

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re

AGH LIQUIDATING, LLC (f/k/a
Alexander Gallo Holdings, LLC), *et al.*,¹

Debtors.
-----X

Chapter 11

Case No. 11-14220 (ALG)

(Jointly Administered)

**SECOND MODIFIED DISCLOSURE STATEMENT
FOR DEBTORS' SECOND MODIFIED JOINT PLAN OF
LIQUIDATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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Dated: February 6, 2012

¹ The Debtors, together with the last four digits of each Debtor's federal tax identification number, are: Alexander Gallo Holdings, LLC (4040); Set Depo, LLC (4236); AG/Sanction LLC (2187); Unlimited Languages, Inc. (7755); The Hobart West Group, Inc. (9849); Deponet, LLC (0336); Esquire Deposition Services, LLC (9684); Esquire Litigation Solutions, LLC (0947); Esquire Solutions, LLC (9382); Hobart West Solutions, LLC (6005); and D-M Information Systems, Inc. (3504).



ALEXANDER GALLO HOLDINGS, LLC AND CERTAIN OF ITS SUBSIDIARIES AND AFFILIATES, AS DEBTORS AND DEBTORS IN POSSESSION IN THESE CHAPTER 11 CASES (THE "DEBTORS"), ARE PROVIDING THE INFORMATION IN THIS DISCLOSURE STATEMENT FOR THE DEBTORS' JOINT PLAN OF LIQUIDATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE TO HOLDERS OF CLAIMS AND INTERESTS FOR PURPOSES OF SOLICITING VOTES TO ACCEPT OR REJECT THE PLAN. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE RELIED UPON OR USED BY ANY ENTITY FOR ANY OTHER PURPOSE.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016(b) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND IS NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER SIMILAR LAWS. NO LEGAL OR TAX ADVICE IS PROVIDED TO YOU BY THIS DISCLOSURE STATEMENT. THE DEBTORS URGE EACH HOLDER OF A CLAIM OR AN INTEREST TO CONSULT WITH ITS OWN ADVISORS WITH RESPECT TO ANY LEGAL, FINANCIAL, SECURITIES, TAX OR BUSINESS ADVICE IN REVIEWING THIS DISCLOSURE STATEMENT, THE PLAN AND EACH OF THE PROPOSED TRANSACTIONS CONTEMPLATED THEREBY. FURTHERMORE, THE BANKRUPTCY COURT'S APPROVAL OF THE ADEQUACY OF DISCLOSURE CONTAINED IN THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL OF THE MERITS OF THE PLAN.

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THIS DISCLOSURE STATEMENT WAS NOT FILED WITH THE SECURITIES AND EXCHANGE COMMISSION OR ANY STATE AUTHORITY AND NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE AUTHORITY HAVE PASSED UPON THE ACCURACY OR ADEQUACY OF THIS DISCLOSURE STATEMENT OR UPON THE MERITS OF THE PLAN.

THIS DISCLOSURE STATEMENT MAY CONTAIN "FORWARD LOOKING STATEMENTS" WITHIN THE MEANING OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995. SUCH STATEMENTS CONSIST OF ANY STATEMENT OTHER THAN A RECITATION OF HISTORICAL FACT AND CAN BE IDENTIFIED BY THE USE OF FORWARD LOOKING TERMINOLOGY SUCH AS "MAY," "EXPECT,"

“ANTICIPATE,” “ESTIMATE” OR “CONTINUE” OR THE NEGATIVE THEREOF OR OTHER VARIATIONS THEREON OR COMPARABLE TERMINOLOGY. THE READER IS CAUTIONED THAT ALL FORWARD LOOKING STATEMENTS ARE NECESSARILY SPECULATIVE AND THERE ARE CERTAIN RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL EVENTS OR RESULTS TO DIFFER MATERIALLY FROM THOSE REFERRED TO IN SUCH FORWARD LOOKING STATEMENTS. ANY DISTRIBUTION PROJECTIONS AND OTHER INFORMATION CONTAINED HEREIN AND ATTACHED HERETO ARE ESTIMATES ONLY, BASED UPON INFORMATION CURRENTLY AVAILABLE TO THE DEBTORS.

AS TO CONTESTED MATTERS, EXISTING LITIGATION INVOLVING, OR POSSIBLE ADDITIONAL LITIGATION TO BE BROUGHT BY, OR AGAINST, THE DEBTORS, ADVERSARY PROCEEDINGS, AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, A STIPULATION, OR A WAIVER, BUT RATHER AS A STATEMENT MADE WITHOUT PREJUDICE SOLELY FOR SETTLEMENT PURPOSES, WITH FULL RESERVATION OF RIGHTS, AND IS NOT TO BE USED FOR ANY LITIGATION PURPOSE WHATSOEVER BY ANY PERSON, PARTY OR ENTITY. AS SUCH, THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NONBANKRUPTCY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY IN INTEREST, NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, FINANCIAL OR OTHER EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST OR EQUITY INTERESTS IN THE DEBTORS.

THIS DISCLOSURE STATEMENT CONTAINS OR MAY CONTAIN, AMONG OTHER THINGS, SUMMARIES OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN EVENTS IN THE DEBTORS’ CHAPTER 11 CASES AND CERTAIN DOCUMENTS RELATED TO THE PLAN THAT MAY BE ATTACHED HERETO AND/OR INCORPORATED HEREIN BY REFERENCE. ALTHOUGH THE DEBTORS BELIEVE THAT THESE SUMMARIES ARE FAIR AND ACCURATE, THESE SUMMARIES ARE QUALIFIED IN THEIR ENTIRETY TO THE EXTENT THAT THE SUMMARIES DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS OR EVERY DETAIL OF SUCH EVENTS. IN THE EVENT OF ANY INCONSISTENCY OR DISCREPANCY BETWEEN A DESCRIPTION IN THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR ANY OTHER DOCUMENTS INCORPORATED HEREIN BY REFERENCE, THE PLAN OR SUCH OTHER DOCUMENTS WILL GOVERN FOR ALL PURPOSES. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTORS’ MANAGEMENT EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE DEBTORS DO NOT REPRESENT OR WARRANT THAT THE INFORMATION CONTAINED HEREIN OR ATTACHED HERETO IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

THE DEBTORS’ MANAGEMENT HAS REVIEWED THE FINANCIAL INFORMATION PROVIDED IN THIS DISCLOSURE STATEMENT. ALTHOUGH THE

DEBTORS HAVE USED THEIR REASONABLE BUSINESS JUDGMENT TO ENSURE THE ACCURACY OF THIS FINANCIAL INFORMATION, THE FINANCIAL INFORMATION CONTAINED IN, OR INCORPORATED BY REFERENCE INTO, THIS DISCLOSURE STATEMENT HAS NOT BEEN AUDITED.

THE DEBTORS ARE MAKING THE STATEMENTS AND PROVIDING THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT AS OF THE DATE HEREOF, UNLESS OTHERWISE SPECIFICALLY NOTED. ALTHOUGH THE DEBTORS MAY SUBSEQUENTLY UPDATE THE INFORMATION IN THIS DISCLOSURE STATEMENT, THE DEBTORS HAVE NO AFFIRMATIVE DUTY TO DO SO. HOLDERS OF CLAIMS AND INTERESTS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT INFER THAT, AT THE TIME OF THEIR REVIEW, THE FACTS SET FORTH HEREIN HAVE NOT CHANGED SINCE THIS DISCLOSURE STATEMENT WAS FILED.

