE STATEMENT, INCLUDING ALL EXHIBITS HERETO, BEFORE DECIDING WHETHER TO VOTE TO ACCEPT THE PLAN.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF, AND THE DELIVERY OF THIS DISCLOSURE STATEMENT DOES NOT IMPLY THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME SUBSEQUENT TO THE DATE HEREOF.

HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. EACH SUCH HOLDER SHOULD, THEREFORE, CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE SOLICITATION, THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT BE CONSTRUED AS AN ADMISSION OR STIPULATION, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS.

I. INTRODUCTION

A. General

BSI Holding Co., Inc., f/k/a Bob's Stores, Inc., and its affiliated debtors-in-possession (collectively the "Debtors") and the Official Committee of Unsecured Creditors (the "Committee") have filed this Disclosure Statement (the "Disclosure Statement") with respect to the Modified Consolidated Joint Plan of Liquidation of the Debtors Together with the Official Committee of Unsecured Creditors Under Chapter 11 of the Bankruptcy Code, dated May 14, 2004 (the "Plan").

This Disclosure Statement is provided pursuant to section 1125 of the Bankruptcy Code to all the known creditors of the Debtors. The purpose of this Disclosure Statement is to provide sufficient information to enable creditors who are entitled to vote to make an informed decision on whether to accept or reject the Plan. This Disclosure Statement describes, among other things:

- how to vote on the Plan (section VI C);
- the former business of the Debtors and the reasons for commencing their Chapter 11 cases (section II);
- significant events that have occurred in the Chapter 11 cases (section III);
- the Plan, how distributions under the Plan will be made and the manner in which Disputed Claims will be resolved (section IV);
- the procedure and requirements for confirming the Plan (section VI);
- certain federal tax considerations (section VIII).

The Debtors are not reorganizing their business; they are liquidating, and they will not be conducting any business operations following confirmation and consummation of the Plan, other than winding down and investigating and prosecuting certain rights of action, if any, and resolving Claims not dealt with previously. On the Effective Date, all of the Debtors' assets will be transferred to the Liquidation Trust, a grantor liquidating trust established for the benefit of the Debtors' creditors. A Liquidation Trustee will succeed to such powers as would have been applicable to the Debtors' officers, directors and shareholders and shall be the exclusive trustee of the Liquidation Trust. Although the Debtors are distinct legal entities, the Plan contemplates and is predicated upon the substantive consolidation of the Debtors. Therefore, this Disclosure Statement and accompanying Plan relate to all of the Debtors.

Most words or phrases used in this Disclosure Statement shall have their usual and customary meaning. Except as otherwise provided herein, capitalized terms not otherwise defined in this Disclosure Statement have the meanings ascribed to such terms in the Plan. A copy of the Plan is attached hereto as Exhibit A. **FOR A COMPLETE UNDERSTANDING OF THE PLAN, YOU SHOULD READ THE DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY.**

THE COMMITTEE IS A JOINT PROPONENT OF THE PLAN ALONG WITH THE DEBTORS AND SUPPORTS CONFIRMATION OF THE PLAN.

B. Voting

With respect to Claims in Classes that are “impaired” (as defined below) under, but not deemed to have rejected, the Plan, each holder of a Claim in such Classes will receive a copy of this Disclosure Statement, a Ballot for the acceptance or rejection of the Plan, and other related voting materials. Any creditor or Interest holder whose legal, contractual or equitable rights are altered, modified or changed by the proposed treatment under the Plan or whose treatment under the Plan is not provided for in section 1124 of the Bankruptcy Code is considered “impaired.”

Under the Plan, holders of Allowed Claims in Classes 3 (Convenience Claims) and 4 (General Unsecured Claims) (the “Voting Classes”) are impaired and entitled to vote on the Plan. Holders of Allowed Claims in Classes 1 (Priority Non-Tax Claims), 2 (Secured Claims), and holders of Allowed Fee Claims, Priority Tax Claims and Administrative Claims are unimpaired under the Plan and will be deemed to accept the Plan. Finally, holders of Subordinated Claims in Class 5, Intercompany Claims in Class 6, and holders of Interests in Class 7 will receive no Distributions under the Plan and are deemed to reject the Plan. For a description of the Classes of Claims and Interests and their treatment under the Plan, see Section IV D below.

The Court has fixed June 10, 2004 as the “Voting Record Date.” Only Persons who hold Claims or Interests on the Voting Record Date and certain other parties specified by the Court, are entitled to receive a copy of this Disclosure Statement and all of the related materials. Only Persons who hold Claims that are impaired under the Plan and are not deemed to reject the Plan are entitled to vote on the Plan.

The Ballots have been specifically designed for the purpose of soliciting votes on the Plan from each Class entitled to vote. Accordingly, in voting on the Plan, please use only the Ballot sent to you with this Disclosure Statement. Please complete and sign your Ballot and return it in the enclosed pre-addressed envelope to the Balloting Agent:

BSI Holding Co, Inc.
c/o The Altman Group
60 East 42 Street
Suite 405
New York, NY 10165
Tel No.: (212) 681-9600

ALL PROPERLY COMPLETED BALLOTS RECEIVED BY THE BALLOTING AGENT PRIOR TO JULY 1, 2004 AT 4:00 P.M. EASTERN TIME (THE “VOTING DEADLINE”) WILL BE COUNTED FOR PURPOSES OF DETERMINING WHETHER EACH CLASS OF IMPAIRED CLAIMS ENTITLED TO VOTE ON THE PLAN HAS ACCEPTED THE PLAN. ANY BALLOTS RECEIVED AFTER THE VOTING DEADLINE WILL NOT BE COUNTED UNLESS OTHERWISE ORDERED BY THE BANKRUPTCY COURT. ANY BALLOTS RECEIVED BY FACSIMILE WILL NOT BE ACCEPTED.

UNLESS OTHERWISE ORDERED BY THE BANKRUPTCY COURT. The Balloting Agent will prepare and file with the Court a certification of the results of the balloting with respect to the Plan on a Class-by-Class basis.

HOLDERS OF INTERESTS IN ANY DEBTOR WILL NOT RECEIVE ANY DISTRIBUTION UNDER THE PLAN ON ACCOUNT OF SUCH INTERESTS. ON THE EFFECTIVE DATE, ALL INTERESTS IN (INCLUDING STOCK OF) EACH OF THE DEBTORS WILL BE CANCELLED. ACCORDINGLY, SUCH HOLDERS ARE DEEMED TO REJECT THE PLAN AND WILL NOT BE ENTITLED TO VOTE.

Your vote on the Plan is important. The Bankruptcy Code requires as a condition to confirmation of a plan of reorganization that each class that is impaired under such plan vote to accept such plan, unless the “cram down” provisions of the Bankruptcy Code are employed. The Plan Proponents have reserved their right to seek to “cram down” the Plan on certain non-accepting Classes of creditors and Interest holders. See Section VI below.

C. Confirmation Hearing

The Court will hold the Confirmation Hearing commencing at 9:30 a.m. (Eastern Time), on July 8, 2004 at the United States Bankruptcy Court for the District of Delaware, 824 North Market Street, 3rd Floor, Wilmington, Delaware 19801, before the Honorable Louis H. Kornreich, United States Bankruptcy Judge. The Confirmation Hearing may be adjourned from time to time without further notice. At the Confirmation Hearing, the Court will (i) determine whether the requisite vote has been obtained for each Voting Class (each as defined herein), (ii) hear and determine objections, if any, to the Plan and to confirmation of the Plan that have not been previously disposed of, (iii) determine whether the Plan meets the confirmation requirements of the Bankruptcy Code, and (iv) determine whether to confirm the Plan.

Any objection to confirmation of the Plan must be in writing and filed with the Court and served in a manner so as to be received on or before on or before July 1, 2004 at 4:00 p.m. Eastern Time by: (1) counsel to the Debtors, Goodwin Procter LLP, Exchange Place, Boston, Massachusetts 02109, Attn: Michael J. Pappone, P.C.; (2) co-counsel to the Debtors, Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 North Market Street, Wilmington, Delaware 19801, Attn: David Fournier, Esq.; (3) counsel to the Committee, Kronish Lieb Weiner & Hellman LLP, 1114 Avenue of the Americas, 47th Floor, New York, New York 10036, Attn: Jay R. Indyke, Esq.; (4) co-counsel to the Committee, The Bayard Firm, 222 Delaware Ave., Suite 900, Wilmington, DE 19801, Attn: Neil B. Glassman, Esq.; and (5) the Office of the United States Trustee for the District of Delaware, 844 King Street, Suite 2207, Wilmington, Delaware 19801, Attn: David M. Klauder, Esq.

D. Recommendations

THE COMMITTEE RECOMMENDS THAT ALL HOLDERS OF CLAIMS IN VOTING CLASSES VOTE TO ACCEPT THE PLAN.

II. HISTORICAL INFORMATION

A. The Debtors' Former Business

Established in 1954, "Bob's" stores grew to be one of the leading regional superstore chains with stores averaging approximately 45,000 square feet. The Debtors carried name-brand clothing and footwear for men, women, and children. These products were promoted through a variety of merchandising and marketing vehicles, such as weekly advertising circulars for all of the Debtors' stores, and store programs that included "Best of Bob's" loyalty program and "Business 2 Business" programs.

On the Petition Date (defined below), the Debtors operated 36 casual clothing and footwear superstores in six northeastern states (Massachusetts, Connecticut, New York, New Jersey, New Hampshire and Rhode Island) and employed approximately 2,180 full and part-time employees (excluding seasonal employees). The Debtors' corporate office and primary distribution center were located in Meriden, Connecticut. All of the Debtors' store locations were leased, with the exception of the Middletown, Connecticut location which the Debtors owned. The majority of the Debtors' store leases were guaranteed by CVS, Inc. The Debtors also leased their headquarters.

B. The Debtors' Organizational and Capital Structure as of the Petition Date

The Debtors are each privately held corporations. As of the Petition Date, the Debtors' books and records reflected assets totaling approximately \$142.3 million (book value), total combined liabilities of approximately \$117.4 million, and a net worth of approximately \$24.9 million. For the fiscal year ending January 25, 2003, the Debtors had net sales of approximately \$395 million and net operating losses of approximately \$583,000.

BSI Holding Co., Inc. f/k/a Bob's Stores, Inc. ("BSI"), a Delaware corporation, is a privately held company whose three classes of stock (Series A Preferred, Class A Common and Class B Common) are owned by Citicorp Ventures Capital ("CVC"), its affiliates and former employees of BSI.

BSI is the holding company of BSC Holding Co., Inc., f/k/a Bob's Stores Center, Inc. ("BSC"). All of the stock of BSC is held by BSI, except that CVS, Inc. ("CVS") holds a warrant which, if exercised would result in an ownership structure in which BSI would own 80.01% of BSC stock and CVS would own the remaining 19.99%. BSC, a New Hampshire corporation, owns 100% of all the issued and outstanding stock of Wind Down Corporation, f/k/a Bob's H.C., Inc. ("BHC"), a Minnesota corporation, which in turns owns 100% of BI Retail, Inc. f/k/a Bob's Inc. ("BI") and BNCO, Inc. f/k/a Bob's Non-Connecticut Operating Co. ("BNCO"). BI, a Connecticut corporation, operated the Debtors' eleven Connecticut stores. BNCO, a Massachusetts corporation, operated the stores in Massachusetts, New Jersey, New Hampshire, New York and Rhode Island.

The Debtors, like most retailers, operated on a year-round basis but had a seasonal pattern of sales and earnings. The Debtors' two major selling seasons were back-to-school (third quarter) and winter holiday (fourth quarter). Due to the seasonality of sales and year-round sourcing

requirements, the Debtors used short term financing through revolving credit borrowings and letters of credit to meet their seasonal working capital requirements.

In March 2000, the Debtors² entered into a Revolving Credit and Guaranty Agreement with Fleet Retail Finance, Inc. and Foothill Capital Corporation (the “Pre-Petition Lenders”) for \$75,000,000, which was amended in December 2000, January 2001, July 2002, and July 2003 (the “Credit Line”). As of the Petition Date, there was approximately \$49.9 million outstanding under the Credit Line, in addition to letters of credit totaling approximately \$4.8 million. The Credit Line was secured by substantially all of the Debtors’ assets.

C. Events Leading to Filing of These Chapter 11 Cases

Approximately two years prior to the Petition Date, the Debtors engaged Sheffield Merchant Banking Group, an investment banker (the “Investment Banker”) to find a buyer or party willing to invest capital in the Debtors. The engagement of such Investment Banker was precipitated by the Board of Directors’ determination that in order for the Debtors to sustain profitability and compete against national retailers like Target and Wal-Mart, they needed to achieve greater economies of scale, which would require a significant capital infusion.

Pursuant to a directive of the Board of Directors, the Investment Banker approached potential strategic partners beginning in 2001 and potential financial partners beginning in late 2002 regarding a possible transaction with the Debtors, but was unable to find a party willing to consummate a transaction.

As the Investment Banker searched for a potential acquirer in 2003, the Debtors began suffering significant operating losses. A weak economic environment left the Debtors unable to achieve their sales targets. It was this same weak economic environment that also made the search for potential acquirers, many of which were strategic buyers focusing on self-preservation in the competitive retail market, extremely difficult.

In early Summer 2003, sales had rebounded somewhat, and The TJX Companies, Inc., (“TJX”) approached the Debtors about a possible recapitalization transaction. The back-to-school season, however, was particularly disappointing, and vendors began expressing doubts about the Debtors’ continued viability. Without trade support, the Debtors realized they would soon face a severe liquidity crisis. Consequently, the Debtors’ management began exploring the possibility of seeking bankruptcy relief to preserve the Debtors’ going-concern value in the event that a strategic or financial partner could not be found before a liquidity crisis forced more drastic results. In default under their revolving credit facility, the Debtors began discussions with the Lenders concerning forbearance.

As the Debtors began exploring the possibility of a Chapter 11 filing, the Debtors were approached again by TJX regarding a possible purchase and sale transaction. After conducting due diligence, TJX ultimately concluded that they would not consummate a transaction without the benefit of the protections afforded by the Bankruptcy Code. After extensive negotiations with TJX, the parties ultimately agreed to enter into an asset purchase agreement and seek approval of

² The Credit Line was extended to BI as borrower with the other Debtor entities acting as guarantors.

the sale of the Debtors' assets within the context of a Chapter 11 proceeding. The sale process is described in more detail in section III D below.

III. THE REORGANIZATION CASES

A. Overview

On October 22, 2003 (the "Petition Date"), each of the Debtors filed separate voluntary petitions for relief under Chapter 11, title 11 of the United States Code, 11 U.S.C. §§ 101 et seq., (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Court"). As of the Petition Date, most actions and proceedings against the Debtors and acts to obtain property from the Debtors were stayed under section 362 of the Bankruptcy Code. The Chapter 11 Cases have been procedurally consolidated and are being jointly administered with the Debtors managing their business and affairs as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, subject to the control and supervision of the Court.

B. Employment of the Debtors' Professionals

The Debtors retained and have been represented and advised in the Chapter 11 Cases by (i) the law firms of Goodwin Procter LLP, located at Exchange Place, Boston, MA 02109 and Pepper Hamilton LLP, located at Hercules Plaza, Suite 5100, 1313 North Market Street, Wilmington, Delaware 19801, as bankruptcy counsel; (ii) the law firm of Cain Hibbard Myers & Cook, PC, located at 66 West Street, Pittsfield, MA 01201, as special corporate counsel; (iii) FTI Consulting, Inc., located at 125 High Street, Boston, MA 02110, as their primary financial advisors; (iv) Sheffield Merchant Banking Group, located at 262 Harbor Drive, Stamford, CT 06902, as financial advisors and investment bankers; and (v) DJM Asset Management, LLC, located at 445 Broad Hallow Road, Melville, NY 11747, as special real estate consultant. The Debtors also retained (i) Hinckley, Allen & Snyder LLP, located at 28 State Street, Boston, MA 02109, (ii) Sisselman & Schwartz, LLP, located at 188 Eagle Rock Avenue, Roseland, NJ 07068, (iii) Parker & Brown, P.C., located at 4 Faneuil Hall Marketplace, Boston, MA 02109, and (iv) Fiondella, Milone & LaSaracina LLP, located at Spencer Street, Manchester, CT 06040 as professionals to assist the Debtors in the ordinary course of business with respect to discrete legal matters unrelated to the Debtors' Chapter 11 Cases. On March 17, 2004, the Court approved the retention of Joseph E. Myers as the Debtors' liquidation consultant to facilitate administration and wind down of the Debtors' Chapter 11 Cases.

In addition, the Debtors have retained The Altman Group ("Altman") as the Debtors' Claims Agent in the Chapter 11 Cases. In its capacity as Claims Agent, Altman has assumed responsibility for, among other things: (a) providing notice to the Debtors' creditors and other parties in interest of certain events such as the commencement of these Chapter 11 Cases and section 341 meeting, the proposed sale of the Debtors' assets and the procedures and bar date for filing proofs of claim; (b) providing proof of claim forms to creditors; and (c) collecting proofs of claim filed in the Chapter 11 Cases and maintaining the official register of Claims. Altman will also distribute solicitation materials following approval of a Disclosure Statement and perform balloting services for the Debtors subject to the terms of its Court-approved retention.

C. Appointment of the Official Committee of Unsecured Creditors and Employment of Committee Professionals

On October 31, 2003, the United States Trustee for Region 3 (the “United States Trustee”) appointed the Official Committee of Unsecured Creditors (the “Committee”). The Committee is currently comprised of the following entities: (i) Columbia Sportswear; (ii) Nike USA, Inc.; (iii) The Timberland Company; and (iv) Justin Brands, Inc., d/b/a Chippewa Show Company.³

The Committee retained (i) the law firms of Kronish Lieb Weiner & Hellman LLP, 1114 Avenue of the Americas, 47th Floor, New York, NY 10036 and The Bayard Firm, 222 Delaware Avenue, Wilmington, DE 19899, as counsel; and (ii) Deloitte and Touche LLP, 200 Berkeley Street, Boston, MA 02106, as accountants and financial advisors.

D. Sale of the Debtors’ Business

As described above, after extensive negotiations between the Debtors and TJX pre-petition, the parties ultimately agreed to the Asset Purchase Agreement (the “APA”) which was filed with the Bankruptcy Court on October 25, 2003. The purchase price under the APA was \$100 million in cash, assumption of certain contracts and leases and assumption of certain specified liabilities, subject to purchase price adjustments.

On the Petition Date, the Debtors filed a motion pursuant to sections 363 and 365 of the Bankruptcy Code requesting entry of orders:

- (a) authorizing and approving the sale of substantially all of the Debtors’ assets free and clear of all liens, claims and encumbrances and other interests (the “Sale”):
 - (i) pursuant to an Asset Purchase Agreement between the Debtors as sellers and Alphabravo Corporation as buyer (the “Buyer”), a subsidiary formed for the purpose of this transaction by TJX; or
 - (ii) pursuant to section 363 of the Bankruptcy Code to a qualified buyer who makes a higher or better offer for the Debtors’ assets (a “Successful Bidder”);
- (b) authorizing the assumption and assignment of certain executory contracts and unexpired leases in connection with the sale of the Debtors’ assets to the Buyer or the Successful Bidder pursuant to section 365 of the Bankruptcy Code;
- (c) approving bidding procedures (including certain bidding protections for the Buyer) for solicitation of higher or better offers;
- (d) scheduling an auction and a hearing to consider approval of the proposed sale; and

³ The Committee originally consisted of seven members. Icon International, Inc., and Lee/VF Jeanswear, Inc. resigned from the Committee effective November 19, 2003. Levi Strauss & Co., a former Committee member, also resigned.

- (e) approving the form and manner of notice of the Sale and bidding procedures.

On November 14, 2003, the Court entered an order approving the proposed bidding procedures, approving the form and manner of notice of the Sale (including notice to landlords and contract parties of the proposed assumption and assignment of certain of the Debtors' unexpired real property leases and executory contracts), approving the terms of the APA on an interim basis, and scheduling an auction and a hearing to consider approval of the Sale.

Following the November 14, 2003 hearing, the Debtors, in consultation with the Committee and with the assistance of their advisers continued to market their assets to potential bidders. On or before the bidding deadline of December 11, 2003, largely as a result of the Committee's efforts, the Debtors received a competing, qualified bid in the form of a multi-party proposal from Hilco Merchant Resources, LLC, Hilco Real Estate, LLC, Gordon Brothers Retail Partners, LLC and NES, Inc. (collectively, the "Competing Bidder") for the liquidation of the Debtors' inventory at their retail stores and the purchase of certain store leases. An auction was conducted from December 15, 2003 through December 17, 2003. The Debtors determined that the bid by the Buyer, its original bid having been increased by over \$13,000,000 as a result of competitive bidding at the auction, was the highest and best offer for the Debtors' assets. Hearings to consider approval of the Sale were held on December 17, 18 and 23, 2003 at which objections to the Sale were presented and resolved. The Court approved the Sale to the Buyer on December 23, 2003, and the Sale closed on December 24, 2003. After satisfying their obligations under the DIP Financing Facility and the Pre-Petition Indebtedness (see section III F below), the Debtors were left with net sale proceeds of approximately \$39 million.

The Debtors and Buyer maintain rights under the APA, as amended and Sale Order which are not modified by the Plan. The Buyer asserts that the Plan needs to be modified such that § 13.10 of the Plan would provide as follows:

To the extent the Confirmation Order and/or this Plan is inconsistent with the Disclosure Statement, the Liquidation Trust Agreement, any other agreement entered into between or among any Debtors, or any of them and any third party, the Plan controls the Disclosure Statement and any such agreements, and the Confirmation Order (and any later order of the Court) controls the Plan. Notwithstanding the foregoing, the Asset Purchase Agreement and the Sale Order shall survive AND SHALL NOT BE ALTERED OR IMPAIRED BY the confirmation of the Plan and the entry of the Confirmation Order." (Buyer's proposed language in all capitals).

The Plan Proponents intend to oppose this assertion but the Court may order otherwise. The rights of all parties, including the Buyer, are preserved for confirmation.

Following the Sale, the Debtors, the Committee and the Competing Bidder petitioned the Court for the payment of a topping fee that had been promised to the Competing Bidder for its critical role in fostering a competitive bid process and generating significant, additional value for the Estate. After notice and a hearing, the Court authorized the Debtors to pay \$2,000,000 in the form of a topping fee and reimburse the Competing Bidder up to \$500,000 in reasonable out-of-pocket expenses. The Competing Bidder has filed a Joint Expense Statement detailing their

proposed expense reimbursement. The parties are currently negotiating the amount of reasonable out-of-pocket expenses that should be paid.

E. Store Closing Sales

In a letter dated November 17, 2003, the Buyer notified the Debtors of its election under the APA to exclude five of the Debtors' retail stores from the Sale. The five stores (the "Closed Stores") were Store No. 10, located in Poughkeepsie, New York; Store No. 29, located in Albany, New York; Store No. 41, located in Kingston, Massachusetts; Store No. 46, located in Levittown, New York; and Store No. 76, located in West Nyack, New York. Following notification by the Buyer and in accordance with the APA, the Debtors filed an expedited motion seeking the Court's approval of liquidation sales at the Closed Stores to be conducted by a liquidation firm.

The Debtors and the Committee identified at least eight (8) firms that were interested in entering into an agreement for the orderly liquidation of the inventory and furniture, fixtures and equipment ("FF&E") in the Closed Stores and accordingly, attempted to solicit bids in connection therewith. A letter soliciting bids, together with bidding terms, inventory lists and a disposition timetable, was delivered to each of these firms on November 19, 2003.

Bids were submitted on or before November 21, 2003, and an auction was held on November 24, 2003. Six liquidation specialist firms participated at the auction. After several rounds of competitive bidding for the inventory and FF&E, the Debtors determined that Gordon Brothers Retail Partners ("GB") offered the highest and best bid. On November 26, 2003, the Court approved an agency agreement between GB and the Debtors under which GB agreed to pay the Debtors a guaranteed percentage of the aggregate retail price of inventory plus occupancy expenses and to share the proceeds from the sale of any FF&E with the Debtors. The liquidation sales at the Closed Stores generated approximately \$6,600,000 (after deducting costs, expenses and any adjustments). Following the liquidation sales, the Debtors vacated the Closed Stores and rejected the related store leases.

F. The Debtors' DIP Financing Facility

As described in section II B above, prior to the Petition Date, the Debtors used short-term financing through revolving credit borrowings and letters of credit in order to meet their seasonal working capital requirements. The credit line from the Pre-Petition Lenders was used primarily for working capital and general business purposes. As of the Petition Date, there was approximately \$49.9 million outstanding under the Credit Line, in addition to letters of credit totaling approximately \$4.8 million (collectively, the "Pre-Petition Indebtedness"). The Credit Line was secured by substantially all of the Debtors' personal property (the "Pre-Petition Collateral"). In order to continue to fund their ongoing business operations during the pendency of the Chapter 11 Cases, the Debtors entered into a debtor-in-possession financing facility (the "DIP Financing Facility") with Fleet Retail Finance, Inc., as agent for the consortium of lenders that collectively extended credit to the Debtors before the Petition Date (collectively, the "Lenders"). The terms of the DIP Financing Facility were memorialized in a Post-Petition Revolving Credit and Guaranty Agreement dated as of October 24, 2003 (the "Post-Petition Credit Agreement"). Given the seasonality of the Debtors' business, the Debtors required a line of credit to finance their inventory buildup and other operating expenses during the time of year

preceding the December holiday season. By obtaining the DIP Financing Facility, the Debtors were able to maintain the confidence of employees, vendors and customers essential to preserving the value of the Debtors' assets.

The following were the primary terms of the DIP Financing Facility:

- The DIP Financing Facility provided a total commitment of \$75,000,000 (the "Commitment"). The Commitment was available for working capital and for the issuance of standby letters of credit.
- The DIP Financing Facility contemplated that all obligations would be secured by a perfected, first-priority, priming lien on substantially all of the Debtors' assets with superpriority over any and all administrative expenses (with the exception of the Carve Out, as that term is defined in the Post-Petition Credit Agreement, and certain bankruptcy fees).
- The DIP Financing Facility contemplated that all prepetition obligations due to the Lenders would be paid with proceeds of the Pre-Petition Collateral (inventory sold) and later, upon entry by the Court of the final order approving the Facility, with post-petition borrowings under the DIP Financing Facility.

The Court authorized and approved the DIP Financing Facility on an interim basis on October 24, 2003 and on a final basis on November 14, 2003. Upon the closing of the Sale on December 24, 2003, the Debtors satisfied their obligations to the Lenders in full with the Sale proceeds and terminated the DIP Financing Facility.

G. Rejection of Executory Contracts and Unexpired Leases

Prior to the Petition Date, the Debtors were party to hundreds of executory contracts and real and personal property leases. Following the sale of substantially all the Debtors' assets and in anticipation of a complete wind-down of the Debtors' business, retaining certain real property leases, personal property leases and other executory contracts would have resulted in a cash drain on the Estate with no concomitant benefit. Therefore, with the exception of the various executory contracts and real and personal property leases assumed and assigned to the Buyer, the Debtors sought Court approval pursuant to section 365 of the Bankruptcy Code to reject most, if not all, of their contracts and leases. Treatment of any remaining contracts and leases as of the Confirmation Date is described in section IV E below.

H. Claims Administration

1. Filing of Schedules and Statements and Section 341 Meeting

On December 4, 2003, the Debtors filed their Schedules of Assets and Liabilities, and Statements of Financial Affairs. On November 25, 2003 and December 23, 2003, the United States Trustee conducted the meeting of the Debtors' creditors under section 341 of the Bankruptcy Code.

2. Bar Date for Pre-Petition Claims

In accordance with Bankruptcy Rule 3003(c)(3), on December 17, 2003, the Court entered an Order Establishing Procedures and Bar Dates for Filing Proofs of Claim and Approving Form and Manner of Notice Thereof (the “Bar Date Order”). The Court established January 30, 2004 (the “General Bar Date”), as the final date for filing proofs of claim against the Debtors, except that the following entities were not required to file proofs of claim by the General Bar Date: (a) entities that had already properly filed with the Claims Agent a proof of claim against the Debtors; (b) entities (i) whose claims were not listed as “disputed,” “contingent” or “liquidated” in the Schedules, and (ii) who agreed with the nature, classification, and amount of such claims as set forth in the Schedules; (c) entities whose claims had previously been allowed by, or paid pursuant to, an order of this Court; (d) entities which are debtors jointly administered in the above-captioned cases to the extent their claims constitute intercompany claims against other debtors herein; and (e) governmental units. The Court established April 19, 2004, as the date by which governmental units were required to file proofs of claim. Subsequent to the entry of the Bar Date Order, Altman mailed notices of the Bar Date and proof of claim forms to all known Creditors and shareholders of the Debtors. Altman caused notice of the Bar Date to be published in the National Edition of The New York Times on December 23, 2003.

See Section IV E 2 herein for information regarding the separate bar date for certain “rejection damage claims.”

3. Bar Date for Post-Petition Claims

a. Administrative Claims

Under the Plan, all holders of Administrative Claims arising before the Effective Date, (not including Fee Claims (described below)), not paid prior to the Effective Date, must file with the Court proper requests for payment of such Administrative Claims, and serve copies upon the parties listed in Section 13.13 of the Plan, within 30 days after the Effective Date (the “Administrative Claims Bar Date”). Parties not complying with this deadline shall be forever barred from seeking payment of those claims. The notice of Confirmation of the Plan and the Effective Date to be delivered pursuant to Bankruptcy Rules 3020(c) and 2002(f) will include notice of the Administrative Claims Bar Date.

b. Fee Claims

All parties requesting compensation or reimbursement of Fee Claims pursuant to section 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code for services rendered or expenses incurred on behalf of the Debtors or the Committee prior to the Effective Date must file with the Court with copies to the parties listed in Section 13.13 of the Plan within 60 days after the Effective Date (the “Fee Claims Bar Date”) or shall be forever barred from seeking payment of those claims. The notice of Confirmation of the Plan and the Effective Date to be delivered pursuant to Bankruptcy Rules 3020(c) and 2002(f) will include notice of the Fee Claims Bar Date.

4. Reclamation Claims

Both prior to and following the Petition Date, the Debtors received approximately 60 notices of reclamation (the “Reclamation Demands”) from 48 of its trade suppliers (the “Trade Claimants”) demanding the return of goods purportedly received by the Debtors on credit pursuant to section 2-702 of the UCC and section 546(c) of the Bankruptcy Code. The value of the goods claimed by the trade suppliers pursuant to the Reclamation Demands total approximately \$9,342,231.46. In January 2004, the Debtors and the Committee initiated a reconciliation process with all of the Sellers by sending out letters requesting documentation supporting each Seller’s alleged Reclamation Claim. The Debtors, in conjunction with the Committee, reviewed the Reclamation Claims and supporting documentation against the Debtors’ books and records. The Debtors also applied certain threshold standards to determine the validity of the Reclamation Claims including: (i) whether the merchandise claimed under the Reclamation Claims was already paid for by the Debtors; (ii) whether the merchandise was received within the reclamation periods allowed by law; and (iii) whether the Debtors asserted other deductions or disputes for the merchandise subject to the Reclamation Claims. Based on this reconciliation, the Debtors and the Committee determined that the potentially allowable amounts of each Seller’s Reclamation Claim total approximately \$2.9 million (the “Allowable Reclamation Claims”), subject to the assertion of additional rights and defenses with respect to the Reclamation Claim of any Seller that objects to the amount of its proposed Allowable Reclamation Claim. By way of joint motion filed on April 30, 2004, the Debtor and the Committee have sought entry of an order granting the Allowable Reclamation Claims administrative expense status, authorizing the Debtors to pay in full any and all such Allowable Reclamation Claims, subject to any valid offsets or deductions the Debtors may have against any such creditor, and disallowing any Reclamation Claim to the extent it is not an Allowable Reclamation Claim or exceeds the amount determined by the Debtors and the Committee as set forth in the motion. The motion also seeks authority for the Debtors to negotiate settlements with objecting Reclamation Claimants that will be binding without further order of the Court.