THE DEBTORS HAVE NOT AUTHORIZED ANY ENTITY TO GIVE ANY INFORMATION ABOUT OR CONCERNING THE PLAN OTHER THAN THAT WHICH IS CONTAINED IN THIS DISCLOSURE STATEMENT. THE DEBTORS HAVE NOT AUTHORIZED ANY REPRESENTATIONS CONCERNING THE DEBTORS OR THE VALUE OF THEIR PROPERTY OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. **PRIOR TO DECIDING WHETHER AND HOW TO VOTE ON THE PLAN, EACH HOLDER OF A CLAIM IN A VOTING CLASS SHOULD CONSIDER CAREFULLY ALL OF THE INFORMATION IN THIS DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS, ALTERNATIVES TO CONFIRMATION, AND CONSUMMATION OF THE PLAN, ALL DESCRIBED IN GREATER DETAIL HEREIN.**

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I. INTRODUCTION

The Debtors prepared this Disclosure Statement in connection with the solicitation of votes for acceptance of the Plan. This Disclosure Statement is intended to provide adequate information of a kind, and in sufficient detail, to enable the Debtors' creditors to make an informed judgment about the Plan, including whether to vote to accept or reject the Plan. A copy of the Plan is attached hereto as Exhibit A and is incorporated by reference.

To the extent that the information provided in this Disclosure Statement and the Plan (including any attached exhibits and Plan Supplements) are in conflict, the terms of the Plan (including any attached exhibits and Plan Supplements) will control. Creditors should refer only to this Disclosure Statement and the Plan to determine whether to vote to accept or reject the Plan.

After a careful consideration of the Debtors' business and their prospects as a going concern, the Debtors, in consultation with their legal and other advisors, concluded that the a sale of substantially all of the Debtors' assets in these Chapter 11 Cases pursuant to section 363 of the Bankruptcy Code was in the best interest of the estates and would maximize recoveries for creditors in these Chapter 11 Cases. The Debtors believe that approval of the Plan is in the best interests of the Debtors' creditors and all parties in interest.

Creditors may request additional copies of this Disclosure Statement from the Voting Agent at the following address: Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245.

PURSUANT TO THE BANKRUPTCY CODE, ONLY CREDITORS WHO ACTUALLY VOTE ON THE PLAN WILL BE COUNTED FOR PURPOSES OF DETERMINING WHETHER THE REQUIRED NUMBER OF ACCEPTANCES HAS BEEN OBTAINED. FAILURE TO DELIVER A *PROPERLY COMPLETED* BALLOT BY THE VOTING DEADLINE WILL RESULT IN AN ABSTENTION AND, CONSEQUENTLY, THE VOTE WILL NEITHER BE COUNTED AS AN ACCEPTANCE OR REJECTION OF THE PLAN.

A. Overview of Chapter 11.

Chapter 11 is the principal business reorganization chapter of the Bankruptcy Code. In addition to permitting debtor rehabilitation, chapter 11 promotes equality of treatment for similarly situated holders of claims and equity interests, subject to the priority of distributions prescribed by the Bankruptcy Code.

The commencement of a chapter 11 case creates an estate that comprises all of the legal and equitable interests of the debtor as of the commencement of the chapter 11 case. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor in possession."

Consummating a plan is the principal objective of a chapter 11 case. A bankruptcy court's confirmation of a plan binds the debtor, any entity acquiring property under the plan, any

holder of a claim or equity interest in a debtor and all other entities as may be ordered by the bankruptcy court in accordance with the applicable provisions of the Bankruptcy Code, to the terms and conditions of the confirmed plan. Subject to certain limited exceptions, the order issued by the bankruptcy court confirming a plan provides for the treatment of claims and equity interests in accordance with the terms of the confirmed plan.

Prior to soliciting acceptances of a proposed chapter 11 plan, section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement containing information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of the chapter 11 plan. This Disclosure Statement is being submitted in accordance with the requirements of section 1125 of the Bankruptcy Code.

B. Rules of Interpretation and Construction.

Unless otherwise specified, all section or exhibit references in the Disclosure Statement are to the respective section in, or exhibit to, the Disclosure Statement, as the same may be amended, waived, or modified from time to time. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Disclosure Statement as a whole and not to any particular section, subsection, or clause contained therein. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the Disclosure Statement. The headings in this Disclosure Statement are for convenience of reference only and shall not limit or otherwise affect the interpretation of the Disclosure Statement. Unless otherwise provided, any reference in this Disclosure Statement to an existing document, exhibit or schedule means such document, exhibit or schedule as it may have been amended, restated, revised, supplemented or otherwise modified. Further, where appropriate from a contextual reading of a term, each term includes the singular and plural form of the term regardless of how the term is stated and each stated pronoun is gender neutral. In computing any period of time set forth in the Disclosure Statement, the provisions of Bankruptcy Rule 9006(a) shall apply.

All capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Plan.

C. Recommendation of the Debtors.

The Debtors believe that the Plan will maximize the value of the Debtors’ Estates and accomplish the objectives of chapter 11 of the Bankruptcy Code and that acceptance of the Plan is in the best interests of the Debtors, creditors, the Estates, and all parties in interest. Accordingly, the Debtors urge creditors to vote to accept the Plan.

II. BACKGROUND INFORMATION

A. Description and History of the Debtors’ Business.

Prior to the Petition Date, the Debtors were the largest full service, IT-enabled court reporting and litigation support services company in the United States. The Debtors offered court reporting, litigation support, trial software and other similar services and had the only true national footprint in the market, with approximately fifty-five (55) offices throughout the United States. Founded in 1999 by Alexander J. Gallo, a former court reporter, the Debtors made

eighteen (18) acquisitions since 2003. The Debtors provided deposition services—which included traditional court reporting services nationwide—and also provided litigation support and consulting services, including document production, expert discovery, deposition transcripts, translation services and transcript processing. In addition, the Debtors provided litigation solutions to corporations and national law firms, with centralized litigation services and production. Services offered by the Debtors could be grouped into the following three lines of business:

- Deposition Services – Includes the scheduling of depositions, the provision of a facility for depositions, the assigning of certified reporters, videotaping of depositions, and the production of transcripts.
- Litigation Services – Includes the provision of electronic and paper-based discovery services.
- Software and Trial Presentation – Includes the provision of software solutions to aid companies in organizing their cases, including giving them the option to add audio, visual effects and trial services to assist clients with case strategy, development, trial presentation and software training.

The Debtors' client base consisted of over 12,500 local, regional and national law firms, as well as national corporate accounts with many Fortune 500 companies and accounts with insurance companies and governmental entities. Approximately 80% of the Debtors' revenue was derived from the top 2,500 (or 20% of) accounts.

The Debtors utilized a fully centralized production and data management model, which used proprietary, easy-to-use software and systems to provide clients with an integrated system and consistent, premium output of documents and presentations. All of the Debtors' services were technology driven and integrated. Through the Debtors' proprietary platform, clients and the Debtors could schedule and assign depositions, manage client accounts, track workflows, invoice jobs, pay court reporters, and review and edit documents.

As of the Petition Date, the Debtors employed six hundred twenty-one (621) active employees, approximately 343 of whom were salaried employees, and approximately 278 of whom were hourly employees. In addition to their employees, the Debtors also supplemented their workforce with approximately 880 independent contractors.

B. Organizational Structure of the Debtors.

Alexander Gallo Holdings, LLC (the "**Company**"), a Georgia limited liability company incorporated on January 26, 2006, is wholly owned by Peachtree Holdings, Inc. The Company is the sole owner of Unlimited Languages, Inc., AG/Sanction LLC and Set Depo, LLC. The Company is also a majority owner of the Hobart West Group, Inc. ("**HWG**"). Gallo Acquisition Corp., a nondebtor entity, is minority owner of HWG.

In turn, HWG is the sole owner of Deponet, LLC, Esquire Deposition Services, LLC, Esquire Litigation Solutions, LLC, Esquire Solutions, LLC, Hobart West Solutions, LLC and D-M Information Systems, Inc. The court reporting and litigation support services were provided

by the Debtors primarily through the Esquire trade name, with Esquire Deposition Services, LLC providing traditional court reporting services nationwide and other affiliates providing litigation support and consulting services nationwide.

The Company's board of directors is comprised of four (4) members, two (2) of whom have been designated to serve on the board by the holders of the AKKR Notes (as defined below), as provided in the Company's operating agreement.

C. The Debtors' Prepetition Capital Structure.

1. Senior Secured Debt.

Prior to the Petition Date, the Company entered into the Wells Credit Agreement with the Wells Lenders, as lenders, and the Wells Agent, as administrative agent. The Wells Credit Agreement provided for certain loans and other financial accommodations to the Company, including (a) a revolving credit facility in an aggregate amount of up to \$12 million with a \$4 million letter of credit sublimit, (b) a term credit facility in an aggregate amount of up to \$36 million, and (c) an uncommitted incremental term credit facility in an aggregate amount of up to \$20 million (up to \$14 million of which has been funded) (collectively, the "**Senior Credit Facility**"). The total amount outstanding under the Senior Credit Facility (not including the letter of credit obligations) as of July 31, 2011 was approximately \$46,953,193. As of July 31, 2011, the aggregate principal amount outstanding under the Wells Fargo letter of credit was approximately \$375,997. In addition, as of July 31, 2011, the Debtors had certain secondary obligations owing to Wells Fargo in the aggregate amount of approximately \$367,095 in connection with certain swap exposure and purchase card liabilities.

The Senior Credit Facility was the Company's senior secured obligation, was secured by substantially all of the Company's assets and guaranteed by each of its affiliate Debtors. The affiliate Debtors' guarantee obligations were secured by substantially all of the affiliate Debtors' assets.

Effective August 18, 2011, the Senior Credit Facility was amended pursuant to a Ninth Amendment to Credit Agreement and Forbearance Agreement to provide for, among other things, (i) the consent to the Debtors issuing additional Subordinate Secured Notes (as defined below) in an additional original principal amount not to exceed \$7 million, as described in more detail below, (ii) the deferment by the Wells Lenders of the receipt of certain principal payments under the Senior Credit Facility, and (iii) the forbearance by the Wells Lenders from exercising certain rights and remedies due to certain defaults under the Senior Credit Facility.

2. Subordinated Secured Debt.

The Company issued senior subordinated notes, due March 1, 2013, in favor of VSS Mezzanine Partners, L.P., as agent (the "**VSS Agent**"), and certain other lender parties, in the approximate aggregate amount of \$26,285,518 (the "**Subordinate Secured Notes**"). Prior to the Petition Date, the VSS Agent and certain other parties assigned and transferred to Grace Bay Holdings II, LLC, an affiliate of Bayside Capital, Inc., and certain other parties (the "**Subordinate Secured Noteholders**") all of their rights, interests and obligations with respect to the Subordinate Secured Notes and the various agreements and other documents related thereto.

On August 18, 2011, the Company issued to the Subordinate Secured Noteholders an aggregate \$7 million in principal amount of additional Subordinate Secured Notes in exchange for \$5 million in cash. The Debtors were in a dire cash position prior to the filing of these Chapter 11 Cases and, accordingly, the proceeds of this additional note issuance were necessary to fund the Debtors' business operations leading up to the filing of these cases. A principal amount of \$2 million of these additional notes were issued to the Subordinate Secured Noteholders as an amendment fee in consideration of the financing being provided to the Company. As of August 18, 2011, the outstanding aggregate principal amount of the Subordinate Secured Notes was approximately \$22,008,918.

The Subordinate Secured Notes constituted the Company's junior secured obligation, were secured by a second-priority lien on substantially all of the Company's assets and were guaranteed by each of its affiliate Debtors. The affiliate Debtors' guarantee obligations were secured by substantially all of the affiliate Debtors' assets. The Company's and the affiliate Debtors' obligations in connection with the Subordinate Secured Notes were contractually subordinated to the Senior Credit Facility pursuant to a certain Subordination and Standstill Agreement, dated as of November 30, 2007 (the "***Mezzanine Subordination Agreement***"), and a certain First Amended and Restated Subordination and Standstill Agreement, dated as of December 22, 2008 (the "***Junior Subordination Agreement***").

3. Unsecured Debt Obligations.

The Company issued a 10% unsecured subordinated note, due November 14, 2011, in favor of Legal Reprographics, Inc., the Beaver Family Trust and Steven Beaver, an individual (the "***Beaver Note***"). As of August 12, 2011, the outstanding aggregate principal amount of the Beaver Note was approximately \$377,727.25. The Beaver Note is an unsecured obligation of the Company and is not guaranteed by any of its affiliate Debtors.

The Company also issued a junior unsecured subordinated note, due November 30, 2013, in favor of Winston Noteholders, LLC (the "***Winston Note***"). As of July 31, 2011, the aggregate amount outstanding under the Winston Note was approximately \$33,025,426.42. The Company's obligations under the Winston Note are guaranteed by each of its affiliate Debtors. The Company's and the other Debtors' obligations in connection with the Winston Note are unsecured and contractually subordinated to the Senior Credit Facility and the Subordinate Secured Notes pursuant to the Junior Subordination Agreement.

In addition, the Company issued Tranche A and Tranche B junior unsecured subordinated notes, due November 30, 2013, in favor of Gallo Holdings, LLC, as note holder representative (the "***AKKR Notes***"). As of July 31, 2011, the outstanding aggregate principal amount of the Tranche A AKKR Notes was approximately \$62,516,076 and the outstanding aggregate principal amount of the Tranche B AKKR Notes was approximately \$85,422,258. The Company's obligations under the AKKR Notes are guaranteed by each of its affiliate Debtors. The Company's and the other Debtors' obligations in connection with the AKKR Notes are unsecured and contractually subordinated to the Senior Credit Facility, the Subordinate Secured Notes, and the Winston Note pursuant to the Junior Subordination Agreement.

D. Events Leading to These Chapter 11 Cases.

The Debtors' operating revenues and profitability declined due to macroeconomic difficulties encountered over the past few years. As the number of lawsuit filings and depositions decreased because of the economic downturn, law firms and corporations scaled back on outsourcing litigation support services, court reporting services, and trial software programs. As a result, the Debtors encountered a substantial decrease in cash flow. Revenues for the six month period ending June 30, 2011 were down 20.9% as compared to the same period in 2010.

In addition, the Company incurred significant additional debt obligations in connection with its acquisition of HWG in 2008, which was financed in part by the Senior Credit Facility and the issuance of the Winston Note and AKKR Notes. The Debtors' subsequent decrease in revenues combined with these increased debt obligations significantly impaired the Debtors' financial condition.

Given their financial situation, the Debtors implemented a number of restructuring initiatives prior to the commencement of these Chapter 11 Cases. First, the Debtors pursued growth and revenue enhancement opportunities that required minimal capital investment. Second, the Debtors implemented a cost cutting regime to reduce corporate overhead and improve operating cash flow and eliminated several operating space leases to reduce fixed overhead.

On May 10, 2011, the Debtors retained Gordian Group, LLC ("**Gordian Group**") as investment banker to, among other things, evaluate potential financial restructuring alternatives and assist in raising new or replacement capital. Since that time, the Debtors and Gordian Group (under the direction of the Debtors) undertook substantial efforts and have had active discussions and negotiations with third party investors and existing creditor constituencies in this respect.

As mentioned above, on August 18, 2011, the Company issued to the Subordinate Secured Noteholders an aggregate \$7 million in principal amount of additional Subordinate Secured Notes, the proceeds of which were used to fund the Debtors' business operations leading up to the filing of these Chapter 11 Cases. The Debtors' obligations in connection with these additional notes were secured by a second-priority lien on substantially all of the Company's assets and were contractually subordinated to the Senior Secured Debt pursuant to the Mezzanine Subordination Agreement and Junior Subordination Agreement.

In addition, as discussed above, in connection with the issuance of the additional Subordinate Secured Notes, effective August 18, 2011, the Senior Credit Facility was amended pursuant to a Ninth Amendment to Credit Agreement and Forbearance Agreement to provide for, among other things, (i) the consent to the Debtors issuing additional Subordinate Secured Notes in an additional original principal amount not to exceed \$7 million, (ii) the deferment by the Wells Lenders of the receipt of certain principal payments under the Senior Credit Facility, and (iii) the forbearance by the Wells Lenders from exercising certain rights and remedies due to certain defaults under the Senior Credit Facility.