5. IRS Claim

The Internal Revenue Service has filed a proof of claim, asserting a priority tax claim in the amount of \$15,747,111.30 allegedly for gain recognized by BSI in 2001 on the sale or exchange of property in cancellation of a subordinated note issued by BSI to CVS not excludible under the discharge of indebtedness rules of the Internal Revenue Code. Representatives of the Debtors and the Committee have collectively drafted and submitted a protest, challenging the validity and merits of the IRS claim and requesting a hearing before the Tax Appeals Office in Boston, Massachusetts. Based on a thorough analysis of the IRS claim, the Debtors and the Committee do not believe that any portion of the IRS claim should be allowed.

6. Other Claims Information

As of the filing of this Disclosure Statement, the Debtors have received approximately 550 proofs of Claim aggregating in excess of \$97 million, excluding unliquidated amounts. For a detailed description of the estimates and treatment of Allowed Claims, see Section IV D.

I. Causes of Action Arising Under Chapter 5 of the Bankruptcy Code

Pursuant to the Bankruptcy Code, a debtor in possession may seek to recover, through adversary proceedings in the bankruptcy court, certain transfers of the debtor's property, including payments of cash, made while the debtor was insolvent during the 90 days immediately prior to the commencement of the bankruptcy case (or, in the case of a transfer to or on behalf of an "insider," one year prior to the commencement of the bankruptcy case) with respect to antecedent debts to the extent the transferee received more than it would have received on account of such pre-existing debt had the debtor been liquidated under chapter 7 of the Bankruptcy Code. Such transfers include cash payments, pledges of security interests or other transfers of an interest in property. In order to be preferential, such payments must have been made while the debtor was insolvent; debtors are presumed to have been insolvent during the 90-day preference period. The Bankruptcy Code's preference statute can be very broad in its application because it allows the debtor to recover payments regardless of whether there was any impropriety in such payments, although there may be defenses to recovery.

Under the Bankruptcy Code and under various state laws, a debtor also may recover or set aside certain transfers of property (known as fraudulent transfers), including the grant of a security interest in property, made while the debtor was insolvent or which rendered the debtor insolvent or undercapitalized if the debtor received less than reasonably equivalent value for such transfer.

As of this date, most payments made during the 90-day preference period have been reviewed and analyzed. Based on their review, the Debtors and the Committee believe that pursuit of most, if not all, preference claims would not be cost-effective or beneficial to the Estate because most would be subject to valid defenses or would be unlikely to yield a net benefit to the Estate after costs of litigation. Accordingly, it is unlikely that any preference actions will be brought. Nevertheless, the Plan provides that any preference and fraudulent transfer claims will be transferred to the Liquidation Trust and, to the extent determined to be actionable and material, may be pursued by the Liquidation Trustee for the benefit of the beneficiaries of the Liquidation Trust.

The Debtors estimate that at best, net recovery to holders of General Unsecured Claims based on the avoidance of preference payments or other avoidance actions would be *de minimis*.

J. Other Litigation Claims of the Debtors

In addition to the preference and fraudulent transfer claims described above, the Debtors or the Estate may possess claims and/or causes of action against certain parties that may be pursued after the Effective Date for the benefit of the Estate. These Litigation Claims also will be transferred to the Liquidation Trust under the Plan and will be investigated, prosecuted and/or settled by the Liquidation Trustee for the benefit of the beneficiaries of the Liquidation Trust, and any proceeds therefrom will be distributed in accordance with the terms of the Plan. The Plan Proponents believe that any recovery on these Litigation Claims will not materially affect the projected recoveries to holders of General Unsecured Claims. For purposes of the estimated recoveries stated in this Disclosure Statement, the Plan Proponents estimate recoveries from any such litigation at zero.

K. Litigation/ Proceedings Against the Debtors

There are judicial and administrative actions pending against the Debtors which have been brought by former employees, tort claimants and advocates for the disabled. The judicial proceedings have been stayed by the bankruptcy filing. Similarly, to the extent that any plaintiff with an action that is currently pending before or that was dismissed by any state agency prior to the Petition Date retains a cognizable right of action against the Debtors, those plaintiffs are stayed from bringing judicial actions against the Debtors. Cognizable claims against Debtors arising from these actions, if any, will be dealt with under the Plan and under the procedures established by the Court for the filing of proofs of claim. Based on the claims filed by these plaintiffs and the current posture of these actions, the Debtors believe that the resolution of these claims will not have a material effect on the recovery for holders of General Unsecured Claims.

L. Exclusivity

By orders of the Court, dated February 2, 2004 and April 20, 2004, respectively, the Debtors obtained extensions of both the period during which only the Debtors may file a plan in these cases and the period during which only the Debtors may solicit acceptances of such plan.

IV. SUMMARY OF THE PLAN

A. General

SET FORTH IN THIS SECTION IS A SUMMARY OF CERTAIN OF THE MATTERS CONTEMPLATED TO OCCUR EITHER PURSUANT TO OR IN CONNECTION WITH CONFIRMATION OF THE PLAN. THIS SUMMARY HIGHLIGHTS THE SUBSTANTIVE PROVISIONS OF THE PLAN AND IS NOT, NOR IS IT INTENDED TO BE, A COMPLETE DESCRIPTION OR A SUBSTITUTE FOR A FULL AND CAREFUL READING OF THE PLAN, A COPY OF WHICH IS ANNEXED HERETO AS EXHIBIT A. STATEMENTS REGARDING PROJECTED AMOUNTS OF CLAIMS OR DISTRIBUTIONS (OR THE VALUE OF SUCH DISTRIBUTIONS) ARE ESTIMATES BY THE DEBTORS' FINANCIAL ADVISORS, FTI CONSULTING, WITH THE ASSISTANCE OF THE DEBTORS, BASED ON CURRENT INFORMATION AND ARE NOT A REPRESENTATION AS TO THE ACCURACY OF THESE AMOUNTS. FOR AN EXPLANATION OF THE BASIS FOR, LIMITATIONS OF AND UNCERTAINTIES RELATING TO THESE CALCULATIONS, SEE SECTION VII ("CERTAIN RISK FACTORS TO BE CONSIDERED"), BELOW.

B. Plan Overview

As described above, a principal goal of a chapter 11 bankruptcy case is to reorganize or liquidate a debtor's business for the benefit of itself and its creditors and interest holders. The plan of reorganization or liquidation is the blueprint by which these goals are accomplished. It provides the rules and procedure pursuant to which a debtor's creditors and interest holders will be paid and lists the steps a debtor will take to either reorganize or wind up its business.

After selling substantially all their assets to the Buyer and paying off their principal secured debt, the Debtors, in consultation with the Committee, focused on formulating a plan of liquidation that would enable them to make distributions to holders of Allowed Claims as soon as practicable and subsequently wind up and terminate the Debtors' business affairs. The Plan calls for liquidation, rather than reorganization, of the Debtors. The Plan accomplishes this objective by providing for, among other things: (i) substantive consolidation of the Debtors, (ii) creation of the Liquidation Trust, (iii) compromise and settlement of Claims; and (iv) rejection of executory contracts and unexpired leases to which any Debtor is a party.

C. Substantive Consolidation

The Plan contemplates and is predicated upon entry of the Substantive Consolidation Order, which will effect the substantive consolidation of the Debtors, their Estate and Property for all purposes associated with the Chapter 11 cases and confirmation and consummation of the Plan. On the Effective Date: (i) all Intercompany Claims by and among the Debtors shall be eliminated; (ii) all assets and liabilities of the Debtors will be merged or treated as though they were merged; (iii) all prepetition cross-corporate guarantees of the Debtors will be eliminated; (iv) all Claims based upon guarantees of collection, payment or performance made by one or more Debtors as to the obligations of another Debtor or of any other Person will be discharged, released and of no further force and effect; (v) any obligation of any Debtor and all guarantees thereof executed by one or more of the Debtors will be deemed to be one obligation of BSI; (vi) any Claims filed or to be filed in connection with any such obligation and such guarantees will be deemed one Claim against BSI; and (vii) each and every Claim filed in the individual Chapter 11 Case of any of the Debtors will be deemed filed against BSI and shall be deemed a single obligation of all of BSI under the Plan on and after the Confirmation Date. Notwithstanding anything to the contrary in Section 2.1 of the Plan, the substantive consolidation of the assets and liabilities of the Debtors as described herein shall not result in any actual transfer or merger of such assets and liabilities for any purpose (including, without limitation, for tax purposes and state law purposes) other than the administration of the Chapter 11 Cases and the determination of the rights of holders of Claims and Interests under the Plan and the making of Plan distributions.

Unless substantive consolidation has been approved by a prior order of the Court, the Plan will serve as a motion seeking entry of an order substantively consolidating the Chapter 11 Cases. **UNLESS AN OBJECTION TO SUBSTANTIVE CONSOLIDATION IS MADE IN WRITING BY ANY CREDITOR AFFECTED BY THE PLAN ON OR BEFORE THE DATE THAT IS FIXED BY THE COURT AS THE LAST DATE ON WHICH BALLOTS MAY BE RECEIVED, OR SUCH OTHER DATE AS MAY BE FIXED BY THE COURT, THE SUBSTANTIVE CONSOLIDATION ORDER (WHICH MAY BE THE CONFIRMATION ORDER) MAY BE ENTERED BY THE COURT.** In the event any such objections are timely filed, a hearing with respect thereto shall be scheduled by the Court, which hearing may coincide with or precede the Confirmation Hearing.

Substantive consolidation is an equitable remedy which a bankruptcy court may be asked to apply in cases involving affiliated debtors. As contrasted with procedural consolidation,⁴

⁴ Procedural consolidation is the administrative process (contemplated by Bankruptcy Rule 1015(b)) whereby the proceedings of two or more affiliated debtors are conducted as part of a single proceeding for the convenience of

substantive consolidation may affect the substantive rights and obligations of creditors and debtors. Substantive consolidation involves the pooling and merging of the assets and liabilities of the affected debtors; all of the debtors in the substantively consolidated group are treated as if they were a single corporate/economic entity. The consolidated assets create a single fund from which all claims against the consolidated debtors are to be satisfied. Consequently, a creditor of one of the substantively consolidated debtors is treated as a creditor of the substantively consolidated group of debtors and issues of individual corporate ownership of property and individual corporate liability on obligations are ignored. However, substantive consolidation does not affect the debtors' separate corporate existence or independent ownership of property for any purposes other than for making distributions of property under a plan of reorganization or otherwise as necessary to implement such plan.

The power to substantively consolidate interrelated chapter 11 cases lies in a bankruptcy court's general equitable powers which are set forth in section 105 of the Bankruptcy Code. Within this framework, the factors to which courts have looked to determine the appropriateness of substantive consolidation include: (i) whether creditors dealt with the debtor entities as a single economic unit and did not rely on their separate identities in extending credit, and (ii) whether the affairs of the debtors are so entangled that the consolidation will benefit all creditors of the debtors' estate. Additional factors include: (i) the presence or absence of consolidated financial statements; (ii) the existence of inter-company guarantees or loans; (iii) the unity of interest and ownership between the various corporate entities; (iv) the transfer of assets without observance of corporate formalities; (v) the degree of difficulty in segregating and ascertaining individual assets and liabilities; (vi) the parent, its affiliates and subsidiaries having common directors and/or officers; (vii) the parent or its affiliates financing one another; and (viii) the commingling of assets and business functions.

The overriding purpose of substantive consolidation of these Chapter 11 Cases is to insure the equitable treatment of all creditors. In general, the two factors which must be examined in determining whether substantive consolidation is warranted are: (i) whether there is a "substantial identity" or an inseparable "interrelationship" or "entanglement" between and among the debtors to be consolidated and (ii) whether the benefits of consolidation outweigh the harm or prejudice to creditors, including whether individual creditors relied upon the separate identity of one of the entities to be consolidated.

The Plan Proponents believe that there is a substantial identity, extensive interrelationship, interdependence and entanglement between and among the Debtors such that the Debtors are fundamentally and inextricably intertwined in virtually all operational and financial aspects, as evidenced by the following:

- Joint Corporate Structure: The members of the board of directors of each of the Debtors, and all officers of each of the Debtors, are substantially the same.

the bankruptcy court and parties in interest. Procedural consolidation does not affect the substantive rights of the debtors or their respective creditors and interest holders. The Chapter 11 Cases were procedurally consolidated pursuant to the Court's Order Authorizing Joint Administration of Bankruptcy Proceedings, dated October 23, 2003.

- The Debtors' Revenues: Substantially all of the Debtors' revenues were generated by their retail stores. Although the cash flow attributable to the stores was generated by BI and BNCO, such funds were available to all of the Debtors as needed.
- Joint Business Operations: The Debtors do not maintain separate books and records for each individual Debtor entity other than for the purpose of filing state tax returns. Moreover, and in part attributable to the accounting system described below, the Debtors' books and records do not provide the full details of the intercompany claims, such as contribution claims. The Debtors' business was operated on a day-to-day basis without strict regard for their separate assets, liabilities, employees or management. As a result, the Debtors cannot accurately determine in a cost-effective or timely manner the appropriate apportionment of costs and expenses among those Debtors whose obligations had been paid by and through BI.
- Joint Administrative Tasks: BI was administratively responsible for payment of all costs incurred by and attributable to the execution of the administrative functions that benefited all of the Debtor entities, even in instances where the particular creditor, vendor or employee did not have any claim against the BI estate, and believed that it had done business with another Debtor.
- Consolidated Financial Reports: No separate company financial statements for any of the Debtors were disseminated. Consolidated financial reports for Bob's Stores, Inc. have been routinely prepared and disseminated to, inter alia, customers, suppliers, landlords, lenders, and credit rating agencies.
- Joint Accounting System: The individual Debtor entities do not maintain their own separate accounting functions.
- Consolidated Cash Management: The Debtors utilized a centralized cash management system.
- Banking and Payment Functions: As of the Petition Date, every significant bank account of the Debtors was in the name of BSI and BI, and funds from all accounts were regularly swept into the Fleet account for payments against the revolving secured loans and to fund the Debtors' operating account. Substantially all of the Debtors' banking and payment functions were performed by BI.

Because virtually all financial information disseminated to customers, suppliers, landlords, lenders, and credit rating agencies were prepared and presented on a consolidated basis, the Plan Proponents believe that creditors of the Debtors did not rely upon the separate identity of one Debtor in extending credit and therefore cannot be harmed by substantive consolidation of the Debtors' assets and liabilities. Substantive consolidation would insure that all of the Debtors' creditors, including the Debtors' landlords and trade creditors, having relied on the creditworthiness of the Debtors as a unit, receive the benefit of distribution in satisfaction of their claims from the single pool of assets.

While certain creditors might arguably receive a lesser distribution of Cash pursuant to the Plan as a result of the pooling of assets of the Debtors than might otherwise be available if these Chapter 11 Cases were not substantively consolidated, the Debtors have determined that the segregation and allocation of assets and liabilities among the Debtor entities necessary to effectuate a distribution to creditors on an unconsolidated basis would be virtually impossible and prohibitively expensive. Consequently, the Debtors and the Committee cannot provide parties in interest with a comparative analysis of what creditors would otherwise receive without substantive consolidation. As noted above, the Plan Proponents believe that the alternatives to substantive consolidation are not feasible.

D. Closing of Chapter 11 Cases of Certain Debtors

On the Effective Date or as soon thereafter as practicable, the Liquidation Trustee shall file an appropriate motion with the Court to close the Chapter 11 Cases of BHCI, BI, BNCO and BSCI.

E. Treatment of Claims and Interests

The Plan classifies Claims and Interests into three (3) unclassified categories and seven (7) Classes, and provides different treatment for the different categories or Classes of Claims and Interests in accordance with the Bankruptcy Code. A Claim or Interest is placed in a particular unclassified category or Class only to the extent that the Claim or Interest falls within the description of that category or Class. A Claim is also placed in a particular category or Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that category or Class and such Claim has not been paid, released or otherwise settled prior to the Effective Date.

The following table sets forth a brief summary of the classification and general treatment of Claims and Interests under the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Fee Claims and Priority Tax Claims have not been classified and, subject to the Administrative Claims Bar Date and Fee Claims Bar Date set forth in Section III of the Plan, will be paid in full in Cash to the extent such Claims become Allowed Claims. All other Claims and Interests have been classified. With respect to each Class, the amount shown in the table as "Estimated Percentage Recovery" is the quotient of the estimate of the Cash to be distributed to all holders of Allowed Claims in such Class, if any, divided by the estimated aggregate amount of Allowed Claims in such Class.

The information set forth in the table is for convenience of reference only. Each holder of a Claim or Interest should refer to Article V of the Plan, and the Liquidation Analysis annexed as Exhibit B hereto, for a full description of the classification and treatment of Claims and Interests provided under the Plan. **ALTHOUGH THE PLAN PROPONENTS BELIEVE THAT THE ESTIMATED PERCENTAGE RECOVERIES ARE REASONABLE, NO REPRESENTATION CAN BE OR IS BEING MADE WITH RESPECT TO WHETHER THE ESTIMATED PERCENTAGE RECOVERIES SHOWN WILL BE REALIZED BY THE HOLDER OF AN ALLOWED CLAIM IN A PARTICULAR CLASS. THE ACTUAL RECOVERIES UNDER THE PLAN BY THE CREDITORS WILL DEPEND UPON A VARIETY OF FACTORS INCLUDING, BUT NOT LIMITED TO, WHETHER, AND IN**

WHAT AMOUNT, CONTINGENT CLAIMS AGAINST THE DEBTORS BECOME NON-CONTINGENT AND FIXED, WHETHER, AND TO WHAT EXTENT, DISPUTED CLAIMS ARE RESOLVED IN FAVOR OF THE DEBTORS AND TO WHAT EXTENT RECOVERIES ARE OBTAINED FROM THE DEBTORS' CAUSES OF ACTION. FOR AN EXPLANATION OF THE BASIS FOR, LIMITATIONS OF AND UNCERTAINTIES RELATING TO THESE CALCULATIONS SEE SECTION VII ("CERTAIN RISK FACTORS TO BE CONSIDERED"), BELOW. UNLESS OTHERWISE NOTED, THESE ESTIMATES ARE AS OF MAY 11, 2004.

CLASS	DESCRIPTION AND AMOUNT OF CLAIMS OR INTERESTS	SUMMARY OF TREATMENT UNDER THE PLAN
N/A	<p>Administrative Claims:</p> <p>Administrative Claim is an unsecured Claim, other than a Fee Claim, for payment of costs or expenses of administration specified in sections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation: (a) the actual, necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the businesses of the Debtors; (b) Allowed Reclamation Claims; and (c) all fees and charges assessed against the Estates pursuant to section 1930 of title 28 of the United States Code ("United States Trustee Fees").</p> <p>Approximately \$4.2 million in claims filed are asserted as Administrative Claims. These include certain alleged reclamation claims. The Debtors or Liquidation Trustee intend to seek to expunge or reclassify many of these Claims. Section III H 4 describes the proposed treatment of Allowable Reclamation Claims.</p> <p>The Plan Proponents estimate that Allowed Administrative Claims, including Allowed Reclamation Claims, will approximate \$2.9 million.</p> <p>See Note 1 below regarding payment of United States Trustee Fees.</p>	<p>Allowed Administrative Claims are not classified under the Plan.</p> <p>Unless otherwise provided for in the Plan, each holder of an Allowed Administrative Claim shall receive (i) 100% of the unpaid amount of such Allowed Administrative Claim in Cash on or as soon as reasonably practicable after the Distribution Date; or (ii) such less favorable treatment as the Liquidation Trustee or the Committee and the holder of such Allowed Administrative Claim may agree upon.</p> <p>Estimated Percentage Recovery: 100%</p>
N/A	<p>Fee Claims:</p> <p>Fee Claim is defined under the Plan as a Claim for compensation or reimbursement of expenses pursuant to sections 327, 328, 330, 331 or 503(b) of the Bankruptcy Code in connection with the Chapter 11 Cases.</p>	<p>Allowed Fee Claims are not classified under the Plan.</p> <p>Each holder of an Allowed Fee Claim shall receive 100% of the unpaid allowed amount of such Claim in Cash on or as soon as reasonably practicable after the Distribution Date.</p>

CLASS	DESCRIPTION AND AMOUNT OF CLAIMS OR INTERESTS	SUMMARY OF TREATMENT UNDER THE PLAN
	The Plan Proponents estimate that Fee Claims as of the Effective Date will approximate \$1,300,000 to \$1,500,000.	Estimated Percentage Recovery: 100%
N/A	<p>Priority Tax Claims:</p> <p>Priority Tax Claim is defined as a Claim entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code</p> <p>The IRS has asserted a priority tax claim in the amount of \$15,747,111.00. The Plan Proponents believe that this claim has no merit or at a minimum, is grossly overstated. Additional taxing authorities have asserted priority tax claims totaling in excess of \$2.7 million excluding unliquidated amounts.</p>	<p>Allowed Priority Tax Claims are not classified under the Plan.</p> <p>Each holder of an Allowed Priority Tax Claim shall receive: (i) 100% of the unpaid amount of such Allowed Claim in Cash on or as soon as reasonably practicable after the Distribution Date; or (ii) such less favorable treatment as the Liquidation Trustee or the Committee and the holder of such Allowed Priority Tax Claim may agree upon.</p> <p>Estimated Percentage Recovery: 100%</p>
1	<p>Priority Non-Tax Claims: Class 1 consists of any Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, other than: (a) an Administrative Claim; (b) a Priority Tax Claim; or (c) a Fee Claim.</p> <p>Asserted Priority Non-Tax Claims currently total in excess of \$3 million, excluding unliquidated amounts. The Plan Proponents believe, however, that a large number of these claims have been paid or otherwise satisfied, are not entitled to priority treatment, are duplicates, or will be disallowed by the Court for other reasons.</p>	<p>Class 1 is unimpaired by the Plan. Each holder of an Allowed Priority Non-Tax Claim is presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.</p> <p>Each holder of an Allowed Priority Non-Tax Claim shall receive (i) 100% of the unpaid amount of such Allowed Claim in Cash on or as soon as reasonably practicable after the Distribution Date; or (ii) such less favorable treatment as the Liquidation Trustee or the Committee and the Holder of such Allowed Priority Non-Tax Claim may agree upon.</p> <p>Estimated Percentage Recovery: 100%</p>
2	<p>Secured Claims: Class 2 consists of, pursuant to section 506 of the Bankruptcy Code, that portion of a Claim that is secured by a valid, perfected and enforceable security interest, lien, mortgage or other encumbrance, that is not subject to avoidance under applicable bankruptcy or non-bankruptcy law, in or upon any right, title or interest of any of the Debtors in and to property of the Estate, to the extent of the value of the holder's interest in such property as of the relevant determination date. The defined term Secured Claim includes any Claim that is: (i) subject to an offset right under applicable law; and (ii) a secured claim against any of the Debtors</p>	<p>Class 2 is unimpaired by the Plan. Each Holder of an Allowed Secured Claim is presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.</p> <p>Each holder of an Allowed Secured Claim shall receive (i) 100% of the Net Proceeds from the sale of the relevant collateral, up to the unpaid allowed amount of such Claim (with such payments to be made, if applicable, from accounts set up by the Debtors, during the Chapter 11 Cases, in connection with the sale of such collateral), subject to applicable inter-creditor lien priorities; (ii) the return of the relevant collateral; (iii) such treatment that leaves unaltered the legal, equitable and contractual rights of the holder of such Allowed Non-Bank Secured Claim; or (iv) such less favorable</p>

CLASS	DESCRIPTION AND AMOUNT OF CLAIMS OR INTERESTS	SUMMARY OF TREATMENT UNDER THE PLAN
	<p>pursuant to sections 506(a) and 553 of the Bankruptcy Code.</p> <p>Approximately \$9.3 million in claims filed are asserted as Secured Claims. These include certain alleged reclamation claims and claims of equipment lessors. As the Plan Proponents believe that there are no outstanding Secured Claims, the Debtors or Liquidation Trustee intend to object to such Claims, seeking to expunge or reclassify all Secured Claims.</p>	<p>treatment as the Liquidation Trustee or the Committee and the holder of such Secured Claim may agree upon.</p> <p>Estimated Percentage Recovery: 100%</p>
3	<p>Convenience Claims: Class 3 consists of any Claim that otherwise would be an Allowed General Unsecured Claim against the Debtors (i) in an amount equal to \$2000 or less the holder of which has NOT elected to receive treatment under Class 4 of the Plan by irrevocable written election of the holder of such Claim made on a validly executed and timely delivered Ballot; or (ii) in an amount in excess of \$2,000 the holder of which has elected to reduce such claim to \$2,000 and receive treatment under Class 3 of the Plan by irrevocable written election of the holder of such Claim made on a validly executed and timely delivered Ballot.</p>	<p>Class 3 is impaired and therefore entitled to vote to accept or reject the Plan.</p> <p>Each holder of an allowed Convenience Claim shall receive (i) 70% of their Allowed Convenience Claim amount in full satisfaction of any Claims against the Debtors or the Estate, which distributions shall be made in accordance with the provisions set forth in Sections 7.9 through 7.12 of the Plan; or (ii) such less favorable treatment as the Liquidation Trustee or the Committee and the holder of such Convenience Claim may agree upon.</p> <p>Estimated Percentage Recovery: 70%</p>
4	<p>General Unsecured Claims: Class 4 consists of any Claim that is not: (a) an Administrative, Priority Non-Tax, or Priority Tax Claim; (b) a Secured Claim; (c) a Fee Claim; or (d) a Claim included within any other Class of Claims or Interests.</p> <p>Approximately \$64 million in claims filed were asserted as General Unsecured Claims.</p> <p>The Plan Proponents believe that an estimated range of \$54 to \$59 million represents the reasonable range of the value of this class after taking into account reclassification of certain Secured Claims and Priority Claims as General Unsecured Claims and assuming that the Debtors or Liquidation Trustee are successful in resolving claims and other claims that appear to be inflated, duplicative, or otherwise improper.</p> <p>Marshall's of MA, Inc., an affiliate of the Buyer, has filed a General Unsecured Claim against the Debtors totaling \$3,950,781.30.</p>	<p>Class 4 is impaired and therefore entitled to vote to accept or reject the Plan.</p> <p>Each holder of an Allowed General Unsecured Claim shall receive (i) a beneficial interest in the Liquidation Trust entitling it to receive on account of such Claims its Ratable Share of any cash distribution from the Distribution Fund to holders of Allowed General Unsecured Claims, which distributions shall be made in accordance with the provisions set forth in Section 7.12 of the Plan; or (ii) such less favorable treatment as the Liquidation Trustee or the Committee and the holder of such General Unsecured Claim may agree upon.</p> <p>Estimated Percentage Recovery: 70% (See Note 2 below)</p>

CLASS	DESCRIPTION AND AMOUNT OF CLAIMS OR INTERESTS	SUMMARY OF TREATMENT UNDER THE PLAN
	The Plan Proponents assert that this is not a valid Claim against the Debtors' Estate, and accordingly, papers will be filed with the Court prior to the Confirmation Hearing to disallow this Claim.	
5	Subordinated Claims: Class 5 consists of any Claim against any of the Debtors whether secured or unsecured, for any fine, penalty, forfeiture, attorneys' fees (to the extent that such attorneys' fees are punitive in nature), or for multiple, exemplary or punitive damages, to the extent that such fine, penalty, forfeiture, attorneys' fees or damages are not compensation for actual pecuniary loss suffered by the holder of such Claim and not statutorily prescribed, and all claims against any of the Debtors of the type described in section 510(b) of the Bankruptcy Code (including all Interests).	<p>Class 5 is impaired but is deemed to have voted to reject the Plan and, therefore, is not entitled to vote to accept or reject the Plan.</p> <p>No property will be distributed to or retained by the holders of Subordinated Claims. All Allowed Claims in Class 5 shall be discharged as of the Effective Date.</p> <p>Estimated Percentage Recovery: 0%</p>
6	Intercompany Claims: Class 6 consists of any Claim of any Debtor against another Debtor.	<p>Class 6 is impaired but is deemed to have voted to reject the Plan and, therefore, is not entitled to vote to accept or reject the Plan.</p> <p>All Intercompany Claims shall be eliminated, and the holders of Class 6 Claims shall not be entitled to, and shall not, receive or retain any property or interest in property on account of such Class 6 Claims.</p> <p>Estimated Percentage Recovery: 0%</p>
7	Interests: Class 7 means an equity security, within the meaning of section 101(16) of the Bankruptcy Code, in a Debtor, including but not limited to the stock of the Debtors.	<p>It is not anticipated that the holders of Interests in Class 7 will receive any distributions on account of such Interests. Holders of Interests shall receive no Distribution of any kind under the Plan on account of such Interests. As of the Effective Date, all Interests in the Debtors shall be deemed canceled.</p> <p>Estimated Percentage Recovery: 0%</p>

Notes:

1. Administrative Claims of the United States Trustee for fees pursuant to 28 U.S.C. § 1930(a)(6) shall be paid in accordance with the applicable schedule for payment of such fees, provided however, if the Court approves substantive consolidation of the Chapter 11 Cases then from and after the Effective Date, United States Trustee Fees shall not accrue on account of the Chapter 11 Cases of BHCI, BI, BNCO and BSCI which cases shall be closed as soon as practicable following the Effective Date.

2. If all contingencies are resolved in favor of Plan Proponents, the Plan Proponents estimate that recovery to holders of Class 4 Claims may be as much as 74% or higher. The stated estimated recovery to holders of Class 4 Claims assumes that among other contingencies, the IRS claim (see Section III H.5) is eliminated or significantly reduced. If the Plan Proponents' objection to the IRS claim is unsuccessful and a substantial payment to the IRS is required, the recovery to Class 4 could be reduced by more than 20%.

3. Payment of unsecured claims in the Allowed amount of less than \$2,000 or greater than \$2,000 if the holder elects to reduce its claim to \$2,000 is expedited through Class 3, Convenience Claims, with a one-time payment to holders of such claims of 70% of the Allowed amount of each such claim. Separate classification of Convenience Claims is intended to reduce administrative expenses of the Liquidation Trust.

4. All rights of any holder of a Claim against or Interest in the Debtors to seek or obtain subordination of another such Claim or Interest based on contractual subordination will be preserved under the Plan and may be asserted with respect to any right or Distribution to be made under the Plan on account of such a Claim or Interest.

F. Treatment of Executory Contracts and Unexpired Leases

1. Rejection of Executory Contracts and Unexpired Leases

Except as otherwise provided in the Plan, or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, each of the executory contracts and unexpired leases to which any of the Debtors was a party on the Petition Date, to the extent such contracts or leases are executory contracts or unexpired leases, shall be rejected by the Debtors on the Confirmation Date, unless such contract or lease (a) previously shall have been assumed or rejected by the Debtors (including, but not limited to, those executory contracts and unexpired leases assumed by and assigned to the Buyers), (b) is the subject of a pending motion to assume or (c) shall have expired or terminated pursuant to its own terms; provided, however, that rejection pursuant to Article IX of the Plan shall not constitute an admission by the Debtors that any such contracts or leases are in fact executory contracts or unexpired leases or that the Debtors had any liability thereunder. The Confirmation Order shall constitute an order of the Court approving the rejections described in Article IX of the Plan, pursuant to section 365 of the Bankruptcy Code, as of the Confirmation Date.

2. Bar Date for Rejection Damages

If the Debtors' rejection of an executory contract or unexpired lease pursuant to Article IX of the Plan gives rise to a Claim by the other party or parties to such contract or lease, such Claim shall be forever barred and shall not be enforceable against the Debtors' Estate, the Liquidation Trust or the Liquidation Trustee or their respective successors or properties unless the party submits an original proof of Claim (with supporting documentation) to The Altman Group, Inc., 60 East 42nd Street, New York, New York 10165, **within thirty (30) days after entry of the Confirmation Order** or such other date as prescribed by the Court.

G. Summary of Distributions and Claims Resolution Provisions

1. Objections to and Estimation of Claims

The Liquidation Trustee (described in more detail in section V) shall have the exclusive right to object to the allowance of any Claim or compromise or settle such Claim, and it may file with the Court any other appropriate motion or adversary proceeding with respect thereto. Any Claim objection shall be filed within 120 days after the Effective Date. This deadline to object to Claims may be extended for cause shown. In addition, the Liquidation Trustee may, at any time, request that the Court estimate, pursuant to section 502(c) of the Bankruptcy Code, any Claim that is contingent or unliquidated, regardless of whether a Debtor has previously objected to such Claim or whether the Court has ruled on any such objection. In the event that the Court estimates any contingent or unliquidated Claim, the amount of such estimation will constitute either the allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Court.

2. Amendments to Claims

A Claim may be amended prior to the Confirmation Date only as agreed upon by the Debtors, the Committee and the holder of such Claim, or as otherwise permitted by the Court, the Bankruptcy Rules or applicable law. After the Confirmation Date, a Claim may not be filed or amended without the authorization of the Court or consent of the Debtors and the Committee. Any newly filed Claim (except one arising from recovery of a voidable transfer) filed later than 180 days after the Effective Date shall, unless the Court otherwise directs, be disallowed in full and expunged without further order of the Court.

3. Withholding Taxes and Expenses of Distribution

Any federal, state or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from Distributions hereunder. All Persons holding Claims shall be required to provide any information necessary to effect the withholding of such taxes, and the Liquidation Trustee shall be authorized to withhold Distribution on such Claims until the requisite information is received.

4. Disputed Payment

If any dispute arises as to the identity of a holder of an Allowed Claim who is entitled to receive any Distribution, the Liquidation Trustee may, in lieu of making such Distribution to such Person, make such Distribution into an escrow account until the disposition thereof shall be determined by Court order or by written agreement among the interested parties to such dispute.

5. Distribution Record Date

As of the close of business on the Distribution Record Date, the various transfer registers for each of the Classes of Claims or Interests as maintained by the Debtors or the Liquidation Trustee shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims or Interests. The Debtors or Liquidation Trustee shall have no obligation to recognize any transfer of the Claims or Interests occurring on or after the Distribution Record

Date. The Debtors shall be required to recognize and deal for all purposes hereunder only with those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date, to the extent applicable.

6. Setoffs

Except as otherwise provided in the Plan, the Confirmation Order, or in agreements previously approved by Final Order of the Court, the Debtors, or the Liquidation Trustee may, pursuant to applicable law, set off against any Claim (for purposes of determining the Allowed amount of such Claim on which distribution shall be made and before any Distribution is made on account of such Claim), any and all of the claims, rights and causes of action of any nature that the Debtors, the Estate or the Liquidation Trust may hold against the holder of such Claim. Any and all rights of setoff of the Debtors shall be transferred and assigned to the Liquidation Trust and shall be enforceable by the Liquidation Trustee in the same manner and to the same extent that the Debtors could have exercised such rights of setoff.

7. Interest on Claims.

Unless otherwise specifically provided for in the Plan or Confirmation Order, or required by applicable bankruptcy law, postpetition interest shall not accrue or be paid on any Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim.

THE ABOVE REPRESENTS ONLY A SUMMARY OF THE DISTRIBUTIONS AND CLAIMS RESOLUTION PROCEDURES. FOR MORE DETAIL REGARDING DISTRIBUTIONS AND CLAIMS RESOLUTION PROCEDURES, SEE ARTICLE VIII OF THE PLAN.

V. MEANS OF IMPLEMENTATION OF THE PLAN; EFFECT OF CONFIRMATION

A. Establishment of the Liquidation Trust; Dissolution of Corporate Entities

The Plan contemplates the establishment of a Liquidation Trust on the Effective Date. On the Effective Date, all right, title and interest in all of the Debtors' property and assets, including without limitation, all rights and causes of action, whether arising by contract, under the Bankruptcy Code, under the Plan or under other applicable law, including, without limitation, all rights to which the Debtors are entitled under the Plan and the Confirmation Order, shall vest in the Liquidation Trust. The Liquidation Trustee will be appointed who, among other things, on and after the Effective Date, will make all Distributions required under the Plan, resolve, either consensually or through litigation, all Disputed Claims, pursue certain claims assigned to the Liquidation Trust, including preference, fraudulent transfer and other avoidance actions for the benefit of the beneficiaries of the Liquidation Trust, and liquidate any and all other remaining assets of the Debtors. The Liquidation Trust shall operate under the provisions of an agreement between the Debtors, the Committee and the Liquidation Trustee establishing the Liquidation Trust, a copy of which in substantially final form is annexed to the Plan as Exhibit A-1.

On the Effective Date, the Liquidation Trustee shall, in accordance with all applicable law, be issued one (1) share of common stock for each Debtor and thereafter shall be, and have all the powers of, the sole shareholder, officer and director of each Debtor, replacing the existing shareholders, officers and directors of the Debtors, and all other shares of any class of stock of the Debtors shall be deemed cancelled as of the Effective Date; provided, however, that the Liquidation Trustee may elect not to receive shares in one or more (including all) of the Debtors, if the Liquidation Trustee determines that it would be in the best interests of the Estate to so act. Within the respective times determined by the Liquidation Trustee as necessary or appropriate under the circumstances (including with respect to the pursuit of causes of action in the name of the Estate), the Debtors shall be dissolved without any further action by the former stockholders, officers, or directors of the Debtors. The Liquidation Trustee may, in his or her discretion, file all necessary certificates of dissolution and take any other actions necessary or appropriate to effect the dissolutions of each of the Debtors under the state law where the respective Debtors were incorporated, which the Liquidation Trustee may do without further actions of the Debtors' shareholders, officers, and directors. All applicable regulatory or governmental agencies shall accept any certificates of dissolution or other papers filed by the Liquidation Trustee on behalf of the Debtors and shall take all steps necessary to allow and effect the prompt dissolution of the Debtors as provided herein, without the payment of any fee, tax, or charge and without need for the filing of reports or certificates, except as the Liquidation Trustee may determine in his or her sole discretion.

After the Effective Date, the Debtors shall have no liability to holders of Claims or Interests other than as provided for in the Plan. The Plan will be administered and actions will be taken in the name of the Debtors or Liquidation Trust, as appropriate, through the Liquidation Trustee, irrespective of whether any of the Debtors have been dissolved.

The transferred assets shall be held by the Liquidation Trust free and clear of all Claims, Liens and contractually imposed restrictions, except for the rights to Distribution afforded to holders of Claims under the Plan.

B. Creation of Reserve Within Liquidation Trust.

As of the Effective Date, and upon receipt of the assets transferred to the Liquidation Trust, the Liquidation Trustee shall establish and use the transferred assets to fund the Wind-down Reserve.

C. Treatment of Officers, Directors and Employees

On the Effective Date, the authority, power and incumbency of the persons then acting as directors of the Debtors shall be terminated and such directors shall be deemed to have resigned. Each officer and any employee of the Debtors as of the Effective Date shall automatically on the Effective Date be deemed employees of the Liquidation Trust and cease to be officers and employees of the Debtors, and solely for this purpose the Liquidation Trust shall be deemed a successor to the Debtors.

D. Succession by Liquidation Trustee

The Liquidation Trustee shall succeed to all powers as would have been applicable to the Debtors' officers, directors and shareholders.

E. Designation of Liquidation Trustee; Powers

The Plan Proponents have designated Joseph E. Myers, who currently serves as the Debtors' liquidation consultant, to server initially as the Liquidation Trustee. The salient terms of the Liquidation Trustee's employment, including the Liquidation Trustee's duties and compensation (which compensation shall be negotiated by the Liquidation Trustee and the Plan Proponents), to the extent not set forth in the Plan, shall be set forth in the Liquidation Trust Agreement. In general, the Liquidation Trustee shall be the exclusive trustee of the Liquidation Trust for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The Liquidation Trustee shall have fiduciary duties to beneficiaries of the Liquidation Trust in the same manner that members of an official committee of creditors appointed pursuant to section 1102 of the Bankruptcy Code have fiduciary duties to the creditor constituents represented by such a committee. The Liquidation Trust Agreement shall specify the terms and conditions of the Liquidation Trustee's compensation, responsibilities and powers. The duties and powers of the Liquidation Trustee, subject to prior approval by the Committee to the extent delineated in the Liquidation Trust Agreement, shall include, without limitation, the following, but in all cases shall be consistent with the terms of the Plan:

1. To exercise all power and authority that may be or could have been exercised, commence all proceedings that may be or could have been commenced and take all actions that may be or could have been taken by any officer, director or shareholder of the Debtors with like effect as if authorized, exercised and taken by unanimous action of such officers, directors and shareholders; including, without limitation, amendment of the certificates of incorporation and by-laws of the Debtors, merger of any Debtor into another Debtor and the dissolution of any Debtor;

2. To maintain escrows and other accounts, make Distributions and take other actions consistent with the Plan and the implementation hereof, including the establishment, re-evaluation, adjustment and maintenance of appropriate reserves, in the name of the Debtors or the Liquidation Trustee, even in the event of the dissolution of the Debtors;

3. Subject to the applicable provisions of the Plan, to collect and liquidate all assets of the Estate pursuant to the Plan and to administer the winding-up of the affairs of the Debtors;

4. To object to any Claims (whether or not previously disputed), and to defend, compromise and/or settle any Claims prior to objection without supervision or approval of the Court, free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules of the Court, and the guidelines and requirements of the United States Trustee, other than those restrictions expressly imposed by the Plan or the Confirmation Order, and/or to seek Court

approval for any Claims settlements, to the extent thought appropriate by the Litigation Trustee or to the extent such approval is required by prior order of this Court;

5. To make decisions in consultation with the Committee, without further Court approval, regarding the retention or engagement of professionals, employees and consultants by the Liquidation Trust and to pay, from the Wind-down Reserve, the charges incurred by the Liquidation Trust on or after the Effective Date for services of professionals, disbursements, expenses or related support services relating to the winding down of the Debtors and implementation of the Plan;

6. To cause, on behalf of the Liquidation Trust, the Debtors and the Estate, all necessary tax returns and all other appropriate or necessary documents related to municipal, State, Federal or other tax law to be prepared or filed timely;

7. To make all Distributions to holders of Allowed Claims provided for or contemplated by the Plan;

8. To invest Cash in accordance with section 345 of the Bankruptcy Code or as otherwise permitted by a Final Order of the Court and as deemed appropriate by the Liquidation Trustee;

9. To collect any accounts receivable or other claims of the Debtors or the Estate not otherwise disposed of pursuant to the Plan;

10. To enter into any agreement or execute any document required by or consistent with the Plan and perform all of the obligations of the Debtors or the Liquidation Trustee thereunder;

11. To abandon in any commercially reasonable manner, including abandonment or donation to a charitable organization of the Liquidation Trustee's choice, any assets that the Liquidation Trustee concludes are of no benefit to creditors of the Estate or, at the conclusion of the Chapter 11 Cases, are determined to be too impractical to distribute;

12. To prosecute and/or settle Litigation Claims, if any, participate in or initiate any proceeding before the Court or any other court of appropriate jurisdiction, participate as a party or otherwise in any administrative, arbitral or other nonjudicial proceeding, litigate or settle such Litigation Claims on behalf of the Liquidation Trust, and pursue to settlement or judgment such actions;

13. To utilize trust assets to purchase or create and carry all appropriate insurance policies and pay all insurance premiums and costs it deems necessary or advisable to insure the acts and omissions of the Liquidation Trustee, and if appropriate, the Committee;

14. To implement and/or enforce all provisions of the Plan;

15. To maintain appropriate books and records;

16. To collect and liquidate all assets of the Estate pursuant to the Plan and administer the winding-up of the affairs of the Debtors including, but not limited to, causing the dissolution of each Debtor and closing the Chapter 11 Cases;

17. To pay fees incurred pursuant to 28 U.S.C. § 1930(a)(6) (as provided in Section 3.1 of the Plan) and to file with the Court and serve on the United States Trustee monthly financial reports until such time as a final decree is entered closing these Cases or the Cases are converted or dismissed, or the Court orders otherwise;

18. To provide the Committee, within twenty (20) days after the end of each month, with a monthly report setting forth (i) the receipt and disposition by the Liquidation Trustee of property of the Estate or the Debtors during the prior month, including the disposition of funds in the Liquidation Trust, the Wind-down Reserve and Distribution Fund; (ii) all Disputed Claims resolved by the Liquidation Trustee during such period and all remaining Disputed Claims; (iii) all known material non-Cash assets of the Debtors remaining to be disposed of; (iv) an itemization of all expenses the Liquidation Trustee anticipates will become due and payable within the subsequent three months; and (v) the Liquidation Trustee's forecast of cash receipts and expenses for the subsequent three months; and

19. To do all other acts or things not inconsistent with the provisions of the Plan that the Liquidation Trustee deems reasonably necessary or desirable with respect to implementing the Plan.

F. The Role of the Committee

The Committee shall survive the Effective Date for all purposes permitted under the Bankruptcy Code including, without limitation, appearance on applications for payment of professional compensation and expenses, objections to Claims and any other pending litigation, overseeing and, if necessary or desirable in its sole discretion, replacing the Liquidation Trustee, monitoring Distributions, consenting to any amendments or modifications to the Plan, and other matters affecting the administration of the Estate or the Liquidation Trust.

The Liquidation Trust Agreement shall govern changes in the composition of the Committee after the Effective Date and other matters related to the role, responsibilities and governance of the Committee. The Committee shall have fiduciary duties to the beneficiaries of the Liquidation Trust in the same manner that members of an official committee of creditors appointed pursuant to section 1102 of the Bankruptcy Code have fiduciary duties to the constituents represented by the Committee.

G. Funding of the Plan

The following table sets forth a summary of the sources of estimated proceeds and an estimate of proceeds that will be available for distribution to creditors.

(All Amounts are in \$,000's)

	Estimated Proceeds Range	
	<u>From</u>	<u>To</u>
Sources of Estimated Proceeds		
Cash on Hand as of the Effective Date	45,867	46,232
Proceeds from Liquidation of Remaining Assets	-	350
Total Estimated Proceeds	<u>\$45,867</u>	<u>\$46,582</u>
Application of Estimated Proceeds		
Chapter 11 Professional Fees	(4,482)	(3,307)
Wind down costs (Payments to Mr. Wagstaff (the Debtors' Senior Administrator) and Mr. Myers (the Liquidation Trustee))	<u>(308)</u>	<u>(233)</u>
Total Estimated Chapter 11 Administration Costs	<u>\$(4,791)</u>	<u>\$(3,540)</u>
Estimated Proceeds Available for Distribution	<u><u>\$41,076</u></u>	<u><u>\$43,042</u></u>

THESE AMOUNTS CONTAINED IN THE FOREGOING TABLE REPRESENT ESTIMATES BY THE DEBTORS AND THE DEBTORS' FINANCIAL ADVISOR, FTL, BASED ON CURRENT INFORMATION ONLY. The value of assets available to carry out the Plan and for distribution to holders of Allowed Claims is subject to significant estimation assumptions. The cash on hand as of the Effective Date depends on factors including, but not limited to, the actual costs of administering these Estate during the period up to the Effective Date, and the Liquidation Trustee's effectiveness in liquidating any remaining assets. THE PLAN PROPONENTS MAKE NO REPRESENTATION AS TO THE AMOUNT OF CASH THAT WILL ULTIMATELY BE AVAILABLE FOR DISTRIBUTION TO CREDITORS. FOR INFORMATION REGARDING THE LIMITATIONS OF AND UNCERTAINTIES RELATING TO THESE ESTIMATES, SEE SECTION VII ("CERTAIN RISK FACTORS TO BE CONSIDERED") BELOW.

H. Releases and Injunction

The Plan contains a release of all claims, causes of action and rights, arising from the Petition Date through the Effective Date, by the Debtors against all Released Parties related to such Released Parties' acts or omissions to act as an, employee, agent, representative, attorney, accountant, financial advisor or other professional of each relevant Debtor or affiliate thereof, in that capacity.⁵ Any such release additionally acts as an injunction against any claimant or interest holder of any Debtor from commencing or continuing any action, employment of process or act to collect, offset or recover any claim that is so released. In addition, the Plan provides that all persons who (a) (in the case of holders of Impaired Claims) vote to accept the Plan as set forth on the relevant Ballot and (b) directly or indirectly hold or have held any (i) Claim against the Debtors or (ii) Interest in the Debtors, will release the Debtors and the Released Parties from any and all Claims, obligations, rights, causes of action and liabilities which any holder of a (i) Claim against the Debtors or (ii) Interest in the Debtors may be entitled to assert, whether known or

⁵ The Plan does *not* release any former or current directors or officers of the Debtors for prepetition acts.

unknown, foreseen or unforeseen, existing or hereafter arising, based in whole or in part upon any act or omission, transaction or occurrence taking place from the Petition Date through the Effective Date in any way relating to the Debtors, the Chapter 11 Cases, or the Plan.

With regard to injunctions, the Confirmation Order will provide, among other things, that all Persons who have held, hold or may hold Claims against or Interests in any of the Debtors are, with respect to any such Claims or Interests, permanently enjoined from and after the Confirmation Date from taking any of the following actions (other than actions to enforce any rights or obligations under the Plan): (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Liquidation Trust, the Liquidation Trustee, or any of their property; (b) enforcing, levying, attaching (including, without limitation, any pre judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtors, the Liquidation Trust, the Liquidation Trustee, or any of their property; (c) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors, the Liquidation Trust, the Liquidation Trustee, or any of their property; (d) asserting any right of setoff of any kind, directly or indirectly, against any obligation due the Debtors, the Liquidation Trust, the Liquidation Trustee, or any of their property, except as contemplated or allowed by the Plan; (e) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan; and (f) prosecuting or otherwise asserting any right, claim or cause of action released pursuant to the Plan.

I. Indemnification

Notwithstanding anything to the contrary in this Plan, the obligations to indemnify the Persons who served during these Cases as the Debtors' respective officers and employees existing under applicable nonbankruptcy law (whether arising under contract, bylaw or certificate of incorporation) with respect to all present and future actions, suits, and proceedings against any of such indemnified Persons, based upon any act or omission related to service with, for, or on behalf of the Debtors at any time during the period from the Petition Date through the Effective Date (including acting as employee benefit plan fiduciaries or employee benefit administrative trustees), in all cases net of applicable insurance proceeds, other than for acts constituting willful misconduct, gross negligence or as it relates to claims asserted by the Committee, shall continue after the Effective Date; provided, however, that unless otherwise ordered by the Court (which order may be entered at any time) no entity shall be required to reserve for any such obligations and such obligations shall be terminated and discharged upon the closing of these Cases. Moreover, nothing contained herein shall elevate the priority of any indemnification claim from a General Unsecured Claim to an Administrative Claim.

J. Exculpation

The Released Parties and any property of or professionals retained by such parties, or direct or indirect predecessor in interest to any of the foregoing Persons, will not have or incur any liability to any Person for any act taken or omission occurring on or after the Petition Date in connection with or related to the Debtors or the Liquidation Trust, including but not limited to (i)

the commencement and administration of the Chapter 11 Cases; (ii) the operation of the Debtors during the pendency of the Chapter 11 Cases; (iii) formulating, preparing, disseminating, implementing, confirming, consummating or administering the Plan (including soliciting acceptances or rejections thereof); (iv) the Disclosure Statement or any contract, instrument, release or other agreement or document entered into or any action taken or omitted to be taken in connection with the Plan; or (v) any Distributions made pursuant to the Plan, except for acts constituting willful misconduct or gross negligence, and in all respects such parties shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

K. Post-Confirmation Jurisdiction of the Court

Notwithstanding confirmation of the Plan or the occurrence of the Effective Date, the Court will retain such jurisdiction as is legally permissible, including, without limitation, for the following purposes:

1. To determine the allowability, classification, or priority of Claims against the Debtors upon objection by the Debtors, the Liquidation Trustee or any other party in interest entitled to file an objection, and the validity, extent, priority and nonavoidability of consensual and nonconsensual liens and other encumbrances;

2. To issue injunctions or take such other actions or make such other orders as may be necessary or appropriate to restrain interference with the Plan or its execution or implementation by any Person, to construe and to take any other action to enforce and execute the Plan, the Confirmation Order, or any other order of the Court, to issue such orders as may be necessary for the implementation, execution, performance and consummation of the Plan and all matters referred to herein, and to determine all matters that may be pending before the Court in the Chapter 11 Cases on or before the Effective Date with respect to any Person;

3. To protect the property of the Estate, including Litigation Claims, from claims against, or interference with, such property, including actions to quiet or otherwise clear title to such property or to resolve any dispute concerning liens, security interest or encumbrances on any property of the Estate;

4. To determine any and all applications for allowance of Fee Claims and any disputes concerning post-Effective Date professional or other services (to the extent not otherwise resolved);

5. To determine any Priority Tax Claims, Priority Non-Tax Claims, Administrative Claims or any other request for payment of claims or expenses entitled to priority under section 507(a) of the Bankruptcy Code;

6. To determine any and all motions related to the rejection, assumption or assignment of executory contracts or unexpired leases, or to determine any motion to reject an executory contract or unexpired lease pursuant to the Plan;

7. To determine all applications, motions, adversary proceedings, contested matters, actions, and any other litigated matters instituted in and prior to the closing of the Chapter 11 Cases, including any remands;
8. To enter a Final Order closing the Chapter 11 Cases;
9. To modify the Plan under section 1127 of the Bankruptcy Code, remedy any defect, cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order so as to carry out their intent and purposes;
10. To issue such orders in aid of consummation of the Plan and the Confirmation Order notwithstanding any otherwise applicable non-bankruptcy law, with respect to any Person, to the fullest extent authorized by the Bankruptcy Code;
11. To enable the Liquidation Trustee to prosecute any and all proceedings to set aside liens or encumbrances and to recover any transfers, assets, properties or damages to which the Debtors may be entitled under applicable provisions of the Bankruptcy Code or any other federal, state or local laws except as may be waived pursuant to the Plan;
12. To determine any tax liability pursuant to section 505 of the Bankruptcy Code;
13. To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;
14. To resolve any disputes concerning whether a Person had sufficient notice of the Chapter 11 Cases, the applicable Claims bar date, the hearing to consider approval of the Disclosure Statement or the Confirmation Hearing or for any other purpose;
15. To resolve any dispute or matter arising under or in connection with any order of the Court entered in the Chapter 11 Cases;
16. To hear and resolve Litigation Claims to the extent that such claims are not pending before another court;
17. To resolve any disputes concerning any release of a Person hereunder whether or not such Person is a Debtor or the injunction against acts, employment of process or actions against such Person or arising under the Plan or the Confirmation Date;
18. To approve any Distributions, or objections thereto, under the Plan;
19. To approve any Claims settlement entered into or offset exercised by the Liquidation Trustee; and

20. To determine such other matters, and for such other purposes, as may be provided in the Confirmation Order or the Liquidation Trust Agreement, or as may be authorized under provisions of the Bankruptcy Code.

VI. CONFIRMATION OF THE PLAN

A. Introduction

The Bankruptcy Code requires the bankruptcy court to determine whether a plan of reorganization complies with the technical requirements of chapter 11 of the Bankruptcy Code. It requires further that a plan proponent's disclosures concerning such plan have been adequate and have included information concerning all payments made or promised by the debtor in connection with the plan.

To confirm the Plan, the Court must find that all of these and certain other requirements have been met. Thus, even if the requisite vote is achieved for each Class of impaired Claims, the Court must make independent findings respecting the Plan's conformity with the requirements of the Bankruptcy Code before it may confirm the Plan. Some of these statutory requirements are discussed below.

B. Conditions to Confirmation and Effective Date

The Plan may not be confirmed unless: (a) the Disclosure Statement has been approved by the Court; and (b) the Substantive Consolidation Order has been entered. The Effective Date may not occur, and thus the Plan will not become effective, unless: (a) the Confirmation Order, in a form and substance satisfactory to the Plan Proponents, is entered and becomes a Final Order; (b) the Substantive Consolidation Order has become a Final Order; and (c) the Debtors have sufficient Cash on hand (or investments projected by the Debtors to provide timely Cash) to make timely Distributions of Cash to satisfy all Administrative Claims, Fee Claims, Priority Tax Claims, and Priority Non-Tax Claims required under the Plan, including reserving sufficient Cash with respect to the Disputed Claims Reserve in respect of any Administrative Claims, Fee Claims, Priority Tax Claims and Non-Tax Priority Claims that are Disputed Claims.

Each of these conditions to confirmation or the Effective Date may be waived in whole or part by the Plan Proponents.

If the Plan is confirmed, the Plan Proponents expect the Effective Date to occur not later than thirty days after the Confirmation Date.

C. Voting Procedures and Standards

Holders of Claims in Classes that are "impaired" (see Table at Section IV D for list of impaired Classes) under the Plan (but not deemed to reject the Plan by virtue of receiving no Distributions thereunder) will receive a Ballot with this Disclosure Statement for the acceptance or rejection of the Plan. Any Claim or Interest whose legal, contractual or equitable rights are altered, modified or changed by the proposed treatment under the Plan or whose treatment under the Plan is not provided for in section 1124 of the Bankruptcy Code is considered "impaired."

Instructions on how to complete a Ballot and the deadline for voting on the Plan are contained in the solicitation materials accompanying this Disclosure Statement and the Plan.

IF A BALLOT IS DAMAGED OR LOST OR IF YOU HAVE ANY QUESTIONS CONCERNING VOTING PROCEDURES, YOU MAY CONTACT THE DEBTORS' BALLOTING AGENT:

BSI Holding Co., Inc.
c/o The Altman Group
60 East 42 Street
Suite 405
New York, NY 10165
(212) 681-9600

A VOTE MAY BE DISREGARDED IF THE COURT DETERMINES, AFTER NOTICE AND A HEARING, THAT SUCH ACCEPTANCE OR REJECTION WAS NOT MADE OR SOLICITED OR PROCURED IN GOOD FAITH OR IN ACCORDANCE WITH THE PROVISIONS OF THE BANKRUPTCY CODE.

Any impaired Class of Claims that fails to achieve the requisite “accepted” vote will be deemed to have rejected the Plan.

D. Acceptance

The Bankruptcy Code defines acceptance of a plan by an impaired class of claims as acceptance by holders of at least two-thirds in dollar amount, and more than one-half in number, of claims of that class that actually vote. Acceptance of the Plan need only be solicited from holders of Claims whose Claims are “impaired” and not deemed to have rejected the Plan. Except in the context of a “cram down” (i.e., confirmation of a plan that has not been accepted by all impaired classes), as a condition to confirmation of the Plan, the Bankruptcy Code requires that, with certain exceptions, each Class of impaired Claims accepts the Plan.

The Plan is predicated on all Voting Classes voting to accept the Plan. In the event the requisite vote is not obtained, the Plan Proponents have the right, assuming that at least one Class of impaired Claims has accepted the Plan, to request confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. Section 1129(b) permits confirmation of a plan notwithstanding rejection by one or more classes of impaired claims or impaired interests if the bankruptcy court finds that the plan does not discriminate unfairly and is “fair and equitable” with respect to the rejecting class or classes. This procedure is commonly referred to in bankruptcy parlance as “cram down.”

If any Voting Classes vote to reject the Plan, the Plan Proponents will seek a cram down of such Classes at the Confirmation Hearing. The Plan Proponents will, in any event, seek a cram down of the Plan on Classes deemed to reject the Plan by virtue of receiving no Distributions thereunder.

E. Confirmation and Consummation

At the Confirmation Hearing, the Court will determine whether the requirements of section 1129(a) of the Bankruptcy Code have been satisfied with respect to the Plan. Section 1129(a) of the Bankruptcy Code requires that, among other things, for a plan to be confirmed:

- The plan complies with the applicable provisions of the Bankruptcy Code.
- The proponents of the plan have complied with the applicable provisions of the Bankruptcy Code.
- The plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or to be made by the proponents under the plan for services or for costs and expenses in, or in connection with, the chapter 11 case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable.
- The proponents have disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in the plan with the debtor, or a successor to the debtor under the plan. The appointment to, or continuance in, such office of such individual, must be consistent with the interests of creditors and equity security holders and with public policy and the proponents must have disclosed the identity of any insider that the reorganized debtors will employ or retain, and the nature of any compensation for such insider.
- With respect to each class of impaired claims or interests, either each holder of a claim or interest of such class has accepted the plan, or will receive or retain under the plan on account of such claim or interest, property of a value, as of the effective date of the plan, that is not less than the amount that such holder would receive or retain if the debtor were liquidated on such date under chapter 7 of the Bankruptcy Code.
- Each class of claims or interests has either accepted the plan or is not impaired under the plan.
- Except to the extent that the holder of a particular claim has agreed to a different treatment of such claim, the plan provides that allowed administrative expenses and priority claims (other than tax claims) will be paid in full on the effective date and that priority tax claims will receive on account of such claims deferred cash payments, over a period not exceeding six (6) years after the date of assessment of such claim, of a value, as of the effective date, equal to the allowed amount of such claim.
- If a class of claims is impaired, at least one (1) impaired class of claims has accepted the plan, determined without including any acceptance of the plan by any insider holding a claim in such class.

- Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan (unless, as here, such liquidation or reorganization is proposed in the plan).

Subject to receiving the requisite votes in accordance with section 1129(a)(8) of the Bankruptcy Code and the “cram down” of Classes not receiving any Distribution under the Plan, the Plan Proponents believe that (i) the Plan satisfies all of the statutory requirements of chapter 11 of the Bankruptcy Code, (ii) the Plan Proponents have complied or will have complied with all of the requirements of chapter 11, and (iii) the Plan has been proposed in good faith.

Set forth below is a more detailed summary of the relevant statutory confirmation requirements.

1. Best Interests of Holders of Claims and Interests

The “best interests of creditors” test requires that the bankruptcy court find either that all members of each impaired class have accepted the plan or that each holder of an allowed claim or interest of each impaired class of claims or interests will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date. See the Liquidation Analysis annexed as Exhibit B hereto, which demonstrates that the Plan Proponents have satisfied the “best interests of creditors” test.

To calculate what holders of Claims would receive if the Debtors were hypothetically liquidated under Chapter 7 of the Bankruptcy Code, the Court must first determine the dollar amount that would be realized from the liquidation (the “Chapter 7 Liquidation Fund”) of the Debtors. The Chapter 7 Liquidation Fund would consist of the net proceeds from the disposition of the Debtors’ assets (after satisfaction of all valid liens) augmented by the Cash held by the Debtors and recoveries on actions against third parties, if any. The Chapter 7 Liquidation Fund would then be reduced by the costs of the liquidation. The costs of liquidation under chapter 7 would include the fees and expenses of a trustee, as well as those of counsel and other professionals that might be retained by the trustee, selling expenses, any unpaid expenses incurred by the Debtors during their Chapter 11 cases (such as fees for attorneys, financial advisors and accountants) which would be allowed in the Chapter 7 proceedings, interest expense on secured debt and claims incurred by the Debtors during the pendency of the cases. These claims would be paid in full out of the Chapter 7 Liquidation Fund before the balance of the Chapter 7 Liquidation Fund, if any, would be made available to holders of unsecured Claims. In addition, other claims which would arise upon conversion to a chapter 7 case would dilute the balance of the Chapter 7 Liquidation Fund available to holders of Claims. Moreover, additional claims against the Debtors’ estate might arise as the result of the establishment of a new bar date for the filing of claims in a Chapter 7 case or cases for the Debtors. The present value of the distributions out of the Chapter 7 Liquidation Fund (after deducting the amounts described above) are then compared with the present value of the property offered to each of the Classes of Claims and holders of Interests under the Plan to determine if the Plan is in the best interests of each holder of a Claim.