Further, effective August 1, 2011, the Debtors retained Carl Marks Advisory Group LLC

(“**CMAG**”) as Chief Restructuring Advisor to provide cash management and financial advisory services and to advise the Debtors in connection with their restructuring efforts. The engagement agreement between the Debtors and CMAG provides for CMAG or an individual employed at CMAG to serve as Chief Restructuring Officer for the Debtors following any chapter 11 bankruptcy filing, subject to Bankruptcy Court approval. As discussed below, the Bankruptcy Court entered an order authorizing the Debtors to employ and retain Marc L. Pfefferle of CMAG as the Chief Restructuring Officer (the “**CRO**”), along with such personnel of CMAG as are necessary to assist the CRO in the performance of his duties.

Notwithstanding these efforts, the Debtors’ financial condition rendered them unable to meet their obligations to creditors as they came due. Prior to the Petition Date, the Debtors negotiated with various parties in interest regarding various restructuring options, and determined that the commencement of these Chapter 11 Cases and a sale of all or substantially all of their assets pursuant to a Bankruptcy Code section 363 sale process would maximize value for the estates and would be in the best interest of all parties. Accordingly, the Debtors commenced the Chapter 11 Cases in order to, among other thing, (i) effectuate a sale of substantially all of their assets pursuant to Bankruptcy Code section 363, (ii) avoid further deterioration of the Debtors’ business, (iii) maximize value for distributions to creditors, and (iv) allow for the assumption and assignment of certain executory contracts and unexpired leases.

III. ADMINISTRATION OF THE DEBTORS’ CHAPTER 11 CASES

A. Bankruptcy Filing, First Day Motions, and Certain Related Relief.

The Debtors commenced the Chapter 11 Cases on September 7, 2011 (the “**Petition Date**”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors are considered debtors in possession pursuant to Bankruptcy Code section 1107(a) and 1108.

After filing the chapter 11 petitions, the Debtors filed various motions and other pleadings seeking entry of interim and/or final orders granting various relief. Following hearings on these motions and pleadings, the Bankruptcy Court entered orders, among other things:

- (i) authorizing the joint administration of the Debtors’ Chapter 11 Cases,
- (ii) authorizing the Debtors to file a consolidated list of unsecured creditors,
- (iii) extending the time to file the schedules of assets and liabilities and statements of financial affairs through October 10, 2011,
- (iv) establishing notice, case management, and administrative procedures,
- (v) authorizing the Debtors to retain Kurtzman Carson Consultants LLC as claims and noticing agent in the Chapter 11 Cases,
- (vi) authorizing the Debtors to maintain and use their existing bank accounts, business forms, and cash management system,

- (vii) prohibiting utilities from altering, refusing, or discontinuing service to the Debtors on account of prepetition invoices,
- (viii) authorizing the Debtors to pay certain prepetition taxes and fees,
- (ix) authorizing the Debtors to pay certain prepetition obligations owing on account of wages, compensation, and employee benefits,
- (x) authorizing the Debtors to honor certain prepetition customer obligations and continue customer programs in the ordinary course of business,
- (xi) authorizing the Debtors to pay certain obligations in connection with works in process,
- (xii) authorizing the Debtors to assume certain preferred provider network agreements,
- (xiii) authorizing the Debtors to pay certain prepetition claims of critical vendors, and
- (xiv) approving the rejection of certain unexpired real property leases *nunc pro tunc* to the Petition Date.

B. Retention and Employment of Professionals.

During the Chapter 11 Cases, the Debtors sought and obtained authority to retain and employ the following Professionals to assist in the administration of the Debtors' Chapter 11 Cases: (i) DLA Piper LLP (US), as primary bankruptcy counsel to the Debtors; (ii) Squire, Sanders & Dempsey, as special corporate counsel to the Debtors; (iii) Gordian Group, LLC, as investment bankers to the Debtors; (iv) Carl Marks Advisory Group LLC, as Chief Restructuring Officer for the Debtors; (v) Sitrick and Company, as corporate communications consultants to the Debtors; (vi) KPMG LLP, as tax compliance and tax consultants to the Debtors; and (vii) Kurtzman Carson Consultants, as claims and noticing agent to the Debtors. The Bankruptcy Court also entered an order authorizing the Debtors to employ and retain various professionals utilized by the Debtors in the ordinary course of business.

C. Appointment of Creditors Committee.

On September 15, 2011, the United States Trustee for the Southern District of New York appointed a three-member statutory committee of unsecured creditors to represent the interests of unsecured creditors of the Debtors pursuant to section 1102(a)(1) of the Bankruptcy Code (the "**Creditors Committee**"). The following entities were appointed to the Creditors Committee: (i) Aptara, Inc., (ii) Receivable Management Services, and (iii) Harvest Equity Partners, as Agent for Winston Noteholders, LLC.

Following its formation, the Creditors Committee sought and obtained authority to retain the law firm of Cooley LLP as its counsel in these Chapter 11 Cases. On November 16, 2011, the Creditors Committee retained CBIZ MHM LLC as its financial advisor.

D. Schedules and Statements

On September 12, 2011, the Bankruptcy Court entered an order granting the Debtors an extension until September 30, 2011 to file their schedules of assets and liabilities and statements of financial affairs (collectively, the “**Schedules**”). On September 27, 2011, the Bankruptcy Court entered an order granting the Debtors a further extension of the time to file their Schedules through October 10, 2011. On October 10, 2011, the Debtors’ filed their respective Schedules.

E. Postpetition Debtor in Possession Financing Facility.

Prior to the Petition Date, in connection with the Debtors’ restructuring efforts, the Debtors, Gordian Group (under the direction of the Debtors) and their other advisors contacted approximately thirty-seven (37) institutions to determine whether they were interested in providing financing to the Debtors. Approximately thirty-one (31) of those institutions received an information memorandum and/or nondisclosure agreement from the Debtors, and approximately twenty-four (24) executed a nondisclosure agreement and received an information package regarding the Debtors.

Of the thirty-seven institutions that were contacted, five (5) submitted term sheets to the Debtors and their advisors regarding financing and/or an investment in the Debtors, including Bayside and certain other lender parties (the “**Bayside DIP Lenders**”). The Debtors and their advisors reviewed these term sheets and engaged in extensive negotiations with these parties in an effort to obtain financing on the best possible terms.

After careful consideration, the Debtors ultimately decided that the proposal for debtor in possession financing advanced by the Bayside DIP Lenders was the best available under the circumstances and adequately addressed the Debtors’ reasonably foreseeable working capital needs. The Debtors reached a deal on the Bayside DIP Facility with the Bayside DIP Agent and the Bayside DIP Lenders whereby the Bayside DIP Lenders agreed to provide postpetition financing to certain of the Debtors (identified in the Bayside DIP Facility as the “**Borrowers**”) in the form of a revolving credit facility in the principal amount of up to \$20 million at any one time outstanding.

On September 14, 2011, the Bankruptcy Court entered an interim order approving the Bayside DIP Facility on an interim basis, and authorizing the Debtors to borrow up to \$3.5 million thereunder. On October 6, 2011, the Bankruptcy Court entered a final order approving the Bayside DIP Facility and authorizing the Debtors to borrow up to \$20 million thereunder. The final order approving the Bayside DIP Facility incorporated changes requested by various parties, including the Creditors Committee.

The Bayside DIP Facility is subordinate and subject to the Senior Credit Facility as described below. The proceeds of the Bayside DIP Facility were used by the Borrowers for the purpose of funding the Debtors’ costs and expenses associated with the Chapter 11 Cases and to provide for the Debtors’ postpetition operating expenses and working capital needs during these

Chapter 11 Cases, all in accordance with a certain budget.

The Bayside DIP Facility is secured by (i) a perfected first priority lien and security interest on all prepetition and postpetition property of the Debtors and their respective estates that, as of the Petition Date, was not subject to any valid, perfected, and non-avoidable liens, and (ii) a perfected second priority lien and security interest, subject to a carve-out and the liens and security interests of the Wells Agent and Wells Lenders under the Senior Credit Facility, on all prepetition and postpetition property of the Debtors and their respective estates (other than property described in clause (i) above), all as described more fully in the Bayside DIP Facility.

The Bayside DIP Facility was provided in connection with a certain stalking horse asset purchase agreement between the Debtors and an affiliate of Bayside, and contained certain milestones in connection with the sale of substantially all of the Debtors' assets. These milestones required the Debtors to, among other things, (i) conduct an auction for the sale of substantially all of their assets on or before November 7, 2011, (ii) obtain entry of an order approving the sale of substantially all of the Debtors' assets on or before November 8, 2011, and (iii) consummate a sale for substantially all of the Debtors' assets on or before November 23, 2011.

F. Stipulation for Use of Cash Collateral.

On September 27, 2011, the Bankruptcy Court entered a final order approving a certain stipulation (the "**Cash Collateral Stipulation**") by and between the Debtors and the Wells Agent regarding, among other things, the use of cash collateral and the continued use of purchase cards issued by Wells Fargo to the Debtors. Pursuant to the Cash Collateral Stipulation, the parties agreed that the Debtors would be authorized to use the Wells Agent's cash collateral and certain purchase cards during the Chapter 11 Cases in accordance with a certain budget. As adequate protection, the Wells Agent was granted replacement liens on all of the Debtors' assets.

G. Section 363 Sale.

On September 15, 2011, the Debtors filed a motion (the "**Sale Motion**") with the Bankruptcy Court seeking entry of an order (i) authorizing and approving the sale of substantially all of the Debtors' assets free and clear of all liens, claims, encumbrances, and other interests, (ii) approving certain auction and bidding procedures in connection with the sale of substantially all of the Debtors' assets, (iii) authorizing the Debtors to enter into a stalking horse purchase agreement and approving certain stalking horse protections, (iv) approving certain procedures related to the assumption and assignment of executory contracts and unexpired leases, (v) scheduling an auction and sale approval hearing, (vi) approving the form and manner of sale notice, and (vii) granting related relief.

On September 23, 2011, the Creditors Committee filed an objection to the Debtors' Sale Motion requesting, among other things, additional time to market the assets to potential strategic bidders who might provide an alternative stalking horse offer to purchase the Debtors' assets. In addition, the Creditors Committee's objection requested various substantive changes to the bidding procedures to ensure active participation in the sale process by the Creditors Committee on behalf of unsecured creditors. Finally, the Creditors Committee objected to the fees and other protections that the Debtors proposed to grant to the proposed stalking horse bidder.

On October 6, 2011, after a compromise among the Debtors, the Creditors Committee and the proposed stalking horse bidder that gave the parties additional time to solicit alternative stalking horse bids, the Bankruptcy Court entered an order on the Sale Motion (the “***Bid Procedures Order***”) (i) approving certain auction and bidding procedures in connection with the sale of substantially all of the Debtors’ assets, (ii) authorizing the Debtors to enter into a stalking horse purchase agreement and approving certain stalking horse protections, (iii) approving certain procedures related to the assumption and assignment of executory contracts and unexpired leases, (iv) scheduling an auction and sale approval hearing, (v) approving the form and manner of sale notice, and (vi) granting related relief.

Pursuant to the Bid Procedures Order, bids with respect to the sale of substantially all of the Debtors’ assets were required to be submitted by November 4, 2011. In addition, an auction was scheduled for November 7, 2011, and a sale hearing was scheduled for November 8, 2011.

On November 4, 2011, the Creditors Committee filed an objection (the “***Sale Objection***”) to the proposed sale of the Debtors’ assets because the sale, as proposed, included, *inter alia*, the transfer and release of certain potential causes of action against the Debtors’ chief executive officer, Alexander Gallo, and chief financial officer, Andrew Sims. Prior to filing its objection, the Creditors Committee engaged in an investigation of the Debtors’ prepetition financial activity, including transfers to Alexander Gallo and Andrew Sims. Based on its initial investigation, the Creditors Committee determined that it needed additional time to investigate potential causes of action against Alexander Gallo and Andrew Sims, and therefore those potential causes of action could not be sold with the Debtors’ other assets.

No bids were received by the Debtors on or before the bid deadline and, accordingly, the Purchaser was named the successful bidder. A hearing was held on November 8, 2011 to approve the Sale to the Purchaser and, on November 10, 2011, the Bankruptcy Court entered an order approving the Sale, which order, as a result of the Creditors Committee’s objection, expressly retained for the benefit of the Debtors’ estates the potential causes of action against Alexander Gallo and Andrew Sims (the “***Insider Actions***,” and together with all other potential avoidance actions preserved by the Debtors’ estates, the “***Preserved Actions***”). For the avoidance of doubt, the term “Preserved Actions” includes all of the potential causes of action of the Debtors’ under chapter 5 of the Bankruptcy Code which have not been sold to the Purchaser. In accordance with the terms of the Asset Purchase Agreement, the Sale closed on November 23, 2011. At closing, a reserve was funded in an amount that the Debtors’ believe is sufficient to satisfy all Allowed Other Secured Claims, Priority Tax Claims, Administrative Expense Claims, including budgeted professionals’ fees, and to fund a wind-down budget, such that savings from the wind-down budget, if any, and recoveries from Preserved Actions will inure to the benefit of the Holders of Allowed General Unsecured Claims.

Prior to the entry of the order approving the Sale, the Debtors filed and served several notices of potential assumption and assignment of executory contracts and unexpired leases. On November 17, 2011, the Bankruptcy Court entered an order, among other things, authorizing the Debtors to assume and assign various executory contracts and unexpired leases to the Purchaser.

H. Creditors Committee Investigation of Insider Actions

Prior to the approval of the Sale, the Creditors Committee engaged in an initial investigation of the prepetition financial activities of the Debtors. In connection with this investigation, the Committee served a document and information request on the Debtors on September 16, 2011. The Debtors provided the Creditors Committee with partial responses to the document and information request on a rolling basis.

In addition, the Creditors Committee filed a motion pursuant to Federal Rule of Bankruptcy Procedure 2004 (the “**2004 Motion**”) to compel the Debtors to produce documents and information responsive to the Creditors Committee’s remaining requests. The Debtors and the Creditors Committee entered into a stipulated order requiring the production of certain documents and information by a certain deadline. The Creditors Committee’s review of the produced documents and information prompted additional requests, which were served on the Debtors, Alexander Gallo and Andrew Sims on November 21, 2011.

The information received by the Creditors Committee indicated that Alexander Gallo received more than \$12 million in non-salary transfers during the four-year period prior to the Petition Date and Andrew Sims received slightly less than \$1 million in non-salary transfers during such period. The Creditors Committee determined that these transfers required further investigation, and accordingly, directed counsel to file the Sale Objection, which contained specific objections to the proposed sale and release of potential causes of action to recover transfers made to Alexander Gallo and Andrew Sims. Consistent with the Creditors Committee’s Sale Objection, the order approving the Sale specifically retains the Insider Actions for the benefit of the Debtors’ estates. The Creditors Committee has engaged a financial advisor to continue its investigation into the Insider Actions. The Creditors Committee’s financial advisor is engaged in a thorough investigation of any and all potential causes of action that could bring additional funds into the Debtors’ Estates for the benefit of the Holders of Allowed General Unsecured Claims. The Preserved Actions, including the Insider Actions, will be transferred to the Liquidating Trust on the Effective Date for continued review and pursuit consistent with the terms of the Liquidating Trust Agreement. The Preserved Actions, in addition to any savings from the wind-down budget, represent the only sources of potential recovery for the Holders of Allowed General Unsecured Claims.