The Plan Proponents believe that a Chapter 7 liquidation of the Debtors' remaining assets would result in diminution in the value to be realized under the Plan by holders of Claims. That belief is based upon, among other factors: (a) the additional administrative expenses involved in the appointment of a trustee, attorneys, accountants, and other Chapter 7 professionals; (b) the substantial time which would elapse before creditors would receive any distribution in respect of their Claims due to a trustee's need to become familiar with the Chapter 11 Cases and the Debtors' books and records, and the trustee's duty to conduct independent investigations; (c) the additional unsecured Claims that may be asserted against the Debtors; (d) the uncertainty of a trustee's ability to retain key personnel of the Debtors, such as Mr. Wagstaff, to assist in identifying the bases for claims objections and any avoidance actions; and (e) the substantial cost and delay which can be avoided by a largely consensual plan.

2. Financial Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation should not be likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successor to the Debtors unless such liquidation or reorganization is proposed in the plan. The Plan is a liquidating plan of reorganization. Accordingly, the Plan satisfies section 1129(a)(11) of the Bankruptcy Code.

3. Acceptance by Impaired Classes

A class is "impaired" under a plan unless, with respect to each claim or interest in such class, the plan: (i) leaves unaltered the legal, equitable and contractual rights to which the claim or interest entitles the holder of such claim or interest; or (ii) notwithstanding any contractual provision or applicable law which entitles the holder of such claim or interest to demand or receive accelerated payment on account of a default, cures any default, reinstates the original maturity of the obligation, compensates the holder for any damages incurred as a result of reasonable reliance on such provision or law and does not otherwise alter the legal, equitable or contractual rights of such holder based upon such claim or interest. A class that is not impaired under a plan of reorganization is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. See Section IV, above, for identification of whether a Class is deemed impaired or unimpaired under the Plan.

4. Cram Down

THE PLAN PROPONENTS RESERVE THE RIGHT TO CRAM DOWN THIS PLAN AGAINST NON-ACCEPTING CLASSES OF HOLDERS OF CLAIMS OR INTERESTS.

The Bankruptcy Code contains provisions for confirmation of a plan even if the plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted the Plan. The "cram down" provisions of the Bankruptcy Code are set forth in section 1129(b) of the Bankruptcy Code. Under the "cram down" provisions, upon the request of a plan proponents the bankruptcy court will confirm a plan despite the lack of acceptance by an impaired class or classes if the bankruptcy court finds that (i) the plan does not discriminate unfairly with respect to each non-accepting impaired class, (ii) the plan is fair and equitable with respect to each

non-accepting impaired class, and (iii) at least one impaired class has accepted the plan. These standards ensure that holders of junior interests, such as common stockholders, cannot retain any interest in the debtor under a plan of reorganization that has been rejected by a senior class of impaired claims or interests unless such impaired claims or interests are paid in full.

As used by the Bankruptcy Code, the phrases “discriminate unfairly” and “fair and equitable” have narrow and specific meanings unique to bankruptcy law. A plan does not discriminate unfairly if claims or interests in different classes but with similar priorities and characteristics receive or retain property of similar value under a plan. By establishing separate Classes for the holders of each type of Claim and by treating each holder of a Claim in each Class identically, the Plan has been structured so as to meet the “unfair discrimination” test of section 1129(b) of the Bankruptcy Code.

The Bankruptcy Code sets forth different standards for establishing that a plan is “fair and equitable” with respect to a dissenting class, depending on whether the class is comprised of secured or unsecured claims or interests. In general, section 1129(b) of the Bankruptcy Code permits confirmation notwithstanding non-acceptance by an impaired class if that class and all junior classes are treated in accordance with the “absolute priority” rule, which requires that the dissenting class be paid in full before any junior class may receive anything under the plan. In addition, case law surrounding section 1129(b) requires that no class senior to a non-accepting impaired class receives more than payment in full on its claims.

With respect to a Class of unsecured Claims that does not accept the Plan, the Plan Proponents must demonstrate to the Court that either (i) each holder of an unsecured Claim in the dissenting Class receives or retains under such Plan property of a value equal to the allowed amount of its unsecured Claim, or (ii) the holders of Claims or holders of Interests that are junior to the Claims of the holders of such unsecured Claims will not receive or retain any property under the Plan. Additionally, the Plan Proponents must demonstrate that the holders of Claims that are senior to the Claims of the dissenting Class of unsecured Claims receive no more than payment in full on their Claims under the Plan. The Plan is designed to satisfy these standards.

If all the applicable requirements for confirmation of the Plan are met as set forth in sections 1129(a)(1) through (13) of the Bankruptcy Code, except that one or more of Classes of impaired Claims or Interests have failed to accept the Plan pursuant to section 1129(a)(8) of the Bankruptcy Code, the Plan Proponents will request that the Bankruptcy Court confirm the Plan over the dissenting votes of such Classes in accordance with section 1129(b) of the Bankruptcy Code. The Plan Proponents believe that the Plan satisfies the “cram down” requirements of the Bankruptcy Code. The Plan Proponents may seek confirmation of the Plan over the objection of dissenting Classes, as well as over the objection of individual holders of Claims or Interests who are members of an accepting Class. In addition, the Plan Proponents intend to seek “cram down” of the Plan on Classes deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code by virtue of receiving no Distributions thereunder. However, there can be no assurance that the Court will determine that the Plan meets the requirements of section 1129(b) of the Bankruptcy Code.

5. Classification of Claims and Interests

The Plan Proponents believe that the Plan meets the classification requirements of the Bankruptcy Code which require that a plan of reorganization place each claim or interest into a class with other claims or interests which are “substantially similar.”

VII. CERTAIN RISK FACTORS TO BE CONSIDERED

HOLDERS OF CLAIMS AGAINST THE DEBTORS SHOULD READ AND CONSIDER CAREFULLY THE FACTORS SET FORTH BELOW, AS WELL AS THE OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT (AND THE DOCUMENTS DELIVERED TOGETHER HERewith AND/OR INCORPORATED HEREIN BY REFERENCE), PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN. THESE RISK FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

A. Risk that Distributions will be Less than Estimated by Plan Proponents

A substantial amount of time may elapse between the Effective Date and the receipt of a final Distribution (if any) under the Plan because: (a) Priority Tax Claims and Class 4 Claims may have substantial and/or complicated Disputed Claims; (b) the Plan Proponents’ estimate of allowable Priority Tax Claims and Class 4 Claims could be contested at an estimation hearing; and (c) it may take a substantial amount of time to obtain a recovery, if any, from the pursuit of the Litigation Claims.

The projected distributions and recoveries set forth in this Disclosure Statement are based on the Plan Proponents’ estimate of Allowed Claims. The Plan Proponents project that the Claims asserted against the Debtors will be resolved in and reduced to an amount that approximates their estimates. However, there can be no assurance that the Plan Proponents’ estimates will prove accurate. Distributions to creditors also will be affected by the amount of Cash the Debtors are able to realize from the sales of their remaining assets and recoveries, if any, from the Litigation Claims, as well as the costs of continuing to administer the Chapter 11 Cases and to pursue the Litigation Claims.

The Plan Proponents reserve the right to object to the amount or classification of any Claim. Thus, the estimates set forth in this Disclosure Statement cannot be relied upon by any creditor whose Claim is subject to a successful objection. Any such creditor may not receive the estimated Distributions set forth herein.

B. Litigation Risks

Pending litigations or potential litigations against the Debtors are discussed in Section III K. Other than as set forth therein, the Plan Proponents do not believe there are any risks respecting pending or threatened litigations against them that would significantly or materially negatively affect creditors’ recoveries under the Plan.

C. Bankruptcy Risks

1. Objection to Classifications

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class. The Plan Proponents believe that the classification of Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code. However, there can be no assurance that the Court would reach the same conclusion.

2. Risk of Non-confirmation of the Plan

Even if all Voting Classes accept the Plan, the Plan might not be confirmed by the Court. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things, that the confirmation of a plan of reorganization is not likely to be followed by the liquidation or the need for further financial reorganization unless, as here, such liquidation is proposed in the plan, and that the value of distributions to dissenting creditors and equity security holders not be less than the value of distributions such creditors and equity security holders would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. The Plan Proponents believe that the Plan satisfies all the requirements for confirmation of a liquidating plan of reorganization under the Bankruptcy Code. There can be no assurance, however, that the Court would also conclude that the requirements for confirmation of the Plan have been satisfied.

VIII. CERTAIN FEDERAL INCOME TAX CONSEQUENCES

The Debtors and their counsel have provided the following discussion summarizing some of the more significant United States federal income tax consequences of the Plan to certain holders of Claims or Interests. The analysis contained herein is based upon the Internal Revenue Code of 1986, as amended (the “IRC” or “Tax Code”), the Treasury Regulations promulgated and proposed thereunder (the “Regulations”), judicial decisions and published administrative rulings and pronouncements of the Internal Revenue Service (the “IRS”) as in effect on the date hereof. Legislative, judicial or administrative changes or interpretations hereafter enacted or promulgated could alter or modify the analysis and conclusions set forth below. Any such changes or interpretations may be retroactive and could affect significantly the federal income tax consequences discussed below. This summary does not address foreign, state or local income tax, or any estate or gift tax consequences of the Plan, nor does it purport to address the federal income tax consequences of the Plan to special classes of taxpayers (such as foreign companies, nonresident alien individuals, S corporations, banks, mutual funds, insurance companies, financial institutions, small business investment companies, regulated investment companies, broker-dealers and tax-exempt organizations). Accordingly, it should not be relied upon for purposes of determining the specific tax consequences of the Plan with respect to a particular holder of a Claim or Interest.

Due to the complexity of certain aspects of the Plan, some of which are discussed below, the lack of applicable legal precedent and the possibility of changes in law, the differences in the nature of various Claims, the differences in individual Claim or Interest holders’ methods of

accounting, and the potential for disputes as to legal and factual matters, the federal income tax consequences described herein are subject to significant uncertainties.

THE TAX CONSEQUENCES TO HOLDERS OF CLAIMS OR INTERESTS MAY VARY BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER. MOREOVER, THE TAX CONSEQUENCES OF CERTAIN ASPECTS OF THE PLAN ARE UNCERTAIN DUE TO THE LACK OF APPLICABLE LEGAL PRECEDENT AND THE POSSIBILITY OF CHANGES IN THE LAW. NO RULING HAS BEEN APPLIED FOR OR OBTAINED FROM THE INTERNAL REVENUE SERVICE WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN AND NO OPINION OF COUNSEL HAS BEEN REQUESTED OR OBTAINED BY THE PLAN PROPONENTS WITH RESPECT THERETO.

THIS DISCUSSION DOES NOT CONSTITUTE TAX ADVICE OR A TAX OPINION CONCERNING THE MATTERS DESCRIBED. THERE CAN BE NO ASSURANCE THAT THE INTERNAL REVENUE SERVICE WILL NOT CHALLENGE ANY OR ALL OF THE TAX CONSEQUENCES DESCRIBED HEREIN, OR THAT SUCH A CHALLENGE, IF ASSERTED, WOULD NOT BE UPHELD. ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT WITH ITS OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL, FOREIGN OR OTHER TAX CONSEQUENCES OF THE PLAN.

A. Federal Income Tax Consequences to the Debtors

Under the substantive consolidation provided in the Plan, all of the assets of the Debtors will be combined, the Intercompany Claims of the Debtors will be released (except to the extent otherwise provided in the Plan), the Claims of the holders will be recognized as claims against the consolidated estate, and the Debtors will be liquidated.

The Debtors generally must include in gross income the amount of any cancellation of indebtedness ("COD") income that is realized during their taxable year. COD income is the difference between the amount of a taxpayer's indebtedness that is canceled and the amount or value of the consideration exchanged therefore. Because the Debtors are in a Chapter 11 bankruptcy proceeding, however, the Debtors will not be required to recognize COD income, but must instead reduce certain tax attributes ("Tax Attributes") by the amount of unrecognized COD income on the first day of the following tax year in the manner prescribed by IRC section 108(b). Tax Attributes include net operating losses, capital losses and loss carryovers, certain tax credits and, subject to certain limitations, the tax basis of property.

In addition, under the Plan, assets of the Debtors will be transferred to the Liquidation Trust. The transfer of assets to the Liquidation Trust will result in the recognition by the Debtors of gain or loss based on the difference between the fair market value and tax basis of the assets being so transferred. To the extent that the Debtors recognize a net gain from the transfer of these assets, such gain will be offset by the Debtors' net operating loss and/or capital loss carry forwards to the extent thereof, and thereafter would be taxable to the Debtors. The Debtors may, however, recognize some alternative minimum tax as a result of the transfers of these assets. Any resulting tax will be paid by the Debtors to the IRS.

B. Alternative Minimum Tax

The Tax Code provides that, for any taxable year, a corporation's federal income tax liability equals the greater of (i) the regular tax computed at the regular 35% corporate tax rate on taxable income and (ii) the alternative minimum tax ("AMT") computed at a lower tax rate but on a broader income base (alternative minimum taxable income ("AMTI")). For purposes of computing a corporation's regular federal income tax liability, all of the income recognized in a taxable year may be offset by available NOLs and other tax carryovers (to the extent permitted under, inter alia, sections 382 and 383 of the Tax Code). In contrast, for purposes of computing AMTI, NOLs (as determined for AMT purposes) and other tax carryovers generally are taken into account, but may not offset more than 90% of the pre-NOL AMTI. Thus, a corporation that is currently profitable for AMT purposes generally will be required to pay federal income tax at an effective rate of at least 2% of its pre-NOL AMTI (10% of the 20% AMT tax rate), regardless of the amount of its NOLs. As a result, even if the Debtors are otherwise able to fully shelter their income with NOLs, it will be subject to current taxation in any year in which it has positive net pre-NOL AMTI (including as a result of gain and income recognition in connection with the transactions contemplated by the Plan). To the extent that a corporation's AMT liability for any taxable year exceeds its regular federal income tax liability, the excess may be carried forward as a credit against regular tax liability in subsequent years.

C. Federal Income Tax Treatment of the Liquidation Trust

As of the Effective Date all remaining assets of the Debtors will be transferred to the Liquidation Trust. In consideration thereof, the Liquidation Trust will assume the Debtors' obligations to make distributions thereof in accordance with the Plan. The Plan Proponents believe that the Liquidation Trust will qualify as a liquidating trust, as defined in Treasury Regulation section 301.7701-4(d), and pursuant to Rev. Proc. 94-95 would therefore be taxed as a grantor trust, of which the holders of Allowed Class 3 and 4 Claims will be treated as the grantors. Thus, no tax should be imposed on the Liquidation Trust itself on the income earned or gain recognized by the Liquidation Trust. Instead, holders of Allowed Class 3 and 4 Claims would be taxed on their allocable shares of such income and gain in each taxable year, whether or not they received any distributions from the Liquidation Trust in such taxable year. The Liquidation Trust would pay federal, state and local tax on the taxable income and gain allocable to holders of Disputed Class 3 and 4 Claims on behalf of such holders and, when such Disputed Claims were ultimately resolved, holders whose Disputed Claims were determined to be Allowed Claims would receive distributions from the Liquidation Trust net of taxes which the Liquidation Trust had previously paid on their behalf.

It is possible, however, that the IRS could require a different characterization of the Liquidation Trust, which could result in different and possibly greater tax liability to the Liquidation Trust and/or the holders of Allowed Class 3 and 4 Claims. If, for instance, the IRS determines that the powers granted to the Liquidation Trustee are greater than those normally associated with carrying out the liquidation and distribution of assets transferred to a liquidating trust, as described in Treasury Regulation section 301.7701-4(d), the IRS may attempt to re-characterize the Liquidation Trust as a complex trust under IRC section 641. A complex trust generally is subject to tax on income received, less deductions allowed for its expenses and for distributions that it makes to creditor-beneficiaries up to the amount of its distributable net

income (“DNI”), as defined in IRC section 643(a). The Liquidation Trust would be taxed on any current DNI not distributed to the holders of Allowed Class 3 and 4 Claims, and such holders would be taxed on income currently distributed to them by the Liquidation Trust (up to the amount of their proportionate share of the Liquidation Trust’s DNI for that year).

Alternatively, the IRS may attempt to characterize the Liquidation Trust as a Qualified Settlement Fund (“QSF”) pursuant to Treasury Regulations under IRC section 468B(g) (the “QSF Regulations”). The QSF Regulations generally do not apply to trusts which are established to satisfy claims of general trade creditors and debt holders in a bankruptcy case. The QSF Regulations, however, do apply to a trust which is established to satisfy liabilities which arise out of a tort, breach of contract, or violation of law or are otherwise designated by the IRS. Thus, if the IRS asserted that Allowed Unsecured Claims arose from such causes, the Liquidation Trust could be treated as a QSF. If the Liquidation Trust were treated as a QSF, it would be treated as a separate taxable entity subject to federal income tax at the maximum tax rate applicable to trusts (currently 35%). Amounts transferred to the QSF to resolve or satisfy a liability for which the QSF was established are not included in gross income of the QSF. Pursuant to the foregoing, if the Liquidation Trust were treated as a QSF, holders of Allowed Class 3 and 4 Claims could receive decreased distributions.

The Debtors will not request any advance ruling from the IRS regarding the tax characterization of the Liquidation Trust as a liquidating trust. However, to the extent possible, the Debtors will comply with the requirements and guidelines set forth in Rev. Proc. 94-45, 1994-2 C.B. 684, which specifies conditions under which the IRS will consider issuing advance rulings, including the possibility that the Liquidation Trust will pay taxes on income which is retained to maintain the value of its assets or to meet Disputed Claims and contingent liabilities. If the Liquidation Trust were determined by the IRS to be taxable not as a liquidating trust, the taxation of the Liquidation Trust and the transfer of assets by the Debtors to the Liquidation Trust could be materially different than is described herein and could have a material adverse effect on the holders of Claims.

D. Federal Income Tax Consequences to Holders of Claims

The federal income tax consequences of the Plan to a holder of a Claim will depend upon several factors, including but not limited to: (i) whether the holder’s Claim (or a portion thereof) constitutes a Claim for principal or interest, (ii) the origin of the holder’s Claim, (iii) the type of considerations received by the holder in exchange for the Claim, (iv) whether the holder is a resident of the United States for tax purposes (or falls into any of the special classes of taxpayers excluded from this discussion as noted above), (v) whether the holder reports income on the accrual or cash basis method, (vi) whether the holder has taken a bad debt deduction or worthless security deduction with respect to this Claim, and (vii) whether the holder receives distributions under the Plan in more than one taxable year. **HOLDERS ARE STRONGLY ADVISED TO CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE TAX TREATMENT UNDER THE PLAN OF DISTRIBUTIONS ON ACCOUNT OF THEIR PARTICULAR CLAIMS.**

Generally, a holder of a Claim will recognize gain or loss equal to the difference between the “amount realized” by such holder and such holder’s adjusted tax basis in the Claim. The “amount realized” is equal to the sum of the Cash and the fair market value of any other

consideration received under the Plan in respect of a holder's Claim, including, in the case of holders of Allowed Class 3 and 4 Claims, the fair market value of each such holder's proportionate share of the assets transferred to the Liquidation Trust on the behalf of and for the benefit of such holder (to the extent that such Cash or other property is not allocable to any portion of the Claim representing accrued but unpaid interest (see discussion below)).

Unless the IRS requires otherwise, the transfer of Cash and assets to the Liquidation Trust by the Debtors will be treated for federal income tax purposes as a transfer of such Cash and assets (net of amounts payable to Administrative Claims, Priority Tax Claims, Priority Non-Tax Claims, Secured Claims and Fee Claims) to the holders of Class 3 and 4 Claims to the extent they are creditor-beneficiaries, followed by a deemed transfer of such assets by such beneficiaries to the Liquidation Trust. As a result of such treatment, holders of Allowed Class 3 and 4 Claims will have to take into account the fair market value of their pro rata share, if any, of the Cash and assets transferred on their behalf to the Liquidation Trust in determining the amount of gain (or loss) realized and required to be recognized upon consummation of the Plan on the Effective Date. In addition, since a holder's share of the assets held in the Liquidation Trust may change depending upon the resolution of Disputed Claims, the holder may be prevented from recognizing any loss in connection with consummation of the Plan until the time that all such Disputed Claims have been resolved. The Liquidation Trustee will provide the holders of Allowed Claims with valuations of the assets transferred to the Liquidation Trust and such valuations will be used consistently by the Liquidation Trust and such holders for all federal income tax purposes. Furthermore, a tax credit may be available to holders whose Disputed Claims are determined to be Allowed Claims to the extent that the Liquidation Trust has previously paid taxes on their behalf, as discussed above.

The character of any recognized gain or loss (e.g., ordinary income, or short-term or long-term capital gain or loss) will depend upon the status of the holder, the nature of the Claim in its hands, the purpose and circumstances of its acquisition, the holder's holding period of the Claim, and the extent to which the holder previously claimed a deduction for the worthlessness of all or a portion of the Claim. **HOLDERS SHOULD CONSULT THEIR OWN TAX ADVISORS CONCERNING THE RECOGNITION OF GAIN OR LOSS, FOR FEDERAL INCOME TAX PURPOSES, ON THE SATISFACTION OF THEIR CLAIMS.**

E. Allocation of Consideration to Interest

A portion of the consideration received by a holder in satisfaction of an Allowed Claim pursuant to the Plan may be allocated to the portion of such Allowed Claim (if any) that represents accrued but unpaid interest. Unless otherwise proscribed under applicable statute or rule, distributions under the Plan are allocated first to the principal of a Claim, then to any accrued interest. If any portion of the distribution were required to be allocated to accrued interest, such portion would be taxable to the holder as interest income, except to the extent the holder has previously reported such interest as income.

In that event, only the balance of the distribution would be considered received by the holder in respect of the principal amount of the Allowed Claim. Such an allocation would reduce the amount of the gain, or increase the amount of loss, realized by the holder with respect to the Allowed Claim. If any such loss were a capital loss, it would not offset any amount of the

distribution that was treated as ordinary interest income (except, in the case of individuals, to the limited extent that capital losses may be deducted against ordinary income).

To the extent that any portion of the distribution is treated as interest, holders may be required to provide certain tax information in order to avoid the withholding of taxes. **HOLDERS SHOULD CONSULT THEIR OWN TAX ADVISORS CONCERNING THE FEDERAL INCOME TAX TREATMENT OF CONSIDERATION RECEIVED IN SATISFACTION OF THEIR CLAIMS.**

F. Federal Income Tax Treatment of Holders of Interests

In accordance with the Plan, holders of an Interest in the Debtors shall receive no Distribution of any kind. Holders of an Interest in the Debtors generally will recognize loss in the amount of the holder's adjusted tax basis in its Interest. The character of any recognized loss will depend upon several factors including, but not limited to, the status of the holder, the nature of the Interest in the holder's hands, the purpose and circumstances of its acquisition, the holder's holding period, and the extent to which the holder had previously claimed a deduction for the worthlessness of all or a portion of the Interest.

A loss generally is treated as sustained in the taxable year for which there has been a closed and completed transaction, and no portion of a loss with respect to which there is a reasonable prospect of reimbursement may be deducted until it can be ascertained with reasonable certainty whether or not such reimbursement will be recovered. **HOLDERS OF INTERESTS IN THE DEBTORS SHOULD CONSULT THEIR OWN TAX ADVISORS CONCERNING THE RECOGNITION OF LOSS FOR FEDERAL INCOME TAX PURPOSES.**

G. Backup Withholding and Information Reporting

Payors of interest, dividends, and certain other reportable payments are generally required to withhold twenty-eight percent (28 %) of such payments if the payee fails to furnish such payee's correct taxpayer identification number (social security number or employer identification number) to the payor. The Debtors and/or the Liquidation Trustee may be required to withhold a portion of any payments made to a holder of an Allowed Claim who does not provide its taxpayer identification number.

THE FOREGOING IS INTENDED TO BE ONLY A SUMMARY OF CERTAIN OF THE UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN, AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE FEDERAL, STATE AND LOCAL INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN. SUCH CONSEQUENCES MAY ALSO VARY BASED ON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM OR INTEREST. ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT WITH HIS, HER OR ITS OWN TAX ADVISOR REGARDING THE FEDERAL, STATE AND LOCAL INCOME AND OTHER TAX CONSEQUENCES UNDER THE PLAN.

IX. ALTERNATIVES TO LIQUIDATING PLAN

The Debtors ceased all business operations and have liquidated all of their assets, except for potential causes of action. There is no alternative to the Plan that would envision a continuation of the Debtors as an ongoing business. Since there is no alternative to liquidation, the Plan embodies what the Debtors and the Committee consider to be the best and most cost-effective method of completing the orderly liquidation and distribution of the Debtors' assets to creditors. The Debtors and the Committee believe that the decision to keep the Debtors in chapter 11 even after it became apparent that there would be no ongoing business to reorganize facilitated the cost-effective disposition of the Debtors' assets during the bankruptcy cases and the distribution of the proceeds of the Sale to creditors. If the Plan is not confirmed, then the Chapter 11 Cases may be converted to cases under chapter 7 of the Bankruptcy Code. In that event, the Debtors would cease their liquidation and distribution efforts and a trustee would be appointed to liquidate and distribute the remaining assets of the estate. The Debtors and the Committee believe that a liquidation under chapter 7 would likely result in a lower return to creditors.

X. CONCLUSION

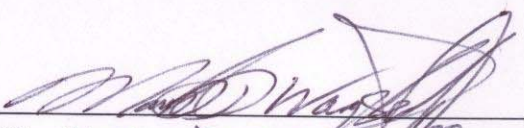
The Debtors and the Committee believe that confirmation and implementation of the Plan will provide each creditor with a greater recovery than it would receive if the Debtors were to liquidate and distribute their assets under chapter 7, in which case there would likely be a delay in making distributions to creditors and creditors would likely receive smaller distributions. **Thus, the Debtors and the Committee recommend confirmation and implementation of the Plan as the best possible outcome for creditors.**

The Debtors and the Committee urge holders of impaired Claims to vote to accept the Plan and to evidence such acceptance by returning their Ballots so they will be received not later than July 1, 2004 at 4:00 p.m. Eastern Time.

[SIGNATURE PAGES FOLLOW]

Dated: June 10, 2004

BSI HOLDING CO., INC.,
BSC HOLDING CO., INC.,
WIND DOWN CORPORATION,
BNCO, INC., AND BI RETAIL, INC.

By: 
Name: Mark D. Waggoner
Title: URS Treasures

OFFICIAL COMMITTEE OF
UNSECURED CREDITORS

By: _____
Name: _____
Title: _____

Dated: June 9, 2004

BSI HOLDING CO., INC.,
BSC HOLDING CO., INC.,
WIND DOWN CORPORATION,
BNCO, INC., AND BI RETAIL, INC.

By: _____
Name:
Title:

OFFICIAL COMMITTEE OF
UNSECURED CREDITORS

By: Traci Neys
Name: Traci Neys
Title: Credit manager

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re)	
)	Chapter 11
BSI HOLDING CO., INC.,)	
f/k/a BOB'S STORES, INC., <u>et al.</u>)	Case Nos. 03-13254
)	through 03-13258 (LHK)
Debtors.)	(Jointly Administered)
)	

**MODIFIED CONSOLIDATED JOINT PLAN OF LIQUIDATION
OF THE DEBTORS TOGETHER WITH THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

JUNE 10, 2004

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The Debtors and the official committee of unsecured creditors appointed in the above-captioned cases (the "Committee") hereby propose and file this Modified Consolidated Plan of Liquidation with respect to BSI Holding Co., Inc., f/k/a Bob's Stores, Inc.; BSC Holding Co., Inc., f/k/a Bob's Stores Center, Inc.; Wind Down Corporation, f/k/a Bob's H.C., Inc.; BI Retail, Inc., f/k/a Bob's Inc.; and BNCO, Inc., f/k/a Bob's Non-Connecticut Operating Co., as debtors and debtors in possession (collectively, the "Debtors") under chapter 11 of title 11 of the United States Code.

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EXHIBITS

Exhibit 1: Form of Liquidation Trust Agreement

INTRODUCTION

The Plan is proposed by the Debtors and the Official Committee of Unsecured Creditors (the "Committee"). Reference is made to the Disclosure Statement For Modified Consolidated Joint Plan of Liquidation, dated June 10, 2004 (the "Disclosure Statement"), for a discussion of the Debtors' history, business, capital structure, historical financial information, and for a summary and analysis of the Plan. The Plan contemplates and moves for the substantive consolidation of the Debtors for voting and distribution purposes.

The Plan also contemplates the creation of a Liquidation Trust, for the benefit of all creditors of the Estates holding Allowed Claims, as the means of execution and implementation of the Plan. See Article VII (Implementation).

All creditors entitled to vote on the Plan should review the Disclosure Statement before voting to accept or reject the Plan. Documents referenced in the Plan and/or the Disclosure Statement are also available for review.

ARTICLE I - DEFINITIONS

The capitalized terms set forth below shall have the following meanings:

1.1. **Administrative Claim** means an unsecured Claim, other than a Fee Claim, for payment of costs or expenses of administration specified in sections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation: (a) the actual, necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the businesses of the Debtors; (b) Allowed Reclamation Claims; and (c) all fees and charges assessed against the Estates pursuant to section 1930 of title 28 of the United States Code.

1.2. **Allowed** means, with respect to any Claim, a Claim, subject to Section 8.1 of the Plan, (i) which is currently scheduled as undisputed, noncontingent and liquidated in the Schedules and as to which no proof of Claim has been timely filed; (ii) as to which a proof of Claim has been timely filed in a liquidated, non-contingent amount and either (a) no objection thereto has been timely filed, or (b) such Claim has been allowed (but only to the extent allowed) by a Final Order of the Court; (iii) which has been expressly allowed under the provisions of this Plan; or (iv) which is an Administrative Claim approved by Final Order of the Court. An Allowed Claim: (y) includes a previously Disputed Claim to the extent such Disputed Claim becomes Allowed when the context so requires; and (z) shall be net of any valid setoff amount against such Claim based on a valid offset right, which valid setoff amount shall be deemed to have been setoff in accordance with the provisions of this Plan. Unless otherwise specified herein or by order of the Court, Allowed Administrative Claims and Allowed Claims shall not, for any purpose under the Plan, include interest on such Administrative Claims or Claims on or after the Petition Date.

1.3. **Allowed Reclamation Claim** means any Claim for the reclamation of goods pursuant to section 546(c) of the Bankruptcy Code, to the extent such Claims have been Allowed but not paid in full pursuant to a Final Order of the Court allowing such claim.

1.4. **Alphabravo Sale** means sale of substantially all of the Debtors' assets to Alphabravo Corporation, a subsidiary of the TJX Companies, Inc., pursuant to section 363 of the Bankruptcy Code, which was approved by the Court on December 23, 2003.

1.5. **Asset Purchase Agreement** means the Asset Purchase Agreement between Buyer and the Debtors, amended and restated as of October 27, 2003, as further amended and approved by the Court pursuant to the Sale Order.

1.6. **Available Cash** means as determined from time to time by the Liquidation Trustee, all unrestricted Cash of the Estates or Liquidation Trust on or after the Effective Date, after deduction of, without duplication: (a) amounts to be distributed to holders of Fee Claims; (b) actual post-Petition Date expenses and liabilities of the Estates that have not been paid, including expenses which accrued prior to the Effective Date; (c) amounts held in the Wind-down Reserve; and (d) Cash to be distributed to or reserved for holders of Administrative Claims, Priority Tax Claims, Priority Non-Tax Claims, Secured Claims, and Convenience Claims.

1.7. **Ballot** means the ballot distributed to each eligible claimant by the Balloting Agent, on which ballot such claimant may, inter alia, vote for or against the Plan.

1.8. **Ballot Deadline** means the date and time set by the Court by which the Balloting Agent must receive all Ballots.

1.9. **Balloting Agent** means the entity designated by the Court to distribute, collect and tally Ballots from claimants. Initially, the Balloting Agent is the Altman Group.

1.10. **Bankruptcy Code** means title 11 of the United States Code, as now in effect or hereafter amended.

1.11. **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure and the local rules of the Court (including any applicable local rules of the Court), as now in effect or hereafter amended.

1.12. **BHCI** means Bob's H.C., Inc., now known as Wind Down Corporation, the Debtor in case No. 03-13256 (LHK) pending before this Court.

1.13. **BI** means Bob's Inc., now known as BI Retail, Inc., the Debtor in case No. 03-13257 (LHK) pending before this Court.

1.14. **BNCO** means Bob's Non-Connecticut Operating Co., now known as BNCO, Inc., the Debtor in case No. 03-13258 (LHK) pending before this Court.

1.15. **BSCI** means Bob's Stores Center, Inc., now known as BSC Holding Co., Inc., the Debtor in case No. 03-13255 (LHK) pending before this Court.

1.16. **BSI** means Bob's Stores, Inc., now known as BSI Holding Co., Inc., the Debtor in case No. 03-13254 (LHK) pending before this Court.

1.17. **Business Day** means any day except a Saturday, Sunday, or “legal holiday” as such term is defined in Bankruptcy Rule 9006(a).

1.18. **Buyer** means Bob’s Stores Corp. f/k/a Alphabravo Corporation.

1.19. **Cash** means cash and cash equivalents, including but not limited to bank deposits, checks, and other similar items.

1.20. **Chapter 11 Cases** means the chapter 11 cases of BHCI, BI, BNCO, BSCI, and BSI (collectively the “Debtors”), jointly administered under Case No. 03-13254 (LHK), pending before the Court.

1.21. **Claim** means a claim against a Debtor, whether or not asserted, known or unknown, as such term is defined in section 101(5) of the Bankruptcy Code.

1.22. **Class** means a group of Claims or Interests described in Articles III and IV of the Plan.

1.23. **Committee** means the Official Committee of Unsecured Creditors in the Chapter 11 Cases, as appointed by the United States Trustee and amended from time to time.

1.24. **Confirmation Date** means the date the Court enters the Confirmation Order on its docket.

1.25. **Confirmation Hearing** means the hearing by the Court to consider confirmation of the Plan.

1.26. **Confirmation Order** means the order of the Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.27. **Convenience Claim** means any Claim that otherwise would be an Allowed General Unsecured Claim against the Debtors (i) in an amount equal to \$2000 or less the Holder of which has NOT elected to receive treatment under Class 4 of the Plan by irrevocable written election of the Holder of such Claim made on a validly executed and timely delivered Ballot; or (ii) in an amount in excess of \$2,000 the Holder of which has elected to reduce such claim to \$2,000 and receive treatment under Class 3 of the Plan by irrevocable written election of the Holder of such Claim made on a validly executed and timely delivered Ballot.

1.28. **Court** means the United States Bankruptcy Court for the District of Delaware, or any other court exercising competent jurisdiction over the Chapter 11 Cases or any proceeding therein.

1.29. **Debtors** has the meaning ascribed to such term on the first page of this Plan (each of the Debtors is individually referred to herein as a Debtor).

1.30. **Disallowed Claim** means a Claim or portion thereof that (i) has been disallowed by a Final Order; (ii) is identified in the Schedules of Assets and Liabilities in an amount of zero dollars or as contingent, unliquidated, or disputed and as to which a proof of

Claim was not filed by the applicable bar date; or (iii) is not identified in the Schedules of Assets and Liabilities and as to which no proof of Claim has been filed or deemed filed by the applicable bar date.

1.31. **Disclosure Statement** means the Disclosure Statement that relates to this Plan and is approved by the Court pursuant to section 1125 of the Bankruptcy Code, as such Disclosure Statement may be amended, modified, or supplemented (and all exhibits and schedules annexed thereto or referred to therein).

1.32. **Disclosure Statement Order** means the order of the Court approving the Disclosure Statement as containing adequate information pursuant to section 1125 of the Bankruptcy Code.

1.33. **Disputed Claim** means any Claim or any portion thereof which has not become Allowed and which is not a Disallowed Claim. In the event that any part of a Claim is a Disputed Claim, such Claim in its entirety shall be deemed to constitute a Disputed Claim for purposes of distribution under this Plan unless the Debtors or Liquidation Trustee, the objecting party and the holder thereof agree otherwise; provided, however, that nothing in this definition of “Disputed Claim” is intended to or does impair the rights of any holder of a Disputed Claim to pursue its rights under section 502(c) of the Bankruptcy Code. Without limiting any of the foregoing, but subject to the provisions of this Plan, a Claim that is or becomes, prior to thirty days after the Effective Date, the subject of an application, motion, complaint, objection, or any other legal proceeding seeking to disallow, limit, subordinate, or estimate such Claim shall be deemed to constitute a Disputed Claim.

1.34. **Distribution** means the distribution in accordance with this Plan of Cash or other property, as the case may be, or the Cash or other property so distributed.

1.35. **Distribution Address** means the address set forth in the relevant proof of claim. If no proof of claim is filed in respect to a particular Claim, such defined term means the address set forth in the relevant Debtor’s Schedules of Assets and Liabilities.

1.36. **Distribution Date** means (a) with respect to Administrative Claims, Priority Tax Claims, Priority Non-Tax Claims, and Secured Claims, the date that is the later of: (i) the Effective Date (or as soon thereafter as reasonably practicable); and (ii) the date (or as soon thereafter as reasonably practicable) such Claims become Allowed Claims or otherwise become payable under the Plan, (b) with respect to Fee Claims, the date (or as soon thereafter as reasonably practicable) that such Claims are allowed by Final Order of the Court, and (c) with respect to General Unsecured Claims (subject to the priority scheme set forth in the Plan), (i) initially, as soon as reasonably practicable after the later of (aa) the Effective Date and (bb) ten (10) days after the date on which the Court has entered the Estimation Order and such order is final and non-appealable, and (ii) subsequently, the first Business Day that is three (3) full months after the immediately preceding Distribution Date for Class 4, or in the case of either (i) or (ii), such earlier or later date established by the Court or designated by the Liquidation Trustee in his/her reasonable discretion after consultation with the Committee. With respect to Secured Claims, occurrence of the Distribution Date shall be subject, if applicable, to the sale of the relevant collateral.

1.37. **Distribution Fund** means the fund which shall be established on or after the Effective Date by the Liquidation Trustee to pay (in the event any payments are to be made to holders of such Claims) Class 4 General Unsecured Claims pursuant to the provisions of the Plan.

1.38. **Distribution Record Date** means the initial date.

1.39. **Effective Date** means: (a) if no stay of the Confirmation Order is in effect, the first Business Day after the date each of the conditions set forth in Section 11.1 hereof has been satisfied or waived as set forth in Section 11.3 hereof, or such later date as may reasonably be determined by the Plan Proponents; or (b) if a stay of the Confirmation Order is in effect, on the first Business Day (or such later date as may reasonably be determined by the Plan Proponents) after the later of: (i) the date such stay is vacated or any appeal, rehearing, remand or petition for certiorari is resolved in a manner that does not reverse or materially modify the Confirmation Order; and (ii) the date each condition set forth in Section 11.1 hereof has been satisfied or waived as set forth in Section 11.3 hereof.

1.40. **Estate** means the relevant estate created in each of the Chapter 11 Cases pursuant to section 541 of the Bankruptcy Code.

1.41. **Estimation Order** means an order or orders of the Court estimating for voting and/or distribution purposes (under section 502(c) of the Bankruptcy Code) the aggregate (and if applicable, individual) face amount of Disputed Claims in each relevant Class. Estimation Order includes the Confirmation Order if the Confirmation Order grants the same relief that would have been granted in a separate Estimation Order.

1.42. **Fee Claim** means a Claim for compensation or reimbursement of expenses pursuant to sections 327, 328, 330, 331 or 503(b) of the Bankruptcy Code in connection with the Chapter 11 Cases.

1.43. **Fee Order** means the Court's Administrative Order Establishing Procedures For Interim Compensation and Reimbursement of Expenses of Professionals, dated October 23, 2003, as such Orders may be subsequently amended and superceded.

1.44. **Final Order** means an order or judgment of the Court, as entered on the docket of the Court, that has not been reversed, stayed, modified, or amended, and as to which: (a) the time to appeal, seek review or rehearing or petition for certiorari has expired and no timely filed appeal or petition for review, rehearing, remand or certiorari is pending; or (b) any appeal taken or petition for certiorari filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought, provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or other rules governing procedure in cases before the Court, may be filed with respect to such order shall not cause such order not to be a Final Order.

1.45. **General Unsecured Claim** means any Claim that is not: (a) an Administrative, Priority Non-Tax, or Priority Tax Claim; (b) a Secured Claim; (c) a Fee Claim; or (d) a Claim included within any other Class of Claims or Interests.

1.46. **Intercompany Claim** means a Claim of any Debtor against another Debtor.

1.47. **Interest** means an equity security, within the meaning of section 101(16) of the Bankruptcy Code, in a Debtor, including but not limited to the stock of the Debtors.

1.48. **Litigation Claim** means any claim, right or cause of action of a Debtor including but not limited to a claim, right or cause of action accruing or incorporated under chapter 5 of the Bankruptcy Code which may be asserted by or on behalf of a Debtor, whether known or unknown, in law, equity or otherwise, including (a) a claim, right or cause of action accruing under section 547 of the Bankruptcy Code, or under section 550 of the Bankruptcy Code to recover a transfer avoided under section 547 of the Bankruptcy Code, and which may be asserted by or on behalf of a Debtor, (b) any claims the Debtors may have against current or former officers, directors or insiders of the Debtors, other than claims released hereby; and (c) any fraudulent conveyance or fraudulent transfer claims the Debtors may have, pursuant to sections 544, 548 and/or 550 of the Bankruptcy Code or applicable nonbankruptcy law. As used in this Section 1.46, the term Debtor includes the Estate of any and all Debtors.

1.49. **Liquidation Trust** means the trust created pursuant to Section 7.2 herein.

1.50. **Liquidation Trust Agreement** means the Liquidation Trust Agreement to be dated as of the Effective Date establishing the terms and conditions of the Liquidation Trust in form and substance substantially identical in all material respects to the proposed Liquidation Trust Agreement that is annexed hereto as Exhibit 1.

1.51. **Liquidation Trustee** means the trustee of the Liquidation Trust, as designated in Section 7.4 of this Plan and the Liquidation Trust Agreement.

1.52. **Net Proceeds** means the Cash consideration received from the sale or transfer of property of the Estates or the conversion of such property to Cash in some other manner as contemplated in this Plan (including, without limitation, any recoveries from the Litigation Claims), whether occurring prior to or after the Effective Date, less the reasonable, necessary and customary expenses attributable to such sale, transfer, collection or conversion, including costs of curing defaults under executory contracts or unexpired leases that are assigned, paying personal property or other taxes accruing in connection with such sale, transfer or conversion or such property, brokerage fees and commissions, collection costs, reasonable attorneys' fees and expenses and any applicable taxes or other claims of any governmental authority in connection with such property and any escrows or accounts established to hold funds for purchase price adjustments, indemnification claims, or other purposes in connection with such sale, transfer or collection.

1.53. **Person** means any individual, corporation, partnership, association, organization, joint stock company, joint venture, estate, trust, governmental unit or any political subdivision thereof, the Committee, Interest holders, holders of Claims, current or former employees of any Debtor, or any other entity.

1.54. **Petition Date** means October 22, 2003.

1.55. **Plan** means this Consolidated Joint Plan of Liquidation, dated as of the date set forth on the first page hereof, for each of the Debtors, together with any amendments or modifications hereto as may be filed hereafter in accordance with the terms of the Plan, the Bankruptcy Code and other applicable law.

1.56. **Plan Proponents** means the Debtors and the Committee.

1.57. **Priority Non-Tax Claim** means any Claim entitled to priority pursuant to section 507(a) of the Bankruptcy Code, other than: (a) an Administrative Claim; (b) a Priority Tax Claim; or (c) a Fee Claim.

1.58. **Priority Tax Claim** means a Claim entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code.

1.59. **Ratable, Ratably or Ratable Share** means a number (expressed as a percentage) equal to the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of: (a) Allowed Claims plus (b) Disputed Claims (in their aggregate Face Amount) in such Class as of any date of determination. For purposes of calculating the Ratable Share with respect to General Unsecured Claims, Class 4 shall be treated as one Class.

1.60. **Released Party** means the Debtors, the Liquidation Trustee, the Committee and former and current members thereof (in their capacity as such, and specifically excluding any member of the Committee as a vendor of, or in similar relationship to, the Debtors) and any current or former agent, representative, employee benefit plan fiduciary, employee benefit plan administrator, employee, attorney, accountant, financial advisor or other professional of the Liquidation Trustee, the Debtors, the Committee and members thereof, but only if and to the extent, in each case, that such party served in such capacity on or after the Petition Date.

1.61. **Sale Order** means the Order (I) Authorizing and Approving the Sale of Substantially All Assets of the Debtors Free and Clear of Liens, Claims, Encumbrances and Interests; (II) Approving Asset Purchase Agreement (As Amended and Restated); (III) Authorizing and Approving Assumption and Assignment of Executory Contracts and Unexpired Leases; and (IV) Granting Certain Related Relief dated December 23, 2003 as entered by the Court.

1.62. **Schedules of Assets and Liabilities** means Debtors' schedules of assets and liabilities filed with the Court pursuant to sections 521(1) and 1106(a)(2) of the Bankruptcy Code, as the same may have been amended.

1.63. **Secured Claim** means, pursuant to section 506 of the Bankruptcy Code, that portion of a Claim that is secured by a valid, perfected and enforceable security interest, lien, mortgage or other encumbrance, that is not subject to avoidance under applicable bankruptcy or non-bankruptcy law, in or upon any right, title or interest of any of the Debtors in and to property of the Estates, to the extent of the value of the holder's interest in such property as of the relevant determination date. The defined term Secured Claim includes any Claim that is: (i) subject to an offset right under applicable law; and (ii) a secured claim against any of the Debtors pursuant to sections 506(a) and 553 of the Bankruptcy Code. Such defined term shall not include for voting or Distribution purposes any such Claim that has been or will be paid in connection with the cure

of defaults under an assumed executory contract or unexpired lease under section 365 of the Bankruptcy Code.

1.64. **Subordinated Claims** means any Claim against any of the Debtors whether secured or unsecured, for any fine, penalty, forfeiture, attorneys' fees (to the extent that such attorneys' fees are punitive in nature), or for multiple, exemplary or punitive damages, to the extent that such fine, penalty, forfeiture, attorneys' fees or damages are not compensation for actual pecuniary loss suffered by the holder of such Claim and not statutorily prescribed, and all claims against any of the Debtors of the type described in Section 510 (b) of the Bankruptcy Code relating to equity interests (including all Interests).

1.65. **Substantive Consolidation Order** means the order, or provisions of the Confirmation Order, substantively consolidating the Chapter 11 Cases as provided in Article II of the Plan.

1.66. **Unclaimed Property** means any Cash or other distributable property unclaimed after 180 days following a Distribution Date as provided in section 8.5 of this Plan. Unclaimed Property shall include: (a) checks (and the funds represented thereby) mailed to a Distribution Address and returned as undeliverable without a proper forwarding address; (b) funds for uncashed checks; and (c) checks (and the funds represented thereby) not mailed or delivered because no Distribution Address to mail or deliver such property was available, notwithstanding efforts by the Debtors or the Liquidation Trustee to locate such address which were reasonable under the circumstances.

1.67. **United States Trustee** means the Office of the United States Trustee for the District of Delaware.

1.68. **Wind-down Budget** means a budget to be prepared by the Debtors and/ or their financial advisors, approved by the Committee, estimating the funds necessary to administer the Plan and wind up the Debtors' affairs, including, but not limited to, the costs of holding and liquidating Estate property, objecting to Claims, making the Distributions required by the Plan, prosecuting Litigation Claims in accordance with the Plan, paying taxes, filing tax returns, paying professionals' fees, providing for the purchase of errors and omissions insurance and/or other forms of indemnification for the Liquidation Trustee, and other necessary and usual business expenses.

1.69. **Wind-down Reserve** means the reserve to be established on the Effective Date by the Liquidation Trustee in accordance with the terms of the Wind-down Budget to fund the winding up of the affairs of the Debtors and administering the Plan and Liquidation Trust. After the Effective Date, the Wind-down Reserve shall be supplemented to the extent considered necessary or desirable by the Liquidation Trustee with proceeds of any collection, sale, liquidation, or other disposition of any non-Cash property of the Debtors or the Liquidation Trust existing on or created after the Effective Date, including Litigation Claims.

ARTICLE II - SUBSTANTIVE CONSOLIDATION

2.1. Substantive Consolidation

The Plan contemplates and is predicated upon entry of the Substantive Consolidation Order, which shall effect the substantive consolidation of the Debtors, their Estates and Property, for all purposes associated with the Chapter 11 Cases and confirmation and consummation of the Plan. On the Effective Date: (i) all Intercompany Claims by and among the Debtors shall be eliminated; (ii) all assets and liabilities of the Debtors shall be merged or treated as though they were merged with the assets and liabilities of BSI; (iii) all prepetition cross-corporate guarantees of the Debtors shall be eliminated; (iv) all Claims based upon guarantees of collection, payment or performance made by one or more Debtors as to the obligations of another Debtor or of any other Person shall be released and of no further force and effect; (v) any obligation of any Debtor and all guarantees thereof executed by one or more of the Debtors shall be deemed to be one obligation of BSI; (vi) any Claims filed or to be filed in connection with any such obligation and such guarantees shall be deemed one Claim against BSI; and (vii) each and every Claim filed in the individual Chapter 11 Case of any of the Debtors shall be deemed filed against BSI and shall be deemed a single obligation of BSI under the Plan on and after the Confirmation Date. Notwithstanding anything to the contrary in this Section 2.1, the substantive consolidation of the assets and liabilities of the Debtors as described herein shall not result in any actual transfer or merger of such assets and liabilities for any purpose (including, without limitation, for tax purposes and state law purposes) other than the administration of the Chapter 11 Cases and the determination of the rights of Holders of Claims and Interests under the Plan and the making of Plan distributions.

2.2. Order Granting Substantive Consolidation

Unless substantive consolidation has been approved by a prior order of the Court, this Plan shall serve as a motion seeking entry of an order substantively consolidating the Chapter 11 Cases. Unless an objection to substantive consolidation is made in writing by any creditor affected by the Plan as herein provided on or before the deadline set by the Court to object to confirmation of the Plan, the Substantive Consolidation Order may be entered. In the event any such objections are timely filed, a hearing with respect thereto shall be scheduled, which hearing may coincide with the Confirmation Hearing. If a separate Substantive Consolidation Order has not been entered, the Confirmation Order shall constitute the Substantive Consolidation Order.

2.3. Closing of Chapter 11 Cases of Certain Debtors

On the Effective Date or as soon thereafter as practicable, the Liquidation Trustee shall file an appropriate motion with the Court to close the Chapter 11 Cases of BHCI, BI, BNCO and BSCI.

ARTICLE III - TREATMENT OF ADMINISTRATIVE CLAIMS, FEE CLAIMS AND PRIORITY TAX CLAIMS

Administrative Claims, Fee Claims and Priority Tax Claims have not been classified and are excluded from the Classes set forth in Article IV in accordance with section 1123(a)(1) of the Bankruptcy Code.

3.1. Administrative Claims

Unless otherwise provided for herein, each holder of an Allowed Administrative Claim shall be paid 100% of the unpaid allowed amount of such Administrative Claim in Cash on or as soon as reasonably practicable after the Distribution Date. Notwithstanding the immediately preceding sentence: (i) any Administrative Claims for goods sold or services rendered representing liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases involving trade, service or vendor Claims, subject to compliance with any applicable bar date, shall be paid by the Debtors or Liquidation Trustee in the ordinary course in accordance with the terms and conditions of any agreements relating thereto; and (ii) Administrative Claims of the United States Trustee for fees pursuant to 28 U.S.C. § 1930(a)(6) shall be paid in accordance with the applicable schedule for payment of such fees, provided however, if the Court approves substantive consolidation of the Chapter 11 Cases then from and after the Effective Date, United States Trustee Fees shall not accrue on account of the Chapter 11 Cases of BHCI, BI, BNCO and BSCI which cases shall be closed as soon as practicable following the Effective Date. Notwithstanding the foregoing, the holder of an Allowed Administrative Claim may receive such other, less favorable treatment as may be agreed upon by such holder and the Debtors or Liquidation Trustee, as applicable.

3.2. Bar Date for Administrative Claims

Proofs of claim or applications for payment of Administrative Claims (other than Fee Claims) arising before the Effective Date must be filed with the Court, with copies to the parties listed in Section 13.13, within 30 days after the Effective Date. Any Person that fails to file such a proof of claim or application with the Court within that time shall be forever barred from asserting such an Administrative Claim against any of the Debtors, the Estates, or their property, or commencing or continuing any action, employment of process, or act to collect, offset, or recover any such Administrative Claim.

3.3. Fee Claims

Each holder of an Allowed Fee Claim through the Effective Date shall receive 100% of the unpaid allowed amount of such Claim in Cash on or as soon as reasonably practicable after the initial Distribution Date.

3.4. Bar Date for Fee Claims

All proofs or applications for payment of Fee Claims through the Effective Date must be filed with the Court within 60 days after the Effective Date. Any Person or entity that fails to file such a proof of Fee Claim or application on or before such date shall be forever barred from asserting such a Fee Claim against any of the Debtors, the Estates, the Liquidation Trust, or their

property, and the holder thereof shall be permanently enjoined from commencing or continuing any action, employment of process or act to collect, offset or recover such a Fee Claim.

3.5. Priority Tax Claims

Each holder of an Allowed Priority Tax Claim shall be paid 100% of the unpaid amount of such Allowed Claim in Cash on or as soon as reasonably practicable after the Distribution Date. Any claim or demand for penalty relating to any Priority Tax Claim shall be disallowed, and the holder of an Allowed Priority Tax Claim shall not assess or attempt to collect such penalty from the Released Parties, the Debtors' directors and officers, the Debtors' successor(s), or the Liquidation Trust, or their property. Notwithstanding the foregoing, the holder of an Allowed Priority Tax Claim may receive such other less favorable treatment as may be agreed upon by the claimant and the Liquidation Trustee.

ARTICLE IV - CLASSIFICATION OF CLAIMS AND INTERESTS

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Fee Claims, and Priority Tax Claims, as described in Article III, have not been classified and thus are excluded from the Classes that follow. The following table designates the Classes of Claims and specifies which of those Classes are (i) impaired or unimpaired by this Plan, and (ii) entitled to vote to accept or reject this Plan in accordance with section 1126 of the Bankruptcy Code or deemed to reject this Plan.

4.1. Classes

Class 1	Priority Non-Tax Claims	Unimpaired	No (deemed to accept)
Class 2	Secured Claims	Unimpaired	No
Class 3	Convenience Claims	Impaired	Yes
Class 4	General Unsecured Claims	Impaired	Yes
Class 5	Subordinated Claims	Impaired	No (deemed to reject)
Class 6	Intercompany Claims	Impaired	No (deemed to reject)
Class 7	Interests	Impaired	No (deemed to reject)

4.2. General Rules of Classification

Generally, a Claim is classified in a particular Class for voting and distribution purposes only to the extent the Claim has not been paid, released or otherwise satisfied and qualifies within the description of that Class, and is classified in another Class or Classes to the extent any remainder of the Claim qualifies within the description of such other Class or Classes. For voting and distribution purposes, a holder of more than one Claim in a Class shall be deemed to have a single Claim in such Class.

ARTICLE V - TREATMENT OF CLAIMS AND INTERESTS

5.1. Priority Non-Tax Claims (Class 1)

Each holder of an Allowed Priority Non-Tax Claim shall be paid 100% of the unpaid amount of such Allowed Claim in Cash on or as soon as reasonably practicable after the applicable Distribution Date. Notwithstanding the foregoing, the holder of an Allowed Priority Non-Tax Claim may receive such other less favorable treatment as may be agreed upon by the claimant and the Liquidation Trustee.

5.2. Secured Claims (Class 2)

Subject to the provisions of sections 502(b)(3) and 506(d) of the Bankruptcy Code, each holder of an Allowed Secured Claim shall receive, at the Liquidation Trustee's option and to the extent such Claim is secured by collateral in the possession of the Liquidation Trustee: (a) 100% of the Net Proceeds from the sale of the relevant collateral, up to the unpaid allowed amount of such Claim (less the actual costs and expenses of disposing of such collateral); (b) the return of the relevant collateral; or (c) such alternative treatment as leaves unaltered the legal, equitable and contractual rights of the holder of such Allowed Secured Claim. Such Distribution shall be made on or as soon as reasonably practicable after the relevant Distribution Date (subject, if applicable, to the Liquidation Trustee's receipt of the proceeds of the sale of the relevant collateral). To the extent a Claim is partially an Allowed Secured Claim based on an offset right and partially an Allowed Claim of another type, such Secured Claim shall be deemed to have been (x) set off (and thus no longer due and payable) only to the extent of the allowed amount of the allowed, liquidated, non-disputed, non-contingent claim owing to the Debtors, and (y) a Claim classified in another relevant Class for any excess of such Claim over the amount so set off. If a Claim is fully a Secured Claim based on an offset right, the allowance of such Claim shall not affect any obligations or liabilities due and payable (at such time) to the relevant Debtor that are in an amount in excess of the amount validly offset and the payment, in full and in cash, of all amounts due and owing as of the Effective Date to such Debtor, and the turnover of any property of such Debtor held by such claimant on account of any unliquidated, disputed or contingent right of setoff shall be a precondition of the allowance of such Secured Claim. Notwithstanding the foregoing, the holder of an Allowed Secured Claim may receive such other less favorable treatment as may be agreed to by such holder and the Debtors or the Liquidation Trustee. Any Allowed Claim based on any deficiency Claim by a holder of an Allowed Secured Claim shall become, and shall be treated for all purposes under this Plan as an Allowed General Unsecured Claim and shall be classified as a Class 4 Claim.

Upon receipt of such Distributions by such holder, such holder's lien or other security interest in the relevant collateral shall be deemed released.

5.3. Convenience Claims (Class 3)

On or as soon as reasonably practicable after the initial Distribution Date, holders of an Allowed Claim in Class 3 shall be paid 70% of their Allowed Convenience Claim amount in full satisfaction of any Claims against the Debtors or the Estates, which distributions shall be made in

accordance with the provisions set forth in Sections 7.9 through 7.12 hereof. Such Distribution shall be the sole Distribution to which holders of Class 3 claims shall be entitled.

5.4. General Unsecured Claims (Class 4)

Each holder of an Allowed Claim in Class 4 shall receive a beneficial interest in the Liquidation Trust as set forth in Section 7.8 hereof entitling them to receive on account of such Claims, on or as soon as reasonably practicable after the initial Distribution Date and on each periodic Distribution Date thereafter, their Ratable Share of any cash distribution from the Distribution Fund to holders of Allowed General Unsecured Claims. Each holder of an Allowed Class 4 Claim shall receive such distributions in accordance with the provisions set forth in Section 7.12 of this Plan. Notwithstanding the foregoing, the holder of an Allowed Class 4 Claim may receive such other less favorable treatment as may be agreed to by the claimant and the Liquidation Trustee.

5.5. Subordinated Claims (Class 5)

No property will be distributed to or retained by the holders of Allowed Claims in Class 5 on account of such Allowed Claims. All holders of such Allowed Claims in Class 5 shall be permanently enjoined from commencing or continuing any action, employment of process or act to collect, offset or recover any such Claim as of the Effective Date.

5.6. Intercompany Claims (Class 6)

In connection with, and as a result of, the substantive consolidation of the Debtors' Estates and the Chapter 11 Cases, on the Confirmation Date or such other date as may be set by an order of the Court, but subject to the occurrence of the Effective Date, all Intercompany Claims shall be eliminated for the purpose of determining distributions from the Debtors' Estates, and the holders of Class 6 Claims shall not be entitled to, and shall not, receive or retain any property or interest in property on account of such Class 6 Claims.

5.7. Interests (Class 7)

It is not anticipated that the holders of Interests in Class 7 will receive any distributions on account of Interests. The Plan Proponents will request that the Court make a finding that the Interests have no value for purposes of the "best interest" test under section 1129(a)(7) of the Bankruptcy Code. On the Effective Date, all Interests in the Debtors shall be deemed canceled. Holders of Interests in Class 7 shall be deemed to have rejected the Plan and shall not receive or retain any property or interest in property on account of their Class 7 Interests. In the event that any value shall exist for the holders of Interests, then Allowed Interests in Class 7 will be paid on an interim Distribution date, if any, and the final Distribution Date their Pro Rata Share of Available Cash, if any.

ARTICLE VI - ACCEPTANCE OR REJECTION OF PLAN

6.1. Voting of Claims

Each holder of an Allowed Claim in Classes 3 and 4 (and only such holders) shall be entitled to vote to accept or reject this Plan.

6.2. Acceptance by a Class

Consistent with section 1126(c) of the Bankruptcy Code and except as provided for in section 1126(e) of the Bankruptcy Code, a Class of Claims shall have accepted this Plan if it is accepted by at least two-thirds in dollar amount, and more than one-half in number of the holders, of Allowed Claims of such Class that have timely and properly voted to accept or reject this Plan.

6.3. Presumed Acceptance of Plan

Pursuant to section 1126(f) of the Bankruptcy Code, any Class that is unimpaired under a plan is conclusively presumed to accept a plan. Accordingly, under this Plan, Classes 1 and 2 are unimpaired and conclusively presumed to accept the Plan.

6.4. Presumed Rejection of Plan

In accordance with section 1126(g) of the Bankruptcy Code, any Class that is to receive no distribution under a plan is conclusively presumed to reject a plan. Accordingly, Classes 5, 6, and 7 are conclusively presumed to reject this Plan and the votes of such holders will not be solicited with respect to such Claims.

ARTICLE VII - IMPLEMENTATION OF THE PLAN

In addition to the provisions set forth elsewhere in this Plan, the following shall constitute the means of execution and implementation of the Plan.

7.1. Dissolution of Corporate Entities

On the Effective Date, the Liquidation Trustee shall, in accordance with all applicable law, be issued one (1) share of common stock for each Debtor and thereafter shall be, and have all the powers of, the sole shareholder, officer and director of each Debtor, replacing the existing shareholders, officers and directors of the Debtors, and all other shares of any class of stock of the Debtors shall be deemed cancelled as of the Effective Date; provided, however, that the Liquidation Trustee may elect not to receive shares in one or more (including all) of the Debtors, if the Liquidation Trustee determines that it would be in the best interests of the Estates to so act. Within the respective times determined by the Liquidation Trustee as necessary or appropriate under the circumstances (including with respect to the pursuit of causes of action in the name of the Estates), the Debtors shall be dissolved without any further action by the former stockholders, officers, or directors of the Debtors. The Liquidation Trustee may, in his or her discretion, file all necessary certificates of dissolution and take any other actions necessary or

appropriate to effect the dissolutions of each of the Debtors under the state law where the respective Debtors were incorporated, which the Liquidation Trustee may do without further actions of the Debtors' shareholders, officers, and directors. All applicable regulatory or governmental agencies shall accept any certificates of dissolution or other papers filed by the Liquidation Trustee on behalf of the Debtors and shall take all steps necessary to allow and effect the prompt dissolution of the Debtors as provided herein, without the payment of any fee, tax, or charge and without need for the filing of reports or certificates, except as the Liquidation Trustee may determine in his or her sole discretion.

7.2. Liquidation Trust

(a) **Creation of Liquidation Trust.** As of the Effective Date, the Liquidation Trust shall be created and established for the benefit of all creditors of the Estates holding Allowed Claims, into which trust all assets of the Debtors and Estates existing as of the Effective Date shall be transferred pursuant to and in accordance with the terms of this Plan. The Liquidation Trust shall operate under the provisions of an agreement between the Debtors, the Committee and the Liquidation Trustee establishing the Liquidation Trust, a copy of which in substantially final form is annexed hereto as Exhibit 1.

After the Effective Date, the Debtors shall have no liability to holders of Claims or Interests other than as provided for in the Plan. The Plan will be administered and actions will be taken in the name of the Debtors or Liquidation Trust, as appropriate, through the Liquidation Trustee, irrespective of whether any of the Debtors have been dissolved.