I. Exclusivity.

Under the Bankruptcy Code, a debtor has the exclusive right to file a plan or plans of reorganization for an initial period of 120 days from the date on which the debtor filed a petition for voluntary relief (which may be extended by the Court for a period of up to 18 months from the petition date). If a debtor files a plan within this exclusive period, then the debtor has the exclusive right for 180 days from the petition date to solicit acceptances to the plan (which may be extended by the Court for a period of up to 20 months from the petition date). During a debtor’s exclusive periods, no other party in interest may file a competing chapter 11 plan; however, a court may terminate the debtor’s exclusive periods upon request of a party in interest and “for cause.” The Debtors filed the Plan and Disclosure Statement within the initial exclusivity period.

IV. SUMMARY OF THE DEBTORS' JOINT CHAPTER 11 PLAN OF LIQUIDATION

A. Treatment of Claims and Interests Under the Plan.

1. Classification and Treatment of Claims.

The following table designates the Classes of Claims against and Interests in the Debtors' Estates, and specifies which of those Classes are (i) Impaired or Unimpaired by the Plan, (ii) entitled to vote to accept the Plan in accordance with section 1126 of the Bankruptcy Code, (iii) deemed to reject the Plan, or (iv) deemed to accept the Plan. A Claim or Interest is classified in a particular Class only to the extent that any such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released, settled or otherwise satisfied prior to the Effective Date.

Class	Description	Treatment	Entitled to Vote
---	United States Trustee Fees	Payment in full	No
---	Administrative Expense Claims	Payment in full	No
---	Compensation and Reimbursement Claims	Payment in full	No
---	Priority Tax Claims	Payment in full	No
---	Bayside DIP Facility Claims	Satisfied in full	No
1	Other Priority Claims	Unimpaired	No (deemed to accept)
2	Secured Tax Claims	Unimpaired	No (deemed to accept)
3	Senior Secured Wells Claims	Unimpaired	No (deemed to accept)
4	Subordinate Secured Note Claims	Unimpaired	No (deemed to accept)
5	Other Secured Claims	Unimpaired	No (deemed to accept)
6	General Unsecured	Impaired	Yes

	Claims		
7	Subordinated 510(b) Claims	Impaired	No (deemed to reject)
8	Equity Interests	Impaired	No (deemed to reject)

2. Treatment of Unclassified Claims Under the Plan.

i. Administrative Expense Claims.

Except to the extent that a Holder of an Allowed Administrative Expense Claim agrees with the Debtors or the Liquidating Trustee to a different treatment or has been paid by any applicable Debtor prior to the Effective Date from the Sale Proceeds or otherwise, each Holder of an Allowed Administrative Expense Claim will be paid the full unpaid amount of such Allowed Administrative Expense Claim in Cash (a) on the Effective Date or as soon thereafter as is reasonably practicable or, if not then due, when such Allowed Administrative Expense Claim is due or as soon thereafter as is reasonably practicable, (b) if an Administrative Expense Claim is Allowed after the Effective Date, on the date such Administrative Expense Claim is Allowed or as soon thereafter as is reasonably practicable or, if not then due, when such Allowed Administrative Expense Claim is due, (c) at such time and upon such terms as may be agreed upon by such Holder and the Debtors or the Liquidating Trustee, as the case may be, or (d) at such time and upon such terms as set forth in an order of the Bankruptcy Court; provided, however, that Administrative Expense Claims that have been assumed by the Purchaser pursuant to the Asset Purchase Agreement shall not be an obligation of the Debtors; provided further that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors, as Debtors in Possession, or liabilities arising under obligations incurred by the Debtors, as Debtors in Possession, in accordance with the Debtors' wind-down budget and to the extent such obligations have not been assumed by the Purchaser, shall be paid by the Debtors, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to such transactions. For the avoidance of doubt, all postpetition tax claims of governmental units have been assumed by the Purchaser and, therefore, do not constitute obligations of the Debtors.

The Holder of an Administrative Expense Claim, other than (i) a Compensation and Reimbursement Claim, (ii) a liability incurred but not yet due and payable in the ordinary course of business by a Debtor until after the thirtieth (30th) day after the Effective Date, (iii) an Administrative Expense Claim that has been Allowed on or before the Effective Date, (iv) an expense or liability incurred in the ordinary course of business on or after the Effective Date, or (v) fees of the United States Trustee arising under 28 U.S.C. § 1930 and any applicable interest thereon, must file with the Bankruptcy Court and serve on the Debtors, the Liquidating Trustee, and the Office of the United States Trustee, a request for payment of such Administrative

Expense Claim so as to be received on or before the Administrative Expense Claim Bar Date. Failure to file and serve such request for payment timely and properly shall result in the Administrative Expense Claim being forever barred and discharged. The Debtors estimate that the aggregate amount of Allowed Administrative Expense Claims to be paid between the date hereof and the Effective Date will not exceed \$300,000.²

ii. Compensation and Reimbursement Claims.

All parties seeking payment of Compensation and Reimbursement Claims (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is forty-five (45) days after the Plan Confirmation Date, (ii) shall be paid in full in such amounts as are allowed by the Bankruptcy Court (a) upon the later of (i) the Effective Date, (ii) the date upon which the order relating to any such Allowed Compensation and Reimbursement Claim is entered, or (b) upon such other terms as may be mutually agreed upon between the Holder of such an Allowed Compensation and Reimbursement Claim and the Debtors or Liquidating Trustee, as the case may be.

The Debtors are authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Plan Confirmation Date and until the Effective Date in the ordinary course and without the need for Bankruptcy Court approval, subject to the requirement that invoices evidencing the amount sought will be distributed to those parties set forth in the Order Pursuant to Sections 105(a) and 331 of the Bankruptcy Code and Rule 2016 of the Federal Rules of Bankruptcy Procedure Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals (Dkt. No. 196) and payment shall be governed by such order, except for the provisions related to the 20% holdback. The Debtors estimate that an aggregate amount of approximately \$4.3 million in Allowed Compensation and Reimbursement Claims have been paid during these Chapter 11 Cases or will be paid in accordance with the Plan.

iii. Priority Tax Claims.

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees with the Debtors or the Liquidating Trustee to a different treatment or has been paid by any applicable Debtor prior to the Effective Date from the Sale Proceeds or otherwise, in full and final satisfaction, settlement, release, and discharge of and in exchange for release of each Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall receive on account of such Claim, in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, regular installment payments in Cash over a period ending not later than five (5) years after the Petition Date of a total value, as of the Effective Date, equal to the Allowed amount of such Priority Tax Claim. The Debtors reserve the right to prepay at any time under this option.

² The Debtors estimate that fees of the United States Trustee arising under 28 U.S.C. § 1930 and any applicable interest thereon remaining to be paid during these Chapter 11 Cases will be approximately \$50,000. In addition, the estimate of Allowed Administrative Expense Claims does not include any Allowed Compensation and Reimbursement Claims.

All Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business as such obligations become due. Any Claims asserted by a governmental unit on account of any penalties and assessments shall not be Priority Tax Claims and shall be subordinated to General Unsecured Claims. On the Effective Date, any Liens securing any Allowed Priority Tax Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person. The Debtors estimate that an aggregate amount of approximately \$1.44 million or less in Allowed Priority Tax Claims will be paid during these Chapter 11 Cases in accordance with the Plan.

iv. Bayside DIP Facility Claims.

Pursuant to the Asset Purchase Agreement and Sale, the Purchaser credit bid the full amount of the Bayside DIP Facility Claims, in an amount equal to approximately \$8.1 million, towards the purchase price of the Purchased Assets. Accordingly, the Bayside DIP Facility Claims have been fully and finally satisfied, settled, released, and discharged, and Holders of Bayside DIP Facility Claims will not receive any Distribution on account of such Bayside DIP Facility Claims pursuant to the Plan.

3. Treatment of Classified Claims and Interests Under the Plan.

i. Other Priority Claims (Class 1).

Except to the extent that a Holder of an Allowed Other Priority Claim has agreed with the Debtors or the Liquidating Trustee to a different treatment of such Claim, and only to the extent that any such Allowed Other Priority Claim has not been paid in full prior to the Effective Date from the Sale Proceeds or otherwise, each such Holder shall receive, in full satisfaction of such Allowed Other Priority Claim, Cash in an amount equal to such Allowed Other Priority Claim, on or as soon as reasonably practicable after the later of (i) the Effective Date; (ii) the date the Other Priority Claim becomes an Allowed Claim; or (iii) the date for payment provided by any agreement or arrangement between the Debtors or Liquidating Trustee, as the case may be, and the Holder of the Allowed Other Priority Claim. The Debtors do not anticipate that there will be any Allowed Other Priority Claims.