(b) **Transfers to the Liquidation Trust.** On the Effective Date, subject to Section 7.7, the Debtors and Estates shall and shall be deemed to have transferred and/or assigned any and all assets of the Debtors and the Estates as of the Effective Date, including, without limitation, (i) cash and accounts, including, without limitation, any and all moneys held in escrow or separate segregated accounts during the pendency of the Chapter 11 Cases, (ii) Litigation Claims, and (iii) any and all other interests, rights, claims, defenses and causes of action of the Debtors or Estates, to the beneficiaries of the Liquidation Trust followed by a deemed transfer by such beneficiaries to the Liquidation Trust, and such transferred assets shall be held by the Liquidation Trust free and clear of all Claims, Liens and contractually imposed restrictions, except for the rights to Distribution afforded to holders of Claims under the Plan.

(c) **Creation of Reserve Within Liquidation Trust.** As of the Effective Date, and upon receipt of the assets transferred pursuant to Section 7.2 hereof, the Liquidation Trustee shall establish and use the transferred assets to fund the Wind-down Reserve in accordance with the terms hereof.

7.3. Powers

(a) **Directors, Officers and Employees.** On the Effective Date, the authority, power and incumbency of the persons then acting as directors of the Debtors shall be terminated and such directors shall be deemed to have resigned. Each officer and any employee in the employment of the Debtors as of the Effective Date shall automatically on the Effective Date be deemed employees of the Liquidation Trust and cease to be officers and employees of the

Debtors, and solely for this purpose the Liquidation Trust shall be deemed a successor to the Debtors.

(b) **Succession by Liquidation Trustee.** The Liquidation Trustee shall succeed to such powers as would have been applicable to the Debtors' officers, directors and shareholders, and the Debtors shall be authorized to be (and, by the conclusion of the winding up of their affairs, shall be) deemed dissolved.

7.4. **Liquidation Trustee**

The Plan Proponents have designated Joseph Myers as the Liquidation Trustee. The salient terms of the Liquidation Trustee's employment, including the Liquidation Trustee's duties and compensation (which compensation shall be negotiated by the Liquidation Trustee and the Plan Proponents), to the extent not set forth in the Plan, shall be set forth in the Liquidation Trust Agreement. In general, the Liquidation Trustee shall be the exclusive trustee of the Liquidation Trust for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estates appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The Liquidation Trustee shall have fiduciary duties to beneficiaries of the Liquidation Trust in the same manner that members of an official committee of creditors appointed pursuant to section 1102 of the Bankruptcy Code have fiduciary duties to the creditor constituents represented by such a committee. The Liquidation Trust Agreement shall specify the terms and conditions of the Liquidation Trustee's compensation, responsibilities and powers. The duties and powers of the Liquidation Trustee, subject to prior approval by the Committee to the extent delineated in the Liquidation Trust Agreement, shall include, without limitation, the following, but in all cases shall be consistent with the terms of the Plan:

(a) To exercise all power and authority that may be or could have been exercised, commence all proceedings that may be or could have been commenced and take all actions that may be or could have been taken by any officer, director or shareholder of the Debtors with like effect as if authorized, exercised and taken by unanimous action of such officers, directors and shareholders; including, without limitation, amendment of the certificates of incorporation and by-laws of the Debtors, merger of any Debtor into another Debtor and the dissolution of any Debtor;

(b) To maintain escrows and other accounts, make Distributions and take other actions consistent with the Plan and the implementation hereof, including the establishment, re-evaluation, adjustment and maintenance of appropriate reserves, in the name of the Debtors or the Liquidation Trustee, even in the event of the dissolution of the Debtors;

(c) Subject to the applicable provisions of the Plan, to collect and liquidate all assets of the Estates pursuant to the Plan and to administer the winding-up of the affairs of the Debtors;

(d) To object to any Claims (Disputed or otherwise), including, without limitation, as discussed in Section 8.1 hereof, and to defend, compromise and/or settle any Claims prior to objection without supervision or approval of the Court, free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules of the Court, and the guidelines and

requirements of the United States Trustee, other than those restrictions expressly imposed by the Plan or the Confirmation Order, and/or to seek Court approval for any Claims settlements, to the extent thought appropriate by the Litigation Trustee or to the extent such approval is required by prior order of this Court;

(e) To make decisions in consultation with the Committee, without further Court approval, regarding the retention or engagement of professionals, employees and consultants by the Liquidation Trust and to pay, from the Wind-down Reserve, the charges incurred by the Liquidation Trust on or after the Effective Date for services of professionals, disbursements, expenses or related support services relating to the winding down of the Debtors and implementation of the Plan, without further Court approval;

(f) To cause, on behalf of the Liquidation Trust, the Debtors and the Estates, all necessary tax returns and all other appropriate or necessary documents related to municipal, State, Federal or other tax law to be prepared or filed timely;

(g) To make all Distributions to holders of Allowed Claims provided for or contemplated by the Plan;

(h) To invest Cash in accordance with Section 7.5 or as otherwise permitted by a Final Order of the Court and as deemed appropriate by the Liquidation Trustee;

(i) To collect any accounts receivable or other claims of the Debtors or the Estates not otherwise disposed of pursuant to the Plan;

(j) To enter into any agreement or execute any document required by or consistent with the Plan and perform all of the obligations of the Debtors or the Liquidation Trustee thereunder;

(k) To abandon in any commercially reasonable manner, including abandonment or donation to a charitable organization of the Liquidation Trustee's choice, any assets that the Liquidation Trustee concludes are of no benefit to creditors of the Estates or, at the conclusion of the Chapter 11 Cases, are determined to be too impractical to distribute;

(l) To prosecute and/or settle Litigation Claims, if any, participate in or initiate any proceeding before the Court or any other court of appropriate jurisdiction, participate as a party or otherwise in any administrative, arbitral or other nonjudicial proceeding, litigate or settle such Litigation Claims on behalf of the Liquidation Trust, and pursue to settlement or judgment such actions;

(m) To utilize trust assets to purchase or create and carry all appropriate insurance policies and pay all insurance premiums and costs it deems necessary or advisable to insure the acts and omissions of the Liquidation Trustee, and if appropriate, the Committee;

(n) To implement and/or enforce all provisions of the Plan;

(o) To maintain appropriate books and records;

(p) To collect and liquidate all assets of the Estates pursuant to the Plan and administer the winding-up of the affairs of the Debtors including, but not limited to, causing the dissolution of each Debtor and closing the Chapter 11 Cases;

(q) To pay fees incurred pursuant to 28 U.S.C. § 1930(a)(6) (as provided in Section 3.1 of the Plan) and to file with the Court and serve on the United States Trustee monthly financial reports until such time as a final decree is entered closing these Cases or the Cases are converted or dismissed, or the Court orders otherwise;

(r) To provide the Committee, within twenty (20) days after the end of each month, with a monthly report setting forth (i) the receipt and disposition by the Liquidation Trustee of property of the Estates or the Debtors during the prior month, including the disposition of funds in the Liquidation Trust, the Wind-down Reserve and Distribution Fund; (ii) all Disputed Claims resolved by the Liquidation Trustee during such period and all remaining Disputed Claims; (iii) all known material non-Cash assets of the Debtors remaining to be disposed of; (iv) an itemization of all expenses the Liquidation Trustee anticipates will become due and payable within the subsequent three months; and (v) the Liquidation Trustee's forecast of cash receipts and expenses for the subsequent three months; and

(s) To do all other acts or things not inconsistent with the provisions of the Plan that the Liquidation Trustee deems reasonably necessary or desirable with respect to implementing the Plan.

7.5. Investments

All Cash held by the Liquidation Trustee shall be invested as deemed appropriate by the Liquidation Trustee after consultation with the Committee, and need not be invested in accordance with section 345 of the Bankruptcy Code.

7.6. Resignation, Death or Removal of Liquidation Trustee

The Liquidation Trustee may resign at any time upon 30 days' written notice, in accordance with Section 13.12 of the Plan, to the Committee. The Committee, in the exercise of its sole discretion, may remove or replace the Liquidation Trustee upon notice to parties in interest pursuant to Section 13.12 hereof and in accordance with the Liquidation Trust Agreement. No successor Liquidation Trustee shall in any event have any liability or responsibility for the acts or omissions of any of his or her predecessors. Every successor Liquidation Trustee shall execute, acknowledge and file with the Court and deliver to counsel for the Committee an instrument in writing accepting such appointment hereunder, and thereupon such successor Liquidation Trustee, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of his or her predecessor.

7.7. Tax Treatment of Liquidation Trust

The Plan Proponents intend that the Liquidation Trust will be treated as a "liquidating trust" within the meaning of Section 301.7701-4(d) of the Treasury Regulations. The transfer of the Debtors' and the Estates' remaining assets to the Liquidation Trust shall be treated as a transfer to the beneficiaries of the Liquidation Trust for all purposes of the Internal Revenue

Code (e.g., sections 61(a)(12), 483, 1001, 1012 and 1274) followed by a deemed transfer by such beneficiaries to the Liquidation Trust. The Liquidation Trust shall be considered a “grantor” trust, and the beneficiaries of the Liquidation Trust shall be treated as the grantors and deemed owners of the Liquidation Trust. To the extent valuation of the transferred property to the Liquidation Trust is required under applicable law, the Liquidation Trustee shall value the transferred property and notify in writing the beneficiaries of the Liquidation Trust of such valuations. The assets transferred to the Liquidation Trust shall be valued consistently by the Liquidation Trustee and the Trust beneficiaries, and these valuations will be used for all federal income tax purposes.

7.8. Liquidation Trust Interests

The beneficial interests in the Liquidation Trust shall not be represented by certificates and shall be transferable subject, as applicable, to Bankruptcy Rule 3001(e) and any other provision of law.

7.9. Funding of the Plan

(a) **Source of Distributions.** The Cash Distributions to be made pursuant to the Plan will be made and the Cash necessary to fund the Liquidation Trust and the Wind-down Reserve will be derived from (i) cash proceeds received by the Debtors from the Alphabravo Sale as of the Effective Date and other funds then available, and (ii) any payments to be received by the Debtors from the liquidation of each of the Debtors’ remaining assets, the prosecution and enforcement of causes of action of the Debtors, and other funds available on or after the Effective Date.

(b) **Reserves.** To the extent not otherwise provided for herein or ordered by the Court, the Liquidation Trustee shall estimate appropriate reserves of Cash to be set aside in order to pay or reserve for accrued expenses and for the payment of prospective expenses and liabilities of the Estates and the Liquidation Trust after the Effective Date. Without limitation, these shall include the Wind-down Reserve, Fee Claims, Administrative Claims, Priority Non-Tax Claims, Priority Tax Claims, Secured Claims, and Disputed Claims.

(c) **No Segregation of Funds.** Notwithstanding any contrary provision contained herein, the Liquidation Trustee shall not be obligated to physically segregate and maintain separate accounts for reserves or for the Distribution Fund. Separate reserves and funds may be merely bookkeeping entries or accounting methodologies, which may be revised from time to time, to enable the Liquidation Trustee to determine Available Cash, reserves and amounts to be paid to parties in interest.

7.10. Litigation Claims

All Litigation Claims shall be transferred into the Liquidation Trust and may be prosecuted, settled or abandoned with or without Court approval by the Liquidation Trustee with approval by the Committee after the Effective Date. Notwithstanding anything to the contrary herein, no Distribution shall be made to the holder of any Claim, including by way of setoff or recoupment by such claimant, if the Debtors or the Liquidation Trustee has taken action to recover, or given notice to the applicable party of intent to take such action, on a Litigation

Claim against the holder of such Claim (or the direct or indirect transferor to, or transferee of, such holder), until such Litigation Claim is resolved by Final Order or otherwise in accordance with this section.

7.11. Wind-down Reserve

On the Effective Date, or as soon thereafter as reasonably practicable, the Liquidation Trustee shall create the Wind-down Reserve and shall transfer an appropriate amount into such reserve from the assets transferred by the Debtors to the Liquidation Trust. The Liquidation Trustee shall pay Plan administration costs and costs of holding and liquidating any non-Cash property, including but not limited to taxes and professional fees, from the Wind-down Reserve. To the extent that the Liquidation Trustee determines that funds allocated to the Wind-down Reserve are insufficient for such purposes, the Net Proceeds of the continuing liquidation of the Debtors' assets and any other Available Cash shall, to the extent necessary for such purposes, be allocated to the Wind-down Reserve. After all costs associated with the Wind-down Reserve have been paid, and/or upon the reasonable determination of the Liquidation Trustee that the funds in the Wind-down Reserve exceed the amounts necessary to pay the expenses for which such fund is established, the remaining or excess funds, as applicable, in the Wind-down Reserve shall be designated Available Cash.

7.12. Distribution Fund

(a) **Funding of Distribution Fund.** After all payments have been made or properly reserved for holders of Administrative, Priority Non-Tax Claims, Priority Tax Claims, Fee Claims, and Secured Claims, and all costs associated with the Wind-down Reserve have been paid, and/or upon the reasonable determination of the Liquidation Trustee that the funds in the Wind-down Reserve and any other reserves established by the Liquidation Trustee exceed the amounts necessary for such reserves, the remaining Available Cash shall be allocated to the Distribution Fund.

(b) **Allocation of Available Cash.** Distribution of cash, if any, to holders of Class 4 General Unsecured Claims shall be made solely from the Distribution Fund.

7.13. Exemption from Certain Transfer Taxes

Pursuant to section 1146(c) of the Bankruptcy Code: (i) the issuance, transfer or exchange of any securities, instruments or documents; (ii) the creation of any other lien, mortgage, deed of trust or other security interest; or (iii) the making or assignment of any lease or sublease or the making or delivery of any deed or other instrument of transfer under, pursuant to, in furtherance of or in connection with, the Plan or the sale of any assets of the Debtors or the Liquidation Trustee, including any deeds, bills of sale or assignments executed in connection with the Plan or at any time after the Confirmation Date, shall not be subject to any stamp tax, transfer tax, intangible tax, recording fee, or similar tax, charge or expense to the fullest extent provided for under section 1146(c) of the Bankruptcy Code.

7.14. Employee Programs

From and after the Effective Date, to the extent not earlier terminated in accordance with their terms, all employee programs, including but not limited to any retirement plans or agreements and health benefits and disability plans shall be deemed terminated in accordance with their terms with no further action required by the Debtors or the Liquidation Trustee, and to the extent any of such employee programs constitute distinct executory contracts with individual employees or otherwise, such contracts shall be deemed rejected and terminated in accordance with Section 9.1 hereof. The Liquidation Trustee shall be authorized to take any actions and make payment of the actual amount, if any, required to be contributed to or on account of an employee program to permit the termination of such programs and discharge all benefit liabilities to participants and beneficiaries of such programs, including, without limitation, continuation of the termination of the Debtors' 401(k) plan.

7.15. Non-cash Property

All non-Cash assets or property of the Estates (other than collateral returned to the holder of a Secured Claim) not previously disposed of may be transferred, sold or otherwise liquidated or, if appropriate in the judgment of the Liquidation Trustee, abandoned in any commercially reasonable manner, including to a charitable organization or organizations designated by the Liquidation Trustee in respect of assets of inconsequential value, without further order of the Court. Notice of such sale, transfer or abandonment shall be provided to the Committee and to the holders, if any, of Secured Claims holding liens on such assets or property. Subject to the provisions hereof with regard to Distributions to any holders of Secured Claims, in the case of collateral, the Net Proceeds of such sales shall be deposited in the Liquidation Trust. Except in the case of willful misconduct, no party in interest shall have a cause of action against the Debtors, their directors, officers, employees, consultants or professionals, the Liquidation Trustee, the Liquidation Trust, its employees, consultants or professionals, or the Committee, its former and current members, consultants or professionals, arising from or related to: (a) the disposition of non-Cash assets or property in accordance with this Section; or (b) the investment of amounts by the Liquidation Trustee.

Notwithstanding anything to the contrary in the Plan, to the extent any sale of non-Cash assets or property requires the Liquidation Trustee to escrow or otherwise retain any consideration received in the sale (for example, pending post-closing adjustments), no such escrowed or retained funds shall be deposited in the Wind-down Reserve, Distribution Fund or distributed to holders of Claims as set forth in the Plan, until the Liquidation Trustee or the Debtors are contractually allowed to distribute such funds or the Court otherwise authorizes such distribution.

7.16. Withdrawal of the Plan

The Plan Proponents reserve the right to revoke and withdraw or to modify the Plan in accordance with Section 13.1 hereof at any time up to the Effective Date. If the Plan Proponents revoke or withdraw the Plan, (a) nothing contained in the Plan shall be deemed to constitute a waiver or release of any claims by or against the Debtors or their respective Estates or to prejudice in any manner the rights of the Debtors or any Person in any further proceeding

involving the Debtors and (b) the result shall be the same as if the Confirmation Order were not entered, the Plan was not filed and the Effective Date did not occur.

7.17. Cramdown

With respect to Class 5, 6, and 7, the Debtors are seeking confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. If any other Impaired Class(es) vote(s) to reject the Plan, the Debtors reserve their right to seek confirmation pursuant to section 1129(b) of the Bankruptcy Code with respect to such Class(es) as well.

7.18. Release of Debtor Guaranty

Any Guaranty issued by any Debtor shall be terminated and shall be released as of the Effective Date.

7.19. Preservation of Insurance Policies

Nothing in the Plan, including any releases, shall diminish or impair the enforceability of any insurance policies that may cover any claim against the Debtors or any other Person.

7.20. Forgiveness of Employee Loan Liability

Pursuant to section 6.10 of Asset Purchase Agreement, the Debtors forgive any liability of any Hired Employee (as defined in the Asset Purchase Agreement) to the Debtors in respect of loans made by the Debtors to such Hired Employees.

7.21. Retention of Actions and Defenses

Except as set forth in Section 7.20 herein, all claims, rights, defenses, offsets, recoupments, causes of action, actions in equity, or otherwise, whether arising under the Bankruptcy Code or federal, state, or common law, which constitute property of the Estates within the meaning of section 541 of the Bankruptcy Code, as well as all claims, rights, defenses, offsets, recoupments, and causes of action arising under chapter 5 of the Bankruptcy Code (including without limitation the Litigation Claims) with respect to the Debtors or their Estates, shall be and hereby are preserved for the benefit of the beneficiaries of the Liquidation Trust, and shall be and hereby are deemed to be part of the assets transferred and assigned to the Liquidation Trust as of the Effective Date. Prosecution and settlement of such claims, rights, defenses, and causes of action shall be the sole responsibility of the Liquidation Trustee, pursuant to the provisions of the Liquidation Trust Agreement, and the Liquidation Trustee shall pursue those claims, rights, defenses, and causes of action, as appropriate, in accordance with the Liquidation Trustee's sole judgment of what is in the best interests, and for the benefit of, the beneficiaries of the Liquidation Trust; provided, however, that nothing in this Plan is intended to or does confer upon the Liquidation Trustee standing to pursue claims or causes of action that do not constitute property of the Estates, and provided further that the Liquidation Trustee shall not pursue any of the Litigation Claims without the approval of the Committee.

ARTICLE VIII - DISTRIBUTIONS

8.1. Objections to and Estimation of Claims

The Liquidation Trustee will attempt to resolve consensually any disputes regarding the amount of any Claim. The Liquidation Trustee has the exclusive right to object to the allowance of any Claim, and it may file with the Court any other appropriate motion or adversary proceeding with respect thereto. All such objections may be litigated to Final Order; provided, however, that the Liquidation Trustee may compromise and settle with or without the approval of the Court, withdraw, or resolve by any other method approved by the Court (including, without limitation, methods previously approved by the Court during the Chapter 11 Cases), any objections to any Claim. All objections to Claims shall be filed within 120 days after the Effective Date. This deadline to object to Claims can be extended for cause shown, by filing a notice with the Court.

In addition, the Liquidation Trustee may, at any time, request that the Court estimate, pursuant to section 502(c) of the Bankruptcy Code, any Claim that is contingent or unliquidated, regardless of whether a Debtor has previously objected to such Claim or whether the Court has ruled on any such objection, and the Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Court estimates any contingent or unliquidated Claim, the amount of such estimation will constitute either the allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Court. If the estimated amount constitutes a maximum limitation on such Claim, the Liquidation Trustee may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and are not necessarily exclusive of one another. Administrative, Priority Non-Tax, Priority Tax, or Secured Claims may be estimated and thereafter resolved by any mechanism permitted under the Bankruptcy Code or the Plan.

8.2. Claims Filed After Objection Deadline

Any newly filed Claim filed later than 180 days after the Effective Date shall, unless the Court otherwise directs, be disallowed in full and expunged without further order of the Court, provided that this is not an extension of any applicable bar date. Filed or scheduled claims may be amended or reconsidered only as provided in the Bankruptcy Code and Bankruptcy Rules.

8.3. No Recourse to Liquidation Trustee

Notwithstanding that the allowed amount of any particular Disputed Claim is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is allowed in an amount for which there is insufficient Cash in the relevant fund or reserve to provide a recovery equal to that received by other holders of Allowed Claims in the relevant Class, no Claim holder shall have recourse to the Debtors, the Liquidation Trust, the Liquidation Trustee, the Committee and its former and current members, or any of their respective professionals, or their successors or assigns, or the holder of any other Claim, or any of their respective property. However, nothing in the Plan shall modify any right of a holder of a Claim

under section 502(j) of the Bankruptcy Code. **THUS, THE COURT'S ENTRY OF AN ESTIMATION ORDER MAY LIMIT THE DISTRIBUTION TO BE MADE ON INDIVIDUAL DISPUTED CLAIMS, REGARDLESS OF THE AMOUNT FINALLY ALLOWED ON ACCOUNT OF SUCH DISPUTED CLAIMS.**

8.4. Transmittal of Distributions and Notices

(a) Any property or notice which a Person is or becomes entitled to receive pursuant to the Plan may be delivered by first class mail, postage prepaid, in an envelope addressed to that Person or authorized agent at the address indicated on the latest notice of appearance or the latest proof of claim or other paper filed by that Person or his authorized agent. Absent any of the foregoing, the address set forth in the relevant Schedule of Assets and Liabilities for that Person may be used. Property distributed in accordance with this Section shall be deemed delivered to such Person regardless of whether such property is actually received by that Person.

(b) A holder of a Claim or Interest may designate a different address for notices and Distributions by notifying the Debtors or the Liquidation Trustee of that address in writing. Any change of address of a party entitled to receive Distributions hereunder must be provided to the Liquidation Trustee by registered mail in order to be effective. Such notification shall be effective upon receipt.

8.5. Unclaimed Property

If any Distribution remains unclaimed for a period of 180 days after the relevant Distribution Date to the holder of an Allowed Claim entitled thereto, the Distribution shall constitute Unclaimed Property and the holder shall no longer be entitled to that Distribution or any later Distributions. All right, title and interest in and to Unclaimed Property shall immediately vest in the Liquidation Trust, and such property shall be retained by the Liquidation Trust for distribution pursuant to the terms of the Plan, subject, however, to the Liquidation Trustee's sole discretion to distribute Unclaimed Property to holders entitled thereto if such holders are subsequently located.

8.6. Withholding Taxes and Expenses of Distribution

Any federal, state or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from Distributions hereunder. All Persons holding Claims shall be required to provide any information necessary to effect the withholding of such taxes, and the Liquidation Trustee shall be authorized to withhold Distribution on such Claims until the requisite information is received. If such information is not received within 180 days after the relevant Distribution Date, the provisions of the immediately preceding Section 8.5 shall apply. In addition, all Distributions under the Plan shall be net of the actual and reasonable costs of making such Distributions and of any allocable fees or other charges relating thereto.

8.7. Disputed Payment

If any dispute arises as to the identity of a holder of an Allowed Claim who is to receive any Distribution, the Liquidation Trustee may, in lieu of making such Distribution to such

Person, make such Distribution into an escrow account until the disposition thereof shall be determined by Court order or by written agreement among the interested parties to such dispute.

8.8. Distribution Record Date

As of the close of business on each Distribution Record Date, the various transfer registers for each of the Classes of Claims or Interests as maintained by the Debtors, or the Liquidation Trustee, shall be closed, and the Debtors or their agents shall not be required to make any further changes in the record holders of any of the Claims or Interests. The Debtors or Liquidation Trustee shall have no obligation to recognize any transfer of the Claims or Interests occurring on or after the Distribution Record Date. The Debtors shall be entitled to recognize and deal for all purposes hereunder only with those record holders stated on the transfer ledgers as of the close of business on the Distribution Record Date, to the extent applicable.

8.9. Setoffs

Except as otherwise provided in the Plan, the Confirmation Order, or in agreements previously approved by Final Order of the Court, the Debtors or the Liquidation Trustee may, pursuant to applicable law, set off against any Claim (for purposes of determining the allowed amount of such Claim on which distribution shall be made and before any Distribution is made on account of such Claim), any and all of the claims, rights and causes of action of any nature that the Debtors, the Estates or the Liquidation Trust may hold against the holder of such Claim. Any and all rights of setoff of the Debtors shall be transferred and assigned to the Liquidation Trust and be enforceable by the Liquidation Trustee in the same manner and to the same extent that the Debtors could have exercised such rights of setoff.

Neither the failure to effect such a setoff, the allowance of any Claim hereunder, any other action or omission of the Debtors or the Liquidation Trust, nor any provision of this Plan shall constitute a waiver or release by the Debtors or the Liquidation Trust of any such claims, rights and causes of action that the Debtors or the Liquidation Trustee may possess against such holder. To the extent the Debtors or the Liquidation Trustee fail to set off against a creditor and seek to collect a claim from such creditor after a Distribution to such creditor pursuant to the Plan, the Debtors or the Liquidation Trustee, if successful in asserting such claim, shall be entitled to full recovery against such creditor. The Liquidation Trustee may seek periodic Court approval for any such setoff or setoffs.

8.10. Miscellaneous Distribution Provisions

(a) **Method of Cash Distributions.** Any Cash payment to be made by the Liquidation Trustee pursuant to the Plan will be in U.S. dollars and may be made, at the sole discretion of the Liquidation Trustee, by draft, check, wire transfer, or as otherwise required or provided in any relevant agreement or applicable law.

(b) **Distributions on Non-Business Days.** Any payment or Distribution due on a day other than a Business Day shall be made, without interest, on the next Business Day.

(c) **No Distribution in Excess of Allowed Amount of Claim.** Notwithstanding anything to the contrary herein, no holder of an Allowed Claim shall receive in

respect of such Claim any Distribution (of a value set forth herein or in the Disclosure Statement) in excess of the allowed amount of such Claim. Except as otherwise expressly provided herein, no Claim shall be allowed nor Distribution made to the extent that it is for postpetition interest.

(d) **Minimum Distributions.** If a Distribution to be made to a given holder of an Allowed Claim on or after the Effective Date or any subsequent Distribution Date would be \$10.00 or less in the aggregate, notwithstanding any contrary provision of this Plan, no such distribution will be made to such holder unless (except with respect to the final Distribution Date) a request therefor is made in writing to the Liquidation Trustee no later than thirty (30) days after the Distribution Date. Any unclaimed Distributions shall be retained by the Liquidation Trust for distribution pursuant to the terms of the Plan.

(e) **Disposition of Excess Funds.** If, after 180 days following the final Distribution Date, any Unclaimed Property remains in the Distribution Fund, or Cash of inconsequential value to the Estates remains in the possession or under the control of the Liquidation Trustee, and the Liquidation Trustee has satisfied and discharged all the expenses intended to be paid on behalf of the Estates from the Wind-down Fund or otherwise, the Liquidation Trustee shall, with the approval of the Committee, apply remaining Cash or Unclaimed Property either for further Distribution, or for contribution to a designated charitable organization or organizations.

ARTICLE IX - EXECUTORY CONTRACTS AND UNEXPIRED LEASES

9.1. Assumption or Rejection of Executory Contracts and Unexpired Leases

On the Confirmation Date, all prepetition executory contracts and unexpired leases of the Estates shall be rejected by the Debtors under sections 365 and 1123 of the Bankruptcy Code, except (a) any executory contract or unexpired lease that is the subject of a separate motion to assume or assume and assign filed pursuant to section 365 of the Bankruptcy Code by the Debtors before the entry of the Confirmation Order; or (b) any executory contract or unexpired lease assumed pursuant to the Alphabravo Sale. Notwithstanding anything in this Plan to the Contrary, no executory contract or unexpired lease shall be deemed assumed or rejected pursuant to the terms of this Article IX if the Effective Date fails to occur for any reason.

9.2. Post-Petition Executory Contracts or Unexpired Leases

Any postpetition executory contract or unexpired lease to which the Debtors are a party shall on the Effective Date automatically be assigned by the Debtors to the Liquidation Trust.

ARTICLE X - EFFECT OF THE PLAN ON CLAIMS AND INTERESTS

10.1. Surrender of Securities and Cancellation of Existing Securities and/or Related Agreements

(a) **Surrender of Securities.** Each holder of any Claim against or Interest in the Debtors shall surrender to the Liquidation Trustee any original note, instrument, certificate,

certificated security or other item evidencing such Claim, to the extent not already in the Debtors' possession, and provide copies of any supporting agreement or other document. No Distribution hereunder shall be made to or on behalf of any holder of a Claim unless and until such holder surrenders such items to the Liquidation Trustee, or demonstrates the non-availability of such items to the satisfaction of the Liquidation Trustee, including requiring such holder to post a lost instrument or other indemnity bond, among other things, to hold the Debtors and the Liquidation Trustee harmless in respect of such instrument or other item described above and any Distributions made in respect thereof. Any such holder that fails to surrender such items described above or satisfactorily explain their non-availability to the Liquidation Trustee within 180 days of the initial Distribution Date, or such later date as the Liquidation Trustee may designate, shall be deemed to have no further Claim against the Debtors, the Liquidation Trust or their property in respect of such Claim and shall not participate in any Distribution hereunder, and the Distribution that would otherwise have been made to such holder shall be treated as Unclaimed Property. Notwithstanding the immediately preceding sentence, any such holder of a Disputed Claim shall not be required to surrender such items until the time such Claim is allowed or disallowed.

(b) Cancellation of Existing Securities and/or Related Agreements.

Except for purposes of evidencing a right to distributions under this Plan or otherwise provided hereunder, on the Effective Date, all agreements and other documents evidencing (i) any Claims or rights of any holder of a Claim against or Interest in the applicable Debtor and (ii) any options or warrants to purchase Interests, obligating the applicable Debtor to issue, transfer or sell Interests or any other capital stock of the applicable Debtor, shall be cancelled and terminated and of no further force or effect.

10.2. Releases, Exculpation and Related Injunction

(a) Satisfaction of Claims and Interests in any Debtor.

The treatment to be provided for respective Allowed Claims against or Interests in the Debtors pursuant to the Plan shall be in full satisfaction, settlement and release of such respective Claims and Interests. Except as otherwise expressly provided for herein, any claims of the Debtors or the Estates against holders of any Allowed Claims or Interests shall not be compromised.

(b) Release and Waiver of Claims.

As of the Confirmation Date, but subject to the occurrence of the Effective Date, and except as otherwise expressly provided in the Confirmation Order or herein, all Persons who (a) directly or indirectly, have held, hold or may hold Claims against the Debtors or Interests in any of the Debtors and (b) (in the case of holders of Impaired Claims) vote to accept the Plan as set forth on the relevant Ballot, shall be deemed, by virtue of their receipt of Distributions and/or other treatment contemplated under the Plan, to have forever covenanted with the Debtors and with each of the Released Parties to waive, release and not to (a) sue, or otherwise seek any recovery from the Debtors or any Released Party, whether for tort, contract, or otherwise, based upon any act or occurrence or failure to act from the Petition Date through the Effective Date arising out of the business or affairs of the Debtors, or (b) assert any Claim, obligation, right, cause of action and liability which any such holder of a Claim against the Debtors or Interest in the Debtors may be entitled to assert, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, based in whole or in part upon any act or omission, transaction, or occurrence taking place from the Petition Date through the

Effective Date in any way relating to the Debtors, the Chapter 11 Cases, or the Plan to the fullest extent permissible under applicable law, as such may be extended or interpreted subsequent to the Effective Date.

(c) **Release of Liens and Perfection of Liens.** Except as otherwise specifically provided in the Plan or in any agreement, instrument or document created in connection with the Plan: (i) each holder of: (1) a Secured Claim or (2) a judgment, personal property or ad valorem tax, mechanics' or similar lien Claim, in each case regardless of whether such Claim is an Allowed Claim, shall, on or immediately before the Effective Date and regardless of whether such Claim has been scheduled or proof of such Claim has been Filed: (y) turn over and release to the Estates or the Liquidation Trustee, as the case may be, any and all property of the Debtors or the Estates that secures or purportedly secures such Claim, or such lien and/or Claim shall automatically, and without further action by the Debtors, the Estates or Liquidation Trustee, be deemed released; and (z) execute such documents and instruments as the Liquidation Trustee requires to evidence such Claim holder's release of such property or lien, and if such holder refuses to execute appropriate documents or instruments the Liquidation Trustee may, in his/her discretion, file a copy of the Confirmation Order which shall serve to release any Claim holder's rights in such property; and (ii) on the Effective Date, all right, title and interest in such property shall revert to the Debtors or the Estates or be transferred to the Liquidation Trust, free and clear of all Claims and Interests, including, without limitation, liens, escrows, charges, pledges, encumbrances and/or security interests of any kind.

Without limiting the automatic release provisions of the immediately preceding paragraph: (i) no distribution hereunder shall be made to or on behalf of any Claim holder unless and until such holder executes and delivers to the Debtors, the Estates or the Liquidation Trust (as applicable) such release of liens or otherwise turns over and releases such Cash, pledge or other possessory liens; and (ii) any such holder that fails to execute and deliver such release of liens within 180 days of the Effective Date shall be deemed to have no Claim against the Debtors or the Estates or their assets or property in respect of such Claim and shall not participate in any distribution hereunder.

Notwithstanding anything in the Plan to the contrary, nothing in the Plan shall affect the right, title or interest of Buyer in and to the Purchased Assets, as that term is defined in the Asset Purchase Agreement, which were transferred to Buyer pursuant to the Asset Purchase Agreement and Sale Order.

(d) **Debtors' Releases.** Each Debtor hereby waives, releases and discharges all Released Parties from any claim (as such term "claim" is defined in section 101(5) of the Bankruptcy Code) arising from the Petition Date through the Effective Date that constitutes property of its estate, related to such party's acts or omissions to act as an, employee, agent, representative, attorney, accountant, financial advisor or other professional of each relevant Debtor or affiliate thereof, in that capacity. The release of all such claims in favor of the Released Parties shall bind all creditors, shareholders, the Liquidation Trustee, or other parties in interest in the Chapter 11 cases. Any such release shall additionally act as an injunction against any claimant or Interest holder of any Debtor from commencing or continuing any action, employment of process or act to collect, offset or recover any claim that is so released.

(e) **Injunction.** All Persons who have held, hold or may hold Claims against or Interests in any of the Debtors shall, with respect to any such Claims or Interests, be permanently enjoined from and after the Confirmation Date from taking any of the following actions (other than actions to enforce any rights or obligations under the Plan): (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Estates, the Liquidation Trust, the Liquidation Trustee or any of their property; (ii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtors, the Estates, the Liquidation Trust, the Liquidation Trustee or any of their property; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors, the Estates, the Liquidation Trust, the Liquidation Trustee or any of their property; (iv) asserting any right of setoff, directly or indirectly, against any obligation due the Debtors, the Estates, the Liquidation Trust, the Liquidation Trustee or any of their property, except as contemplated or allowed by the Plan; (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan; and (vi) prosecuting or otherwise asserting any right, claim or cause of action released pursuant to the Plan.

(f) **Indemnification.** Notwithstanding anything to the contrary in this Plan, the obligations to indemnify the Persons who served during these Cases as the Debtors' respective officers and employees existing under applicable nonbankruptcy law (whether arising under contract, bylaw or certificate of incorporation) with respect to all present and future actions, suits, and proceedings against any of such indemnified Persons, based upon any act or omission related to service with, for, or on behalf of the Debtors at any time during the period from the Petition Date through the Effective Date (including acting as employee benefit plan fiduciaries or employee benefit administrative trustees), in all cases net of applicable insurance proceeds, other than for acts constituting willful misconduct, gross negligence or as it relates to claims asserted by the Committee, shall continue after the Effective Date; provided, however, that unless otherwise ordered by the Court (which order may be entered at any time) no entity shall be required to reserve for any such obligations and such obligations shall be terminated and discharged upon the closing of these Cases. Moreover, nothing contained herein shall elevate the priority of any indemnification claim from a General Unsecured Claim to an Administrative Claim.

(g) **Exculpation.** The Released Parties and any property of or professionals retained by such parties, or direct or indirect predecessor in interest to any of the foregoing Persons, will not have or incur any liability to any Person for any act taken or omission occurring on or after the Petition Date in connection with or related to the Debtors or the Liquidation Trust, including but not limited to (i) the commencement and administration of the Chapter 11 Cases, (ii) the operation of the Debtors during the pendency of the Chapter 11 Cases, (iii) formulating, preparing, disseminating, implementing, confirming, consummating or administering the Plan (including soliciting acceptances or rejections thereof); (iv) the Disclosure Statement or any contract, instrument, release or other agreement or document entered into or any action taken or omitted to be taken in connection with the Plan; or (v) any Distributions made pursuant to the Plan, except for acts constituting willful misconduct or gross negligence, and in all respects such

parties shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan. The entry of the Confirmation Order shall constitute the determination by the Court that the Proponents, the Liquidation Trustee and each of their respective present or former officers, directors, professionals, employees, members, trustees, agents, attorneys, financial advisors, partners and accountants shall have acted in good faith and in compliance with the applicable provisions of the Bankruptcy Code, pursuant to, among others, section 1125(e) and 1129(a)(3) of the Bankruptcy Code, with respect to the foregoing.

(h) **Direct Claims.** Notwithstanding anything herein to the contrary, this Plan shall in no manner act or be construed to waive, release or enjoin any direct, non-derivative claims or actions held by a non-Debtor against any third party including, without limitation, any Released Party based upon any act or occurrence, or failure to act, taking place prior to the Petition Date.

ARTICLE XI - CONDITIONS TO CONFIRMATION AND CONSUMMATION

11.1. Conditions to Consummation

This Plan may not be consummated, and the Effective Date shall not occur, unless and until each of the conditions set forth below is satisfied. Except as provided in Section 11.3 below, any one or more of the following conditions may be waived:

- (a) The Substantive Consolidation Order shall have become a Final Order;
- (b) The Confirmation Order shall have become a Final Order;
- (c) The Wind-down Budget shall have been delivered and be reasonably satisfactory to the Plan Proponents; and
- (d) the Debtors and/or Liquidation Trust have sufficient Cash on hand (or investments projected by the Debtors to provide timely Cash) to make timely Distributions sufficient (including allocating Cash to reserves as provided in this Plan) to make payments in respect of all Allowed Administrative Claims, Priority Tax Claims, and Priority Non-Tax Claims required as of the initial Distribution Date.

11.2. Waiver of Conditions to Consummation

Other than the requirements that the Substantive Consolidation Order and the Confirmation Order must have become Final Orders and the Debtors and/or Liquidation Trust must have sufficient Cash on hand, none of which can be waived, the requirement that a particular condition be satisfied may be waived in whole or part by consent of the Plan Proponents without notice or hearing.

11.3. Effect of Nonoccurrence of the Conditions to Consummation

If each of the conditions to consummation and the occurrence of the Effective Date has not been satisfied or duly waived within 30 days after the Confirmation Date, or such later date

as shall be agreed by the Plan Proponents, the Confirmation Order may be vacated by the Court. If the Confirmation Order is vacated the Plan shall be null and void in all respects, and nothing contained in the Plan shall constitute a waiver or release of any Claims by or against, or Interests in, any of the Debtors.

ARTICLE XII - RETENTION OF JURISDICTION

Notwithstanding confirmation of the Plan or occurrence of the Effective Date, the Court shall retain such jurisdiction as is legally permissible, including, without limitation, for the following purposes:

(i) To determine the allowability, classification, or priority of Claims upon objection by the Committee, the Debtors, the Liquidation Trustee or any other party in interest entitled to file an objection, and the validity, extent, priority and nonavoidability of consensual and nonconsensual liens and other encumbrances;

(ii) To issue injunctions or take such other actions or make such other orders as may be necessary or appropriate to restrain interference with the Plan or its execution or implementation by any Person, to construe and to take any other action to enforce and execute the Plan, the Confirmation Order, or any other order of the Court, to issue such orders as may be necessary for the implementation, execution, performance and consummation of the Plan and all matters referred to herein, and to determine all matters that may be pending before the Court in the Chapter 11 Cases on or before the Effective Date with respect to any Person;

(iii) To protect the property of the Estates, including Litigation Claims, from claims against, or interference with, such property, including actions to quiet or otherwise clear title to such property or to resolve any dispute concerning liens, security interest or encumbrances on any property of the Estates;

(iv) To determine any and all applications for allowance of Fee Claims and any disputes concerning post-Effective Date professional or other services to the extent not otherwise resolved;

(v) To determine any Priority Tax Claims, Priority Non-Tax Claims, Administrative Claims or any other request for payment of claims or expenses entitled to priority under section 507(a) of the Bankruptcy Code;

(vi) To resolve any dispute arising under or related to the implementation, execution, consummation or interpretation of the Plan and the making of Distributions hereunder;

(vii) To determine any and all motions related to the rejection, assumption or assignment of executory contracts or unexpired leases, or to determine any motion to reject an executory contract or unexpired lease pursuant to Section 9.1 of the Plan;

(viii) To determine all applications, motions, adversary proceedings, contested matters, actions, and any other litigated matters instituted in the Chapter 11 Cases, including any remands;

(ix) To modify the Plan under section 1127 of the Bankruptcy Code, remedy any defect, cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order so as to carry out their intent and purpose;

(x) To issue orders in aid of consummation of the Plan and the Confirmation Order notwithstanding any otherwise applicable non-bankruptcy law, with respect to any Person, to the full extent authorized by the Bankruptcy Code;

(xi) To enable the Liquidation Trustee to prosecute any and all proceedings to set aside liens or encumbrances and to recover any transfers, assets, properties or damages to which the Debtors may be entitled under applicable provisions of the Bankruptcy Code or any other federal, state or local laws except as may be waived pursuant to the Plan;

(xii) To determine any tax liability pursuant to section 505 of the Bankruptcy Code;

(xiii) To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;

(xiv) To resolve any disputes concerning whether a Person had sufficient notice of the Chapter 11 Cases, the applicable Claims bar date, the hearing to consider approval of the Disclosure Statement or the Confirmation Hearing or for any other purpose;

(xv) To resolve any dispute or matter arising under or in connection with any order of the Court entered in the Chapter 11 Cases;

(xvi) To authorize sales of assets as necessary or desirable and resolve objections, if any, to such sales;

(xvii) To hear and resolve Litigation Claims to the extent that such claims are not pending before another court;

(xviii) To resolve any disputes concerning any release of a nondebtor hereunder or the injunction against acts, employment of process or actions against such nondebtor arising hereunder;

(xix) To approve any Distributions, or objections thereto, under the Plan;

(xx) To approve any Claims settlement entered into or offset exercised by the Liquidation Trustee;

(xxi) To oversee any dispute concerning improper or excessive draws under letters of credit issued for the account of the Debtors;

(xxii) To enter a Final Order closing the Chapter 11 Cases; and

(xxiii) To determine such other matters, and for such other purposes, as may be provided in the Confirmation Order or the Liquidation Trustee Agreement, or as may be authorized under provisions of the Bankruptcy Code.

ARTICLE XIII - ADMINISTRATIVE PROVISIONS

13.1. Amendments

(a) **Preconfirmation Amendment.** The Plan Proponents may modify the Plan at any time prior to the entry of the Confirmation Order, provided that the Plan, as modified, and the disclosure statement pertaining thereto meet applicable Bankruptcy Code requirements.

(b) **Postconfirmation Amendment Not Requiring Resolicitation.** After the entry of the Confirmation Order, the Plan Proponents may modify the Plan to remedy any defect or omission or to reconcile any inconsistencies in the Plan or in the Confirmation Order, as may be necessary to carry out the purposes and effects of the Plan, provided that: (i) the Plan Proponents obtain approval of the Court for such modification, after notice and a hearing; and (ii) such modification shall not materially and adversely affect the interests, rights, treatment or Distributions of any Class of Allowed Claims or Interests under the Plan. Any waiver under Section 11.2 hereof shall not be considered to be a modification of the Plan.

(c) **Postconfirmation/Preconsummation Amendment Requiring Resolicitation.** After the Confirmation Date and before substantial consummation of the Plan, the Plan Proponents or Liquidation Trustee may modify the Plan in a way that materially or adversely affects the interests, rights, treatment, or Distributions of a Class of Claims or Interests, provided that: (i) the Plan, as modified, meets applicable Bankruptcy Code requirements; (ii) the Plan Proponents or Liquidation Trustee obtain Court approval for such modification, after notice and a hearing; (iii) such modification is accepted by at least two-thirds in amount, and more than one-half in number, of Allowed Claims or Interests voting in each Class affected by such modification; and (iv) the Plan Proponents or Liquidation Trustee comply with the provisions of the Bankruptcy Code, including section 1125 of the Bankruptcy Code, with respect to the Plan as modified.

13.2. The Role of the Committee

The Committee shall survive the Effective Date for all purposes permitted under the Bankruptcy Code including, without limitation, appearance on applications for payment of professional compensation and expenses, objections to Claims and any other pending litigation, overseeing and, if necessary or desirable in its sole discretion, replacing the Liquidation Trustee, monitoring Distributions, consenting to any amendments or modifications to this Plan, and other matters affecting the administration of the Estates or the Liquidation Trust.

The Liquidation Trust Agreement shall govern changes in the composition of the Committee after the Effective Date and other matters related to the role, responsibilities and governance of the Committee. The Committee shall have fiduciary duties to the beneficiaries of the Liquidation Trust in the same manner that members of an official committee of creditors appointed pursuant to section 1102 of the Bankruptcy Code have fiduciary duties to the constituents represented by the committee. The Committee shall continue to retain its current attorneys as of the Effective Date. To the extent that no conflict exists, the Liquidation Trustee shall retain the same attorneys as well as any other necessary legal or other professionals.

13.3. Post-Effective Date Expenses. The Liquidation Trustee is empowered to pay all professional fees and other allowable expenses incurred from and after the Effective Date, and otherwise deal with the property of the Estates and the Liquidation Trust, without the necessity of application to, or further order of, the Court, which, however, shall retain jurisdiction as provided in this Plan to resolve any relevant disputes.

13.4. Successors and Assigns

The rights, benefits and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or assigns of such Person.

13.5. Governing Law

Except to the extent that the Bankruptcy Code, Bankruptcy Rules or other federal laws apply, the rights and obligations arising under this Plan shall be governed by and construed and enforced in accordance with the laws of the State of Delaware, without giving effect to principles of conflict of laws.

13.6. Courts of Competent Jurisdiction

If the Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of this Plan, such abstention, refusal or failure of jurisdiction shall have no effect upon and shall not control prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

13.7. Corporate Action

The dissolution of the Debtors and any other matters provided for under the Plan involving the corporate or entity structure of any Debtor or corporate action, as the case may be, to be taken by or required of any Debtor shall be deemed to have occurred and be effective as provided herein and shall be authorized and approved in all respects, without any requirement of further action by stockholders or directors of any of the Debtors or the Liquidation Trustee, as the case may be.

13.8. Effectuating Documents and Further Transactions

Each Debtor and the Liquidation Trustee shall be authorized to execute, deliver, file, or record such documents, contracts, instruments, releases, and other agreements and take such

other actions as may be necessary or desirable to effectuate and further evidence the terms and conditions of the Plan.

13.9. Cramdown

The Plan Proponents request confirmation of the Plan under section 1129(b) of the Bankruptcy Code with respect to any Class that is deemed not to have accepted this Plan pursuant to section 1126(g) of the Bankruptcy Code. The Plan Proponents reserve the right to (i) request confirmation of this Plan under section 1129(b) of the Bankruptcy Code with respect to any Class that does not accept this Plan pursuant to section 1126 of the Bankruptcy Code and (ii) to modify this Plan to the extent, if any, that confirmation of this Plan under section 1129(b) of the Bankruptcy Code requires modification.

13.10. Confirmation Order and Plan Control

To the extent the Confirmation Order and/or this Plan is inconsistent with the Disclosure Statement, the Liquidation Trust Agreement, any other agreement entered into between or among any Debtors, or any of them and any third party, the Plan controls the Disclosure Statement and any such agreements, and the Confirmation Order (and any later order of the Court) controls the Plan. Notwithstanding the foregoing, the Asset Purchase Agreement and the Sale Order shall survive the confirmation of the Plan and the entry of the Confirmation Order.

13.11. Severability

In the event that the Court determines, prior to the Confirmation Date, that any provision of this Plan is invalid, void or unenforceable, the Court shall, with the consent of the Plan Proponents, have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistently with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

13.12. Rules of Construction

(a) **Undefined Terms.** Any term used herein that is not defined herein shall have the meaning ascribed to any such term used in the Bankruptcy Code and/or the Bankruptcy Rules, if used therein.

(b) **Miscellaneous Rules.** (i) The words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Plan as a whole, not to any particular section, subsection, or clause, unless the context requires otherwise; (ii) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply, unless superseded herein or in the Confirmation Order; (iii) any reference in the Plan to an existing document or Exhibit means such document or Exhibit as it may have been amended, restated, modified or supplemented as

of the Effective Date; (iv) in computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply; and (v) whenever the Plan provides that a payment or Distribution shall occur “on” any date, it shall mean “on, or as soon as reasonably practicable after” such date.

13.13. Notices

All notices or requests in connection with the Plan shall be in writing and deemed to have been given five Business Days after first-class mailing, one Business Day after sending by overnight courier, or on the first Business Day after facsimile or electronic transmission, addressed to:

- (a) if to the Debtors:

BSI Holding Co, Inc.
c/o Todd Fleisher
FTI Consulting
125 High Street, Suite 1420
Boston, MA 02110

with copies to:

GOODWIN PROCTER LLP
Exchange Place
Boston, MA 02109
Attn: Michael J. Pappone, P.C.
Tel: (617) 570-1000
Fax: (617) 523-1231

and

PEPPER HAMILTON LLP
1313 North Market Street
Hercules Plaza
Wilmington, DE 19801
Attn: David Fournier, Esq.
Tel: 302-777-6500
Fax: 302-656-8865

- (b) if to the Liquidation Trustee or the Liquidation Trust:

Joseph E. Myers
401 Towne Center Drive
Hillsborough, NJ 08844

with copies to:

GOODWIN PROCTER LLP
Exchange Place
Boston, MA 02109
Attn: Michael J. Pappone, P.C.
Tel: (617) 570-1000
Fax: (617) 523-1231

and

PEPPER HAMILTON LLP
1313 North Market Street
Hercules Plaza
Wilmington, DE 19801
Attn: David Fournier, Esq.
Tel: 302-777-6500
Fax: 302-656-8865

and

KRONISH LIEB WEINER & HELLMAN LLP
1114 Avenue of the Americas
New York, NY 10036-7798
Attn: Jay R. Indyke, Esq.
Tel: (212) 479-6000
Fax: (212) 479-6275

and

THE BAYARD FIRM
222 Delaware Avenue
P.O. Box 25130
Wilmington, Delaware 19899
Attn: Charlene Davis, Esq.
Tel: (302) 655-5000
Fax: (302) 658-6395

(c) If to the Committee:

KRONISH LIEB WEINER & HELLMAN LLP
1114 Avenue of the Americas
New York, NY 10036-7798
Attn: Jay R. Indyke, Esq.
Tel: (212) 479-6000
Fax: (212) 479-6275

and

THE BAYARD FIRM
222 Delaware Avenue
P.O. Box 25130
Wilmington, Delaware 19899
Attn: Neil B. Glassman, Esq.
Tel: (302) 655-5000
Fax: (302) 658-6395


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13.14. **No Admissions**

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission by the Plan Proponents with respect to any matter set forth herein, including, without limitation, liability on any Claim or the propriety of a Claim's classification.

Dated: June 10, 2004

BSI HOLDING CO., INC., f/k/a BOB'S STORES, INC., et al.

By: 
Name: Mark D. Magstaff
Title: UP & Treasurer

OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By: _____
Name:
Title:

13.14. **No Admissions**

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission by the Plan Proponents with respect to any matter set forth herein, including, without limitation, liability on any Claim or the propriety of a Claim's classification.

Dated: June 9, 2004

BSI HOLDING CO., INC., f/k/a BOB'S STORES,
INC., et al.

By: _____

Name: _____

Title: _____

OFFICIAL COMMITTEE OF UNSECURED
CREDITORS

By: _____

Name: *Traci Neys*

Title: *Credit manager*

EXHIBIT 1

LIQUIDATION TRUST AGREEMENT

This LIQUIDATION TRUST AGREEMENT is made and entered into, as of the _____ day of _____, 2004, by and among BSI Holding Co., Inc., f/k/a/Bob's Stores, Inc., a Delaware corporation ("BSI Holding"), and each of the other Debtors (as such term is defined in the Plan (as hereinafter defined)) (such other Debtors, together with BSI Holding, being referred to herein as the "Debtors"), the official committee of unsecured creditors appointed in the Debtors' Chapter 11 Cases (the "Committee"), and Joseph E. Myers (the "Liquidation Trustee"). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Plan (as hereinafter defined).

RECITALS

WHEREAS, on October 22, 2003, the Debtors filed voluntary petitions for reorganization under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"); and

WHEREAS, on May 14, 2004, the Debtors and the Committee filed a consolidated joint plan of liquidation (as the same may be amended or modified from time to time, the "Plan") pursuant to the Bankruptcy Code; and

WHEREAS, by order dated _____, 2004, the Bankruptcy Court confirmed the Plan; and

WHEREAS, under the terms of the Plan, all cash and other property of the Debtors as of the Effective Date of the Plan will be transferred to and held by the Liquidation Trust created by this Agreement (the "Liquidation Trust") so that, among other things: (i) the Trust Assets (defined below) can be disposed of in an orderly and expeditious manner; (ii) objections to claims can be pursued, and disputed claims can be resolved; and (iii) distributions can be made to the beneficiaries of the Liquidation Trust in accordance with the Plan; and

WHEREAS, the Plan provides for the appointment of the Liquidation Trustee to administer the Liquidation Trust for the benefit of creditors of the Debtors, and to provide administrative services relating to the implementation of the Plan; and

WHEREAS, the Liquidation Trustee has agreed to serve as such upon the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in accordance with the Plan and in consideration of the promises and of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

DECLARATION OF TRUST

The Debtors hereby absolutely assign to the Liquidation Trust, and to its successors in trust and its successors and assigns, all right, title and interest of the Debtors in and to the Trust Assets (as defined below);

TO HAVE AND TO HOLD unto the Liquidation Trust and its successors in trust and its successors and assigns forever;

IN TRUST NEVERTHELESS upon the terms and subject to the conditions set forth herein and for the benefit of the holders of Allowed Claims, as and to the extent provided in the Plan, and for the performance of and compliance with the terms hereof and of the Plan;

PROVIDED, HOWEVER, that upon termination of the Liquidation Trust in accordance with Article V hereof, this Agreement shall cease, terminate and be of no further force and effect; and

IT IS HEREBY FURTHER COVENANTED AND DECLARED that the Trust Assets are to be held and applied by the Liquidation Trustee upon the further covenants and terms and subject to the conditions herein set forth.

I. NAME; PURPOSE; TRUST ASSETS

1.1 Name of Trust. The trust created by this Agreement shall be known as the “BSI Holdings Liquidation Trust” or sometimes herein as the “Liquidation Trust”. The Liquidation Trust is authorized to retain Kronish Lieb Weiner & Hellman LLP as counsel, and such other professional persons retained by the Committee or by the Debtors as have previously been approved by the Bankruptcy Court, or as necessary and appropriate, who shall be compensated from the Trust Assets on a monthly basis or as otherwise agreed.

1.2 Transfer of Trust Assets. In accordance with the provisions of the Plan, on the Effective Date, the Debtors and their chapter 11 estates shall be deemed to have transferred, assigned and conveyed to the beneficiaries of the Liquidation Trust any and all assets of the Debtors, including but not limited to the Litigation Claims (the “Trust Assets”), followed by a deemed transfer by such beneficiaries to the Liquidation Trust, to be held by the Liquidation Trustee in trust for the holders, from time to time, of Allowed Claims as and to the extent provided in the Plan (such holders collectively the “Trust Beneficiaries”), on the terms and subject to the conditions set forth herein and in the Plan.

1.3 Purposes. The purposes of the Liquidation Trust are to hold and effectuate an orderly disposition of the Trust Assets and to distribute or pay over the Trust Assets or proceeds thereof in accordance with this Agreement and the Plan, with no objective or authority to engage in any trade or business, except to the extent necessary to and consistent with the foregoing purposes.

1.4 Acceptance by the Liquidation Trustee. The Liquidation Trustee is willing and hereby accepts the appointment to serve as Liquidation Trustee pursuant to this Agreement and the Plan and agrees to observe and perform all duties and obligations imposed upon the

Liquidation Trustee by this Agreement and under the Plan, including, without limitation, to accept and hold and administer the Trust Assets and otherwise to carry out the purpose of the Liquidation Trust in accordance with the terms and subject to the conditions set forth herein. The Liquidation Trustee shall have fiduciary duties to the beneficiaries of the Liquidation Trust in the same manner that members of an official committee of creditors appointed pursuant to section 1102 of the Bankruptcy Code have fiduciary duties to the constituents represented by such a committee.

1.5 Further Assurances. The Debtors and any successors in interest will, on request of the Liquidation Trustee, execute and deliver such further documents and perform such further acts as may be necessary or proper to transfer the Liquidation Trustee any portion of the Trust Assets or to vest the powers or property hereby conveyed. The Debtors, for themselves and their predecessors and successors, disclaim any right to any reversionary interest in any of the Trust Assets.

1.6 The Committee.

(a) As provided in section 13.2 of the Plan, the Committee shall survive the Effective Date of the Plan for all purposes permitted under the Bankruptcy Code including, without limitation, objections to Claims and any other pending litigation, overseeing and, if necessary or desirable in its sole discretion, replacing the Liquidation Trustee, monitoring Distributions, and other matters affecting the administration of the Liquidation Trust. Any member of the Committee may resign upon reasonable notice to the Liquidation Trustee and other members of the Committee and may be removed by the Bankruptcy Court for cause. Twenty (20) days prior written notice shall constitute reasonable notice under this section. In the event of a vacancy on the Committee, the remaining members of the Committee, without further order of the Court but upon seven (7) business days' prior notice to the U.S. Trustee, the Liquidation Trustee, and any party who serves the Committee with written request for such notice, shall select a proposed member who, to the extent reasonably possible, shall be a holder of an Allowed General Unsecured Claim that has been classified in Class 3 under the Plan. The Committee is authorized to retain Kronish Lieb Weiner & Hellman LLP as counsel and such other professional persons as have previously been approved by the Bankruptcy Court (including counsel for the Debtors) or as it deems necessary and appropriate, who shall be compensated from the Trust Assets on a monthly basis. Members of the Committee shall have fiduciary duties to the beneficiaries of the Liquidation Trust in the same manner that members of an official committee of creditors appointed pursuant to section 1102 of the Bankruptcy Code have fiduciary duties to the constituents represented by such a committee and shall be entitled to indemnification from the Trust assets in the same manner as the Liquidation Trustee for service as members of the Committee from and after the Effective Date of the Plan under or in connection with this Agreement.

(b) Meetings may be held in person, telephonically, or electronically, as determined by the Committee. If its current chair is unable or unwilling to act, the Committee shall elect a chairperson who shall be charged with the responsibility of scheduling, arranging for minutes to be kept, and overseeing administration of all Committee matters. The Committee may remove and replace its chairperson at any time by two-thirds of its members then eligible to vote. Any member of the Committee shall not participate in and shall abstain from any

discussion of or vote with respect to any Committee matter, claim objection or litigation directly involving the individual interest of that Committee member. The Committee shall meet at least quarterly during the first year after the Effective Date, and at least semi-annually thereafter, unless the Committee, in its discretion, elects to meet more or less frequently. The Committee shall adopt the existing Committee By-Laws or adopt new By-Laws addressing its conduct.

(c) The Liquidation Trustee shall report to the Committee on at least a monthly basis, or such other period as subsequently agreed to between the Committee and the Liquidation Trustee, as to the status of all material litigation and claims objections, and all other material matters affecting the Liquidation Trust. The Liquidation Trustee shall make decisions in consultation with the Committee regarding the following matters:

- (i) All settlements for which prior procedures approved by the Bankruptcy Court required approval by the Committee;
- (ii) All distributions to creditors made pursuant to the terms of the Plan;
- (iii) Engaging and compensating consultants, agents, employees and all professional persons to assist the Liquidation Trustee with respect to the Liquidation Trustee's responsibilities, other than those professionals and persons already approved by the Bankruptcy Court to be retained by the Debtors or the Committee; and
- (iv) All other material matters and decisions.

The Liquidation Trustee's failure to receive objections from a majority of the members of the Committee within seven (7) days after written (including facsimile or electronic) notice is provided to the Committee of such proposed action shall be deemed approval of the Committee for purposes of this Section.