Class 1 is Unimpaired and is deemed to accept the Plan.

ii. Secured Tax Claims (Class 2).

On the Effective Date or as soon thereafter as is reasonably practicable, and only to the extent that any such Allowed Secured Tax Claim has not been paid in full prior to the Effective Date from the Sale Proceeds or otherwise, each Holder of an Allowed Secured Tax Claim shall receive, at the option of the Debtors or the Liquidating Trustee, (i) the proceeds of the sale or disposition of the collateral securing such Allowed Secured Tax Claim to the extent of the value of the Holder's secured interest in the Allowed Secured Tax Claim, (ii) such treatment that leaves unaltered the legal, equitable, and contractual rights to which the holder of such Allowed Secured Tax Claim is entitled, or (iii) such other Distribution as necessary to satisfy the requirements of the Bankruptcy Code.

In the event the Debtors or the Liquidating Trustee treat a Claim under clause (i) of Section 4.2 of the Plan, the Liens securing such Allowed Secured Tax Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person. The Debtors and the Liquidating Trustee specifically reserve the right to challenge the validity, nature, and perfection of, and to avoid pursuant to the provisions of the Bankruptcy Code and other applicable law, any purported Liens relating to the Secured Tax Claims. The Debtors do not anticipate that there will be any Allowed Secured Tax Claims.

Class 2 is Unimpaired and is deemed to accept the Plan.

iii. Senior Secured Wells Claims (Class 3).

Except to the extent that a Holder of an Allowed Senior Secured Wells Claim has agreed with the Debtors to a different treatment of such Claim, and only to the extent that any such Allowed Senior Secured Wells Claim has not been paid in full prior to the Effective Date from the Sale Proceeds or otherwise, in full and final satisfaction, settlement, release, and discharge of each Allowed Senior Secured Wells Claim, each such Holder shall be paid in full in Cash on the Effective Date or as soon thereafter as is reasonably practicable. Upon such payment, the Liens securing such Allowed Senior Secured Wells Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person. Holders of Allowed Senior Secured Wells Claims have received payments in the amount of approximately \$47.8 million from the Sale Proceeds.

Class 3 is Unimpaired and is deemed to accept the Plan.

iv. Subordinate Secured Note Claims (Class 4).

Pursuant to the Asset Purchase Agreement and Sale, the Purchaser credit bid the full amount of the Subordinate Secured Note Claims, in the amount of approximately \$23.2 million, towards the purchase price of the Purchased Assets. Accordingly, the Subordinate Secured Note Claims have been fully and finally satisfied, settled, released, and discharged, and Holders of Subordinate Secured Note Claims will not receive any Distribution on account of such Subordinate Secured Note Claims pursuant to the Plan.

Class 4 is Unimpaired and is deemed to accept the Plan.

v. Other Secured Claims (Class 5).

Except to the extent that a Holder of an Allowed Other Secured Claim has agreed with the Debtors or the Liquidating Trustee to a different treatment of such Claim, and only to the extent that any such Allowed Other Secured Claim has not been paid in full prior to the Effective Date from the Sale Proceeds or otherwise, in full and final satisfaction, settlement, release, and discharge of each Allowed Other Secured Claim, each such Holder, at the option of the Debtors, shall (i) be paid in full in Cash, (ii) receive the collateral securing its Allowed Other Secured Claim, plus post-petition interest to the extent required under section 506(b) of the Bankruptcy

Code, or (iii) receive other treatment rendering such Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code, in each case on the later of the Effective Date and the date such Other Secured Claim becomes an Allowed Other Secured Claim, or as soon thereafter as is reasonably practicable. In the event the Debtors or the Liquidating Trustee treat a Claim under clause (i) of this Section, the Liens securing such Allowed Other Secured Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person. The Debtors and the Liquidating Trustee specifically reserve the right to challenge the validity, nature, and perfection of, and to avoid pursuant to the provisions of the Bankruptcy Code and other applicable law, any purported Liens relating to the Other Secured Claims.

If an Allowed Other Secured Claim exceeds the value of the collateral that secures such Allowed Other Secured Claim, the Holder of such Allowed Other Secured Claim will have a General Unsecured Claim for the deficiency. The Debtors do not anticipate that there will be any Allowed Other Secured Claims.

Class 5 is Unimpaired and is deemed to accept the Plan.

vi. General Unsecured Claims (Class 6).

Except to the extent that a Holder of an Allowed General Unsecured Claim has agreed to a different treatment of such Claim, and only to the extent that any such Allowed General Unsecured Claim has not been paid by any applicable Debtor prior to the Effective Date from the Sale Proceeds or otherwise, in full and final satisfaction, settlement, release, and discharge of each Allowed General Unsecured Claim, each Holder of an Allowed General Unsecured Claim will receive on account of such Allowed General Unsecured Claim such Holder's Pro Rata Share of the proceeds of the Liquidating Trust Assets, including, but not limited to the proceeds of the Preserved Actions, until all Allowed General Unsecured Claims are paid in full or the Liquidating Trust Assets are exhausted; provided, however, that no portion of the Administrative and Priority Claims Reserve or the Plan Expenses Reserve shall be used for payment of any Allowed General Unsecured Claims until all Allowed Administrative Expense Claims, Allowed Compensation and Reimbursement Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, Allowed Secured Tax Claims, Allowed Other Secured Claims, and Plan Expenses have been paid or otherwise satisfied in full in accordance with the Plan. As of the date hereof, an aggregate amount of approximately \$215 million in General Unsecured Claims has been either scheduled by the Debtors or asserted against the Estates.³ This amount includes AKKR Noteholder Claims in the aggregate amount of approximately \$143 million. However, by letter filed with the Bankruptcy Court dated December 28, 2011 (Docket No. 370), after discussions with and in consultation with the Creditors Committee, Holders of AKKR

³ This figure does not account for cure payments made to counterparties of contracts and leases assumed and assigned to the Purchaser in these Chapter 11 Cases. Accordingly, remaining General Unsecured Claims against the Estates may be substantially lower than this amount.

Noteholder Claims waived, released, abandoned, and discharged the AKKR Noteholder Claims. Of the approximately \$72 million in remaining General Unsecured Claims either scheduled by the Debtors or asserted against the Estates, approximately \$33,025,426.42 (or 46%) is held by Winston Noteholders, LLC.

Class 6 is Impaired and is entitled to vote to accept or reject the Plan. Any recovery under the Plan to Holders of Allowed General Unsecured Claims is contingent upon the continued investigative efforts of the Creditors Committee, and any recoveries by the Liquidating Trust on account of the Insider Actions and other Avoidance Actions transferred to the Liquidating Trust. It is impossible to estimate at this time the amount, if any, of any recoveries by the Liquidating Trust.

vii. Subordinated 510(b) Claims (Class 7).

Each Holder of Subordinated 510(b) Claim will not receive any Distribution on account of such Subordinated 510(b) Claim, and each such Holder of a Subordinated 510(b) Claim shall not receive or retain an interest in the Debtors, the Liquidating Trust, the Estates, or other property or interests of the Debtors or Liquidating Trust on account of such Subordinated 510(b) Claim. The Debtors do not anticipate that there will be any Subordinated 510(b) Claims.

Class 7 is Impaired and is deemed to reject the Plan.

viii. Equity Interests (Class 8).

Each Holder of an Equity Interest in any Debtor will not receive any Distribution on account of such Equity Interest. Each such Equity Interest shall not receive or retain an interest in the Debtors, the Liquidating Trust, the Estates, or other property or interests of the Debtors or Liquidating Trust on account of such Equity Interests. Each such Equity Interest will be cancelled as of the Effective Date.