II. RIGHTS, POWERS AND DUTIES OF LIQUIDATION TRUSTEE

2.1 General. As of the Effective Date, the Liquidation Trustee shall take possession and charge of the Trust Assets and, subject to the provisions hereof and the Plan, shall have full right, power and discretion to manage the affairs of the Liquidation Trust, subject to Section 1.6(c) above. Except as otherwise provided herein and in the Plan, the Liquidation Trustee shall have the right and power to enter into any covenants or agreements binding the Liquidation Trust and in furtherance of the purpose hereof and of the Plan and to execute, acknowledge and deliver any and all instruments which are necessary or deemed by the Liquidation Trustee to be consistent with and advisable in connection with the performance of his duties hereunder. In addition, subject to Section 1.6(c) above, the Liquidation Trustee shall have the power and responsibility to do all acts contemplated by the Plan to be done by the Liquidation Trustee and all other acts that may be necessary or appropriate in connection with the disposition of the Trust Assets and the distribution of the proceeds thereof in consultation with the Committee, as contemplated by the Plan, including, without limitation:

- (a) To exercise all power and authority that may be or could have been exercised, commence all proceedings that may be or could have been commenced and take all

actions that may be or could have been taken by any officer, director or shareholder of the Debtors with like effect as if authorized, exercised and taken by unanimous action of such officers, directors and shareholders (including, without limitation, amendment of the certificates of incorporation and by-laws of the Debtors, merger of any Debtor into another Debtor and the dissolution of any Debtor);

(b) To maintain escrows and other accounts, make distributions to holders of Allowed Claims and take other actions consistent with the Plan and the implementation hereof, including the establishment, re-evaluation, adjustment and maintenance of appropriate reserves, in the name of the Debtors or the Liquidation Trust, even in the event of the dissolution of the Debtors;

(c) To collect and liquidate all assets of the Estates pursuant to the Plan and this Agreement, to administer the winding-up of the affairs of the Debtors, and to engage in all acts that would constitute ordinary performance of all obligations of a trustee of a liquidating trust;

(d) To object to any Claims (Disputed or otherwise), including, without limitation, as discussed in Section 8.1 of the Plan, to defend, compromise and/or settle any Claims, and to seek Bankruptcy Court approval if required by existing Order of the Bankruptcy Court or to seek amendment or vacatur of any such Order;

(e) To make decisions, without further Bankruptcy Court approval, regarding the retention or engagement of professionals, employees and consultants by the Liquidation Trust and to pay, from the Wind-down Reserve, the charges incurred by the Liquidation Trust on or after the Effective Date for services of professionals, disbursements, expenses or related support services relating to the winding down of the Debtors and implementation of the Plan and this Agreement without application to the Bankruptcy Court;

(f) To cause, on behalf of the Liquidation Trust, the Debtors and the Estates, all necessary tax returns and all other appropriate or necessary documents related to municipal, State, Federal or other tax law to be prepared or filed timely;

(g) To do all other acts or things not inconsistent with the provisions of the Plan and this Agreement that the Liquidation Trustee deems reasonably necessary or desirable with respect to implementing and administering the Plan and this Agreement;

(h) To make all distributions to holders of Allowed Claims provided for or contemplated by the Plan;

(i) To invest Cash in accordance with Section 2.4 or otherwise and as permitted in Section 2.4 hereof and deemed appropriate by the Liquidation Trustee after consultation with the Committee;

(j) To collect any accounts receivable or other claims of the Debtors or the Estates not otherwise disposed of pursuant to the Plan;

(k) To enter into any agreement or execute any document required by or consistent with the Plan and this Agreement and perform all of the obligations of the Debtors or the Liquidation Trustee thereunder;

(l) To abandon in any commercially reasonable manner, including abandonment or donation to a charitable organization of the Liquidation Trustee's choice, any assets that the Liquidation Trustee concludes are of no benefit to creditors of the Estates or, at the conclusion of the Chapter 11 Cases, are determined to be too impractical to distribute;

(m) To prosecute and/or settle Litigation Claims, participate in or initiate any proceeding before the Bankruptcy Court or any other court of appropriate jurisdiction, participate as a party or otherwise in any administrative, arbitative or other nonjudicial proceeding, and litigate or settle any or all such Litigation Claims on behalf of the Liquidation Trust;

(n) To utilize Trust Assets to purchase or create and carry all appropriate insurance policies and pay all insurance premiums and costs he deems necessary or advisable to insure the acts and omissions of the Liquidation Trustee, and if appropriate, the Committee;

(o) To implement and/or enforce all provisions of the Plan;

(p) To maintain appropriate books and records;

(q) To pay fees incurred pursuant to 28 U.S.C. § 1930(a)(6) and to file with the Bankruptcy Court and serve on the United States Trustee monthly financial reports until such time as a final decree is entered closing the Chapter 11 Cases, or the Chapter 11 Cases are converted or dismissed, or the Bankruptcy Court orders otherwise; and

(r) To provide the Committee, within twenty (20) days after the end of each month or as soon as reasonably practicable, with a monthly report setting forth (i) the receipt and disposition by the Liquidation Trustee of property of the Estates or the Debtors during the prior month, including the disposition of Reserves in the Liquidation Trust, the Wind-down Reserve and Distribution Reserve; (ii) all Disputed Claims resolved by the Liquidation Trustee during such period and all remaining Disputed Claims; (iii) all known material non-Cash assets of the Debtors remaining to be disposed of (iv) an itemization of all expenses the Liquidation Trustee anticipates will become due and payable within the subsequent three months; and (v) the Liquidation Trustee's forecast of cash receipts and disbursements for the subsequent three months.

Other than the obligations of the Liquidation Trustee enumerated or referred to herein or under the Plan, the Liquidation Trustee shall have no duties or obligations of any kind or nature respecting the implementation and administration of the Plan or this Agreement.

2.2 Costs. As of the Effective Date, the Liquidation Trustee shall reserve from the Trust Assets Cash reserves to be held in a Liquidation Trust wind-down fund (as defined in the Plan, the "Wind-down Reserve") or reserved for payment of Disputed Claims and Claims having priority under the Bankruptcy Code. The Wind-down Reserve shall be used to pay amounts due to the Liquidation Trustee pursuant to Section 2.7 hereof and the fees and expenses of any counsel, consultant or other advisor or agent retained by the Liquidation Trustee pursuant to this

Agreement as well as other expenses of the liquidation of the Debtors. In the event that amounts held in the Wind-down Reserve, together with proceeds of any disposition of Trust Assets available for such purpose, are insufficient to make payments as provided in this Section 2.2, the Liquidation Trustee shall, unless Reserves sufficient for such purpose have otherwise been made available from any other sources including other accounts of the Liquidation Trust, have no obligation to make such payments.

2.3 Distributions. Pursuant to the Plan, the Liquidation Trustee shall record and account for all proceeds received upon any disposition of Trust Assets (after deduction therefrom of appropriate reserves as provided herein and in the Plan) for distribution in accordance with the provisions of the Plan.

2.4 Limitations on Investment Powers of Liquidation Trustee. Funds in the Liquidation Trust shall be invested as deemed appropriate by the Liquidation Trustee after consultation with the Committee, and need not be invested in accordance with section 345 of the Bankruptcy Code.

2.5 Liability of Liquidation Trustee.

(a) Standard of Care. Except in the case of willful misconduct, gross negligence or fraud, the Liquidation Trustee shall not be liable for any loss or damage by reason of any action taken or omitted by it pursuant to the discretion, powers and authority conferred, or in good faith believed by the Liquidation Trustee to be conferred, on the Liquidation Trustee by this Agreement or the Plan.

(b) No Liability for Acts of Predecessors. No successor Liquidation Trustee shall be in any way responsible for the acts or omissions of any Liquidation Trustee in office prior to the date on which such successor becomes the Liquidation Trustee, unless a successor Liquidation Trustee expressly assumes such responsibility.

(c) No Implied Obligations. Subject to Section 1.4 hereof, the Liquidation Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and no implied covenants or obligations shall be read into this Agreement against the Liquidation Trustee.

(d) No Liability for Good Faith Error of Judgment. The Liquidation Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Liquidation Trustee was grossly negligent in ascertaining the pertinent facts.

(e) Reliance by Liquidation Trustee on Documents or Advice of Counsel or Other Persons. Except as otherwise provided herein, the Liquidation Trustee may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order or other paper or document believed by the Liquidation Trustee to be genuine and to have been signed or presented by the proper party or parties. The Liquidation Trustee also may engage and consult with legal counsel for the Liquidation Trust and other agents and advisors and shall not be liable for any action taken or suffered by the Liquidation Trustee in reliance upon the advice of such counsel, agents or advisors. The Liquidation Trustee

or the Committee shall have the right at any time to seek instructions from the Bankruptcy Court concerning the administration or disposition of the Trust Assets.

(f) No Personal Obligation for Trust Liabilities. Persons dealing with the Liquidation Trustee, or seeking to assert claims against the Debtors, shall look only to the Trust Assets to satisfy any liability incurred by the Liquidation Trustee to any such Person in carrying out the terms of this Agreement, and the Liquidation Trustee shall have no personal, individual obligation to satisfy any such liability.

2.6 Selection of Agents. The Liquidation Trustee may engage any employee of the Debtors or other Persons, and also may engage or retain brokers, banks, custodians, investment and financial advisors, attorneys (including existing counsel to the Committee or the Debtors), accountants (including existing accountants for the Committee or the Debtors) and other advisors and agents, in each case without Bankruptcy Court approval. The Liquidation Trustee may pay the salaries, fees and expenses of such Persons from amounts in the Wind-down Reserve, or, if such amounts are insufficient therefor, out of the Trust Assets or proceeds thereof. In addition, the parties acknowledge that Trust Assets may be advanced to satisfy such salaries, fees and expenses. The Liquidation Trustee shall not be liable for any loss to the Liquidation Trust or any Person interested therein by reason of any mistake or default of any such Person referred to in this Section 2.6 selected by the Liquidation Trustee in good faith and without gross negligence.

2.7 Liquidation Trustee's Compensation, Indemnification and Reimbursement.

(a) As compensation for services in the administration of this Liquidation Trust, the Liquidation Trustee shall be compensated as specified on Schedule A hereto. The Liquidation Trustee shall also be reimbursed for all documented actual, reasonable and necessary out-of-pocket expenses incurred in the performance of its duties hereunder.

(b) In addition, the Liquidation Trustee shall be indemnified by and receive reimbursement from the Trust Assets against and from any and all loss, liability, expense (including attorneys' fees) or damage which the Liquidation Trustee incurs or sustains, in good faith and without gross negligence, acting as Liquidation Trustee under or in connection with this Agreement.

(c) For a period mutually agreed between the Liquidation Trustee and Committee, it is intended that the Liquidation Trustee be retained part-time under this Agreement. If required, the Liquidation Trustee would be retained on a full-time basis on terms to be agreed upon between the Liquidation Trustee and Committee. The Liquidation Trustee may accept employment elsewhere during any period of part-time services, provided such additional employment does not result in a conflict of interest with his obligations hereunder. The Committee may provide thirty (30) days' prior written notice to the Liquidation Trustee notifying him that the Committee believes that the Liquidation Trustee's full-time engagement hereunder is required, whereupon the parties agree to in good faith negotiate satisfactory full-time engagement terms. If within the notice period the Committee and Liquidation Trustee cannot agree on such terms (and subject to the Committee's right to remove the Liquidation Trustee at any time under Section 4.2 hereof), Committee may opt to terminate the Liquidation

Trustee's engagement as of thirty (30) additional days after the expiration of the notice period or when the appointment of a successor Liquidation Trustee becomes effective.

(d) The Liquidation Trustee is hereby authorized to obtain all reasonable insurance coverage for himself, his agents, representatives, employees or independent contractors, including, without limitation, coverage with respect to the liabilities, duties and obligations of the Liquidation Trustee and his agents, representatives, employees or independent contractors under the Plan and this Agreement.

2.8 Tax Treatment and Obligation to File Returns.

(a) It is intended that the Liquidation Trust qualify as a grantor trust for federal income tax purposes, all of the interests which are owned by the Trust Beneficiaries, such that all items of income, gain, loss, deduction and credit will be included in the income of the Trust Beneficiaries as if such items had been recognized directly by the Trust Beneficiaries in the proportions in which they own beneficial interests in the Liquidation Trust.

(b) The Liquidation Trustee shall comply with all tax reporting requirements and, in connection therewith, the Liquidation Trustee may require Trust Beneficiaries to provide certain tax information as a condition to receipt of distributions, including, without limitation, filing returns for the Liquidation Trust as a grantor trust pursuant to Treasury Regulation § 1.6714(a).

2.9 Conflicting Claims. If the Liquidation Trustee becomes aware of any disagreement or conflicting claims with respect to the Trust Assets, or is in good faith doubt as to any action that should be taken under this Agreement, the Liquidation Trustee may take any or all of the following actions as reasonably appropriate:

(i) to the extent of such disagreement or conflict, or to the extent deemed by the Liquidation Trustee necessary or appropriate in light of such disagreement or conflict, withhold or stop all further performance under this Agreement with respect to the matter of such dispute (except, in all cases, the safekeeping of the Trust Assets) until the Liquidation Trustee is reasonably satisfied that such disagreement or conflicting claims have been fully resolved; or

(ii) file a suit in interpleader or in the nature of interpleader in the Bankruptcy Court and obtain an order requiring all Persons involved to litigate in the Bankruptcy Court their respective claims arising out of or in connection with this Agreement; or

(iii) file any other appropriate motion for relief in the Bankruptcy Court.

2.10 Records of Liquidation Trustee. The Liquidation Trustee shall maintain accurate records of receipts and disbursements and other activity of the Liquidation Trust, and duly authorized representatives of the Committee shall have reasonable access to the records of the Liquidation Trust.

2.11 Bond. The Liquidation Trustee shall obtain a bond satisfactory to the Committee in favor of the Liquidation Trust in an amount to be determined from time to time by the Committee, the cost of which shall be an expense of the Wind-down Budget. Any bond shall require thirty (30) days' notice to the Committee before termination or renewal.

III. RIGHTS, POWERS AND DUTIES OF BENEFICIARIES.

3.1 Interests of Beneficiaries. The Trust Beneficiaries shall have beneficial interests in the Trust Assets as provided in the Plan. The Trust Beneficiaries' proportionate interests in the Trust Assets as thus determined shall be transferable, subject, as applicable, to Bankruptcy Rule 3001(e) and any other provision of law.

3.2 Interests Beneficial Only. The ownership of a beneficial interest hereunder shall not entitle any Trust Beneficiary to any title in or to the Trust Assets as such (which title shall be vested in the Liquidation Trustee) or to any right to call for a partition or division of Trust Assets or to require an accounting.

IV. AMENDMENT OF TRUST OR CHANGE IN TRUSTEE.

4.1 Resignation of the Liquidation Trustee. The Liquidation Trustee may resign by an instrument in writing signed by the Liquidation Trustee and filed with the Bankruptcy Court with notice to the Committee, provided that the Liquidation Trustee shall continue to serve as such after his resignation for thirty (30) days or, if longer, until the time when appointment of his successor shall become effective in accordance with Section 4.3 hereof, or as otherwise agreed with the Committee.

4.2 Removal of the Liquidation Trustee. The Committee may remove the Liquidation Trustee with or without cause at any time by majority vote. Such removal shall be effective thirty (30) days after the Committee's determination or as otherwise agreed with the Committee, or after such shorter period (or immediately) as the Committee may direct for cause. Upon removal of the Liquidation Trustee by the Committee in accordance with this Section 4.2 other than for cause, the Liquidation Trustee shall be entitled to a lump sum payment equal to \$25,000.00, which represents the monthly maximum bill under this Agreement which payment shall be made promptly from the Wind-down Reserve. For the purposes of this Agreement, "cause" shall mean (a) the willful and continued refusal by the Liquidation Trustee to perform his duties as set forth herein; (b) gross negligence, gross misconduct, fraud, embezzlement or theft; or (c) such other cause as the Committee shall in good faith determine.

4.3 Appointment of Successor Liquidation Trustee. In the event of the death, resignation, termination, incompetence or removal of the Liquidation Trustee, the Committee may appoint a successor Liquidation Trustee and without the approval of the Bankruptcy Court, which the parties acknowledge shall nevertheless retain jurisdiction to resolve any disputes in connection with the service of the Liquidation Trustee or his successor. If the Committee fails to appoint a successor Liquidation Trustee within 30 days of the occurrence of a vacancy, any Trust Beneficiary, any Debtor still existing, or the outgoing Liquidation Trustee may petition the Bankruptcy Court for such appointment. Every successor Liquidation Trustee appointed hereunder shall execute, acknowledge and deliver to the Bankruptcy Court and to the

predecessor Liquidation Trustee (if practicable) an instrument accepting such appointment and the terms and provisions of this Agreement, and thereupon such successor Liquidation Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers and duties of the retiring Liquidation Trustee.

4.4 Continuity. Unless otherwise ordered by the Bankruptcy Court, the death, resignation, incompetence or removal of the Liquidation Trustee shall not operate to terminate or to remove any existing agency created pursuant to the terms of this Agreement or invalidate any action theretofore taken by the Liquidation Trustee. In the event of the resignation or removal of the Liquidation Trustee, the Liquidation Trustee shall promptly execute and deliver such documents, instruments, final reports, and other writings as may be reasonably requested from time to time by the Bankruptcy Court, the Committee or the successor Liquidation Trustee.

4.5 Amendment of Agreement. This Agreement may be amended, modified, terminated, revoked or altered only upon (i) order of the Bankruptcy Court; or (ii) agreement of the Liquidation Trustee and the Committee.

V. TERMINATION OF TRUST

The Liquidation Trust shall terminate upon the earliest to occur of (a) the fulfillment of the Liquidation Trust's purpose by the liquidation of all of the Trust Assets and the distribution of the proceeds of the liquidation thereof in accordance with the Plan; or (b) five (5) years after the Effective Date (the "Termination Date"). Reasonable efforts shall be made to see to it that the Termination Date shall be no later than the time reasonably necessary to accomplish the Liquidation Trust's purpose of liquidating assets and satisfying liabilities under the Plan. Notwithstanding the foregoing, however, if warranted by the facts and circumstances and subject to the approval of the Bankruptcy Court, upon proper notice to interested parties who have requested such notice and a finding that the extension is necessary to the purpose of the Liquidation Trust, the term of the Liquidation Trust may be extended for a finite term based on its particular facts and circumstances. Each extension must be approved by the Bankruptcy Court within six (6) months of the beginning of the extended term.

VI. RETENTION OF JURISDICTION

Subject to the following sentence, the Bankruptcy Court shall have exclusive jurisdiction over the Liquidation Trust, the Liquidation Trustee and the Trust Assets as provided in the Plan, including the determination of all controversies and disputes arising under or in connection with the Liquidation Trust or this Agreement. However, if the Bankruptcy Court abstains or declines to exercise such jurisdiction or is without jurisdiction under applicable law, any other court of competent jurisdiction may adjudicate any such matter.

VII. MISCELLANEOUS

7.1 Applicable Law. The Liquidation Trust created by this Agreement shall be construed in accordance with and governed by the laws of the State of Delaware without giving effect to principles of conflict of laws, but subject to any applicable federal law.

7.2 Waiver. No failure or delay of any party to exercise any right or remedy pursuant to this Agreement shall affect such right or remedy or constitute a waiver thereof.

7.3 Relationship Created. Nothing contained herein shall be construed to constitute any relationship created by this Agreement as an association, partnership or joint venture of any kind.

7.4 Interpretation. Section and paragraph headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation of any provision hereof.

7.5 Savings Clause. If any clause or provision of this Agreement shall for any reason be held invalid or unenforceable by the Bankruptcy Court, such invalidity or unenforceability shall not affect any other clause or provision hereof, but this Agreement shall be construed, insofar as reasonable to effectuate the purpose hereof, as if such invalid or unenforceable provision had never been contained herein.

7.6 Entire Agreement. This Agreement and the Plan constitute the entire agreement by and among the parties and there are no representations, warranties, covenants or obligations with respect to the subject matter hereof except as set forth herein or therein. This Agreement together with the Plan supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, written or oral, of the parties hereto, relating to such subject matter. Except as otherwise authorized by the Bankruptcy Court or specifically provided in this Agreement or in the Plan, nothing in this Agreement is intended or shall be construed to confer upon or to give any Person other than the parties hereto, the Committee, and the Trust Beneficiaries any rights or remedies under or by reason of this Agreement.

7.7 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original document, but all of which counterparts shall together constitute one and the same instrument.

7.8 Notices.

(a) All notices, requests or other communications required or permitted to be made in accordance with this Agreement shall be in writing and shall be deemed given five Business Days after first-class mailing, one Business Day after sending by overnight courier, or on the first Business Day after facsimile or electronic transmission.

(i) if to the Liquidation Trust or Liquidation Trustee:

Joseph E. Myers
401 Towne Center Drive
Hillsborough, NJ 08844

with a copy to:

Goodwin Procter LLP
53 State Street
Exchange Place
Boston, MA 02109
Attn: Michael J. Pappone, P.C.
Tel: (617) 570-1000
Fax: (617) 523-1231

and

Pepper Hamilton LLP
1313 North Market Street
Hercules Plaza
Wilmington, DE 19801
Attn: David Fournier, Esq.
Tel: (302) 777-1500
Fax: (302) 656-8865

and

Kronish, Lieb, Weiner & Hellman LLP
1114 Avenue of the Americas
New York, NY 10036-7798
Attn: Jay R. Indyke, Esq.
Tel: (212) 479-6000
Fax: (212) 479-6275

and

THE BAYARD FIRM
222 Delaware Avenue
Box 25130
Wilmington, DE 19899
Attn: Neil B. Glassman, Esq.
Tel: (302) 655-5000
Fax: (302) 658-6395

(ii) if to the Debtors:

BSI Holding Co., Inc.
c/o Todd Fleisher
FTI Consulting
125 High Street, Suite 1420
Boston, MA 02110

with a copy to:

Goodwin Procter LLP
53 State Street
Exchange Place
Boston, MA 02109
Attn: Michael J. Pappone, P.C.
Tel: (617) 570-1000
Fax: (617) 523-1231

and

Pepper Hamilton LLP
1313 North Market Street
Hercules Plaza
Wilmington, DE 19801
Attn: David Fournier, Esq.
Tel: (302) 777-1500
Fax: (302) 656-8865

(iii) if to the Committee:

Kronish Lieb Weiner & Hellman, LLP
1114 Avenue of the Americas
New York, NY 10036-7798
Attn: Jay R. Indyke, Esq. .
Tel: (212) 479-6000
Fax: (212) 479-6275

and

THE BAYARD FIRM
222 Delaware Avenue
Box 25130
Wilmington, DE 19899
Attn: Neil B. Glassman, Esq.
Tel: (302) 655-5000
Fax: (302) 658-6395

(iv) if to any Trust Beneficiary, to such address as such Trust Beneficiary shall have furnished to the Debtors in writing prior to the Effective Date.

(b) Any Person may change the address at which it is to receive notices under this Agreement by furnishing written notice to the Liquidation Trustee in the same manner as above.

7.9 Effective Date. This Agreement shall become effective as of the Effective Date.

7.10 Tax Identification Numbers. The Liquidation Trustee may require any Trust Beneficiary to furnish to the Liquidation Trustee its employer or taxpayer identification number as assigned by the Internal Revenue Service, and the Liquidation Trustee may condition any distribution to any Trust Beneficiary upon such receipt of such identification number and any other information required for the Liquidation Trustee to comply with Internal Revenue Service requirements.

7.11 Successors and Assigns. This Agreement shall be binding upon each of the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties, Committee, the Trust Beneficiaries and, subject to the provisions hereof, their respective successors and assigns.

7.12 Conflict with the Plan. In the event of any conflict between the terms of this Agreement and the Plan, the terms of the Plan shall govern.

IN WITNESS WHEREOF the undersigned have caused this Agreement to be executed as of the day and year first above written.

BSI HOLDING CO., INC., f/k/a BOB'S
STORES, INC., et al.

By: _____
Name:
Title:

JOSEPH E. MYERS, as Liquidation Trustee

OFFICIAL COMMITTEE OF
UNSECURED CREDITORS OF BSI
HOLDING CO., INC., f/k/a BOB'S
STORES, INC., et al.

By: _____
Name:
Title: Chair

SCHEDULE A

TERMS OF COMPENSATION AND REIMBURSEMENT OF EXPENSES OF THE LIQUIDATION TRUSTEE

1. COMPENSATION

Beginning at the Effective Date (as defined in the Plan), the Liquidation Trustee shall be employed part-time and be compensated at the rate of \$350 per hour.

2. COMPUTATION OF HOURS; RECORDKEEPING

- (a) For the purpose of calculating the days and hours in respect of which the Liquidation Trustee may receive compensation under Section 1 above, travel times shall be included in the number of hours expended at one-half otherwise applicable rates, but only if such travel is for the purpose of conducting Liquidation Trustee activities. Travel by the Liquidation Trustee for personal reasons, including travel to and from any residence of the Liquidation Trustee, shall not be included in the number of hours expended.
- (b) The Liquidation Trustee shall maintain a record of his time expended in his capacity as Liquidation Trustee, which shall include a brief description of such activities. The record shall be available for inspection and copying by the Committee. The Liquidation Trustee shall report to the Committee, as part of the reporting to be provided to the Committee under the Liquidation Trust Agreement, as to the amount of time so expended during each month.

3. REIMBURSEMENT OF EXPENSES

The Liquidation Trustee shall be entitled to reimbursement for documented actual and reasonable expenses incurred in performing his duties as the Liquidation Trustee, and may submit a report of monthly expenses, if any, with each report under Section 2 above.

EXHIBIT B

EXHIBIT B

In re BSI Holding Co., Inc. f/k/a Bob's Stores, Inc., et al., Case Nos. 03-13254 (LHK), et seq. (Chap. 11)

LIQUIDATION ANALYSIS, ASSUMPTIONS AND METHODOLOGY

A Chapter 11 Plan cannot be confirmed unless it is in the “best interests” of creditors and interest holders. The “best interests” test is satisfied if a Plan provides to each dissenting or nonvoting member of each impaired class a recovery not less than the recovery such claimants would receive if the debtor were liquidated under a hypothetical case under Chapter 7 of the Bankruptcy Code.

The Debtors have projected that as of the Effective Date they will have approximately \$45.5 million, subject to adjustment based upon actual wind-down costs and recoveries from additional assets, available for distribution to unsecured creditors pursuant to the Plan. Excluding potential litigation claims and any preference recovery, the Debtors project that they will have liquidated virtually all of their respective assets and converted them to cash as of the Effective Date of the Plan. During this post Effective Date period, the Debtors will continue to incur certain costs related to the administration and full consummation of the Plan.

If these cases were converted from Chapter 11 to Chapter 7, these funds available for distribution to unsecured creditors would be reduced by the costs of liquidation including *inter alia* a Chapter 7 trustee’s fees, and the fees and expenses of professionals retained by a trustee. In addition, the potential chapter 7 liquidation distribution in respect of each Class would be delayed by a conversion of the case due to the need of the Chapter 7 trustee and its professionals to familiarize themselves with the Debtors’ assets and liabilities and complete their administration of the cases. Accordingly, the potential distribution to each Class must be further reduced by costs imposed by the delay caused by conversion to chapter 7.

Under section 326(a) of the Bankruptcy Code, a Chapter 7 trustee is entitled to compensation not to exceed 3% of amounts in excess of \$1 million upon all moneys disbursed or turned over by the trustee to parties in interest. ***Based upon the amount projected to be available for distribution to unsecured creditors on the Effective Date, a Chapter 7 trustee could be entitled to compensation in excess of \$1.3 million. The Chapter 7 trustee fees would dilute, dollar-for-dollar, funds otherwise constituting Available Cash under the Plan for distribution to holders of Allowed Unsecured Claims.*** Further, because a Chapter 7 trustee could seek to retain new counsel, financial advisors and/or other professionals to assist him/her in the administration of the cases, there could be additional incremental costs and fees associated with such retentions. Because a Chapter 7 trustee would not have the in-depth and historical knowledge of the Debtors’ cases, the Debtors’ Estates would also be required to expend time and money and incur additional costs in assisting the Chapter 7 trustee in becoming familiar with all of the intricacies of the Debtors’ cases.

For these reasons, among others, the Plan Proponents believe that conversion of the cases to cases under Chapter 7 would result in, *inter alia*, (i) additional costs being borne by the Estates, (ii) reduced distributions to unsecured creditors, (iii) delays in the wind-down of these Estates, and (iii) delays in distributions to creditors.

This liquidation analysis assumes that the Debtors would incur all of the costs incident to their Chapter 11 liquidation in the course of hypothetical Chapter 7 cases. Consequently, the

Chapter 7 costs described herein are only those projected incremental costs unique to a Chapter 7 case that would otherwise not have been incurred in a liquidation under Chapter 11.

Underlying this liquidation analysis are a number of projections and assumptions that are inherently subject to significant uncertainties and contingencies beyond the control of the Debtors' management, and upon assumptions with respect to liquidation decisions that may be subject to change. Accordingly, there can be no assurance that the projected values reflected in the liquidation analysis would be realized if the Debtors were, in fact, to undergo such a Chapter 7 liquidation, and actual results could vary materially from those shown here.

FACTORS TO BE CONSIDERED IN A CONVERSION TO CHAPTER 7

1. Timing and Nature of Liquidation

Debtors project that a conversion to a case under Chapter 7 would result in a delay of approximately 4 months (the "Incremental Chapter 7 Period") in the wind-down of the Estate. Accordingly, the projected incremental costs, described in notes 4, 5 and 6 below, are based on the projected incremental costs related to a chapter 7 case that would be incurred by Debtors during this hypothetical 4 month Incremental Chapter 7 Period.

2. Projected Cash Available for Distribution to Claimants

The proceeds from liquidation of assets and all costs required to facilitate the liquidation (other than the incremental costs associated with the hypothetical Chapter 7 case described in notes 4, 5 and 6 below), are assumed to be the same under either a hypothetical Chapter 7 case and is, therefore, the same as that contemplated under the Plan and described in this Disclosure Statement.

3. Secured Claims

No additional secured claims are projected to be allowed as a result of the hypothetical Chapter 7 conversion. The amount of secured claims listed herein are the same as those described in this Disclosure Statement.

4. Chapter 7 Trustee Fees

Pursuant to section 326(a) of the Bankruptcy Code, Chapter 7 trustee fees are projected to be approximately 3% of the total monies distributed by the Chapter 7 trustee, or in excess of \$1.3 million.

5. Chapter 7 Professional Fees

Fees for the professionals which would be retained by a Chapter 7 trustee (including, without limitation, any claims agent in connection with the establishment of a new bar date) are projected to be \$150 thousand per month during the 4 month Incremental Chapter 7 Period, or a total of \$600 thousand.

6. Chapter 7 Operating Expenses

Under the Transitional Services Agreement between the Debtors and Alphabravo Corporation, the Debtors are not required to pay any costs relating to the space they are presently using for the wind-down of the Estates through September 30, 2004. Given the potential delay associated with a conversion to Chapter 7, a Chapter 7 trustee would need to secure other space to administer and wind-down the Estates during the Incremental Chapter 7 Period. Although the cost of this additional space cannot be predicted at this time, it would result in an additional cost to the Estates.

7. Incremental Chapter 7 Expenses

Pursuant to section 726(b) of the Bankruptcy Code, administrative expenses and claims allowed under section 503(b) of the Bankruptcy Code that were incurred during the hypothetical Chapter 7 case would receive priority over administrative expenses and claims allowed under section 503(b) that were incurred during the Chapter 11 case. Therefore, in a hypothetical liquidation under Chapter 7, projected incremental Chapter 7 expenses would have priority over administrative expenses and priority claims incurred during the chapter 11 case.

8. Chapter 11 Administrative Expense Claims

No additional Chapter 11 administrative expense claims are projected to be allowed as a result of the hypothetical conversion to a Chapter 7 case. The amount of administrative expense claims listed herein is the same as that described in this Disclosure Statement.

9. Priority Tax Claims

No additional priority tax claims are projected to be allowed as a result of the hypothetical conversion to a Chapter 7 case. The amount of priority tax claims listed herein is the same as that described in this Disclosure Statement.

10. Other Priority

No additional priority claims are projected to be allowed as a result of the hypothetical conversion to a Chapter 7 case. The amount of other priority claims listed herein is the same as that described in this Disclosure Statement.

11. Unsecured Claims

No additional Unsecured Claims are projected to be allowed as a result of the hypothetical conversion to a Chapter 7 case. The amount of each class of general unsecured claims listed herein is the same as that described in this Disclosure Statement.

ALL OF THE FOREGOING ESTIMATES OF CLAIMS AGAINST THE DEBTORS AND THEIR ESTATES ARE BASED UPON DEBTORS' SCHEDULES, THE DEBTORS' ASSESSMENT OF CONTINGENCIES AND A PRELIMINARY REVIEW OF THE PROOFS OF CLAIM. THE DEBTORS ARE CURRENTLY REVIEWING THE PROOFS OF CLAIM AND THESE CLAIM ESTIMATES ARE SUBJECT TO REVISION AS A RESULT OF THIS REVIEW.

Bob's Store
Liquidation Analysis
(\$ in '000s)

	Chapter 11 Liquidating Plan	Chapter 7 Liquidation	Variance
I. Cash Recoveries			
Cash	\$ 45,867	\$ 45,867	\$ -
Interest		-	-
Total Cash Recoveries	\$ 45,867	\$ 45,867	\$ -
II. Distributions			
Administrative Claims			
Trustee's Fees	-	1,376	(1,376)
Total Administrative Claims	\$ -	\$ 1,376	\$ (1,376)
Wind-down Costs			
Wind-down Expenses - Employee Salaries	\$ 308	\$ 265	\$ 43
Wind-down Expenses - Occupancy Costs	-	175	(175)
Chapter 7 Trustee's Professionals' Fees		600	(600)
Debtors' & Creditors' Professional Fees	4,482	4,032	450
Total Wind-Down Costs	\$ 4,791	\$ 5,073	\$ (282)
<i>Cash Available for Distribution to Creditors</i>	<u><u>\$ 41,076</u></u>	<u><u>\$ 39,418</u></u>	<u><u>\$ (1,658)</u></u>