Class 8 is Impaired and is deemed to reject the Plan.

B. Voting Procedures and Requirements.

Please refer to information provided with the ballot in the Solicitation Package sent to you by the Voting Agent for further detailed voting instructions. Only Impaired Classes of Claims are entitled to vote to accept or reject the Plan. Please refer to Section 3 of the Plan and Article IV of the Plan for estimated recovery for Impaired Classes. If the Claim or Claims you hold are not in one of those Classes, you are not entitled to vote on the Plan and, thus you will not receive a ballot from the Voting Agent. Holders of Claims that are entitled to vote should read the ballot provided by the Voting Agent and follow the accompanying instructions carefully.

ANY QUESTIONS CONCERNING THE BALLOT OR ANY OTHER CONTENTS OF THE SOLICITATION PACKAGE SHOULD BE DIRECTED TO THE VOTING AGENT AT (877) 606-7502 OR VIA EMAIL AT AGHInfo@kcclcc.com.

1. Vote Required for Acceptance by a Class.

A Class of Claims entitled to vote to accept or reject the Plan shall be deemed to accept the Plan if the Holders of Claims in such voting Class that hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Claims that vote in such Class vote to accept the Plan. A Class of Interests is deemed to accept the Plan if the Plan has been accepted by Holders of at least 2/3 of the amount of the Allowed Interests held by Holders of such Interests in who vote in such Class. Classes 1, 2, 3, 4, and 5 are Unimpaired under the Plan and are, therefore, conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

2. Impaired Classes of Claims Entitled to Vote.

Pursuant to section 1126 of the Bankruptcy Code, each Impaired Class of Claims or Interests that will receive a Distribution pursuant to the Plan may vote separately to accept or reject the Plan. Each Holder of an Allowed Claim in such an Impaired Class as of the Voting Record Date shall receive a ballot and may cast a vote to accept or reject the Plan.

Classes 7 and 8 are not entitled to receive or retain any Distributions or property under the Plan and are, therefore, conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Class 6 is Impaired and is the only Class of Claims or Interests entitled to vote on the Plan.

3. Claims and Interests Not Entitled to Vote.

Holders of Claims are not entitled to vote if, as of the Voting Record Date, the Claim (a) has been disallowed, (b) is the subject of a pending objection, or (c) (i) was not listed on the Debtors' Schedules or was listed on the Debtors' Schedules as unliquidated, contingent or disputed, and (ii) a Proof of Claim was not filed or was filed for an unliquidated, contingent or disputed claim, unless on or before the Voting Record Date the Bankruptcy Court enters a Final Order directing otherwise. However, if a Claim is disallowed in part, the Holder shall be entitled to vote the Allowed portion of the Claim.

4. Voting Procedures.

The Voting Agent will facilitate the solicitation and voting process. If you have any questions regarding voting procedures and your eligibility to vote to accept or reject the Plan or if you need additional copies of documents included in the Solicitation Package, please contact the Voting Agent at Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245.

BALLOTS CAST BY HOLDERS OF CLAIMS AND/OR INTERESTS ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN MUST BE ACTUALLY RECEIVED BY THE VOTING AGENT AT THE ABOVE ADDRESS BY THE VOTING DEADLINE. THE DEBTORS RESERVE THE RIGHT TO DECIDE WHETHER OR NOT TO

COUNT BALLOTS RECEIVED BY THE VOTING AGENT AFTER THE VOTING DEADLINE.

Please note that if the instructions on your ballot require you to return the ballot to your agent, financial institution, broker, or other nominee, or to their agent, you must deliver your ballot to the relevant party in sufficient time for the designated party to process the ballot and return it to the Voting Agent before the Voting Deadline. If a ballot is damaged or lost, you may contact the Voting Agent to request another ballot. Any ballot received by the Voting Agent which does not indicate an acceptance or rejection of the Plan will not be counted.

C. Means for Implementation of the Plan.

1. Limited Substantive Consolidation.

The Plan provides for the limited substantive consolidation of the Debtors' Estates, but solely for the purposes of the Plan, including voting on the Plan by the Holders of Claims and making any Distributions to Holders of Claims. The Debtors propose limited substantive consolidation to avoid the inefficiency of proposing and voting in respect of entity-specific Claims and Interests for which there would be no impact on distributions. On the Effective Date, (i) all assets and liabilities of the Debtors will, solely for voting and Distribution purposes, be treated as if they were merged, (ii) each Claim against the Debtors will be deemed a single Claim against and a single obligation of the Debtors, (iii) any Claims filed or to be filed in the Chapter 11 Cases will be deemed single Claims against all of the Debtors, (iv) all guarantees of any Debtor of the payment, performance, or collection of obligations of any other Debtor shall be eliminated and canceled, (v) all transfers, disbursements and Distributions on account of Claims made by or on behalf of any Debtor under the Plan will be deemed to be made by or on behalf of all of the Debtors, and (vi) any obligation of the Debtors as to Claims will be deemed to be one obligation of all of the Debtors.

Holders of Allowed Claims entitled to Distributions under the Plan shall be entitled to their share of assets available for Distribution to such Claim without regard to which Debtor was originally liable for such Claim. Except as set forth in the Plan, such limited substantive consolidation shall not (other than for purposes related to the Plan) affect the legal and corporate structures of the Debtors.

2. Corporate Action.

a. Transfer of Assets and Assumption of Liabilities.

On the Effective Date, (i) the Debtors shall, in accordance with the Plan, cause the Liquidating Trust Assets to be transferred to the Liquidating Trust and (ii) the Liquidating Trust shall assume all obligations of the Debtors under the Plan.

b. Dissolution of the Debtors.

On the Effective Date and upon (i) the Debtors, or such entity designated by the Debtors, making the Effective Date Distributions and (ii) the Debtors causing the Liquidating Trust Assets to be transferred to the Liquidating Trust in accordance with Section 6.2.1 of the Plan, the

Debtors shall have no further duties or responsibilities in connection with implementation of the Plan, and the members of the board of directors or managers, as the case may be, of each of the Debtors shall be deemed to have resigned. Upon entry of a final decree closing the Chapter 11 Cases, each of the Debtors shall be dissolved for all purposes in accordance with applicable state law.

c. Cancellation of Existing Securities and Agreements.

On the Effective Date, all agreements and other documents evidencing (i) any Claim or rights of any holder of a Claim against the Debtors, including any notes evidencing such Claims or (ii) any Interest in the Debtors, including any options or warrants to purchase Interests, shall be canceled. The holders of, or parties to, such canceled agreements and documents shall have no rights arising from or relating to such agreements and documents or the cancellation thereof, except any rights provided pursuant to the Plan.

3. Plan Transactions.

On the Effective Date or as soon thereafter as is reasonably practicable, the Debtors and the Liquidating Trustee may take any and all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate the Plan (the “**Plan Transactions**”), including, but not limited to, (i) the execution and delivery of appropriate agreements or other documents of financing, merger, consolidation, restructuring, conversion, disposition, transfer, or dissolution containing terms that are consistent with the terms of the Plan and that satisfy the requirements of applicable law, (ii) the execution and delivery of any appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, debt, duty or obligation on terms consistent with the Plan, (iii) the filing of appropriate certificates of incorporation or other similar documents with the appropriate governmental authorities pursuant to applicable law, and (iv) any and all other actions that the Debtors or Liquidating Trustee determine are necessary or appropriate.

4. Effectuating Documents and Further Transactions.

Upon entry of the Plan Confirmation Order, the Debtors and the Liquidating Trustee shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, consents, certificates, resolutions, programs, and other agreements and/or documents, and take such acts and actions as may be reasonable, necessary, or appropriate to effectuate, implement, consummate, and/or further evidence the terms and conditions of the Plan and any transactions described in or contemplated by the Plan. The Debtors or Liquidating Trustee, as applicable, and all Holders of Claims or Interests receiving Distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents, and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

5. Authority to Act.

Prior to, on, or after the Effective Date (as appropriate), all matters expressly provided for under the Plan that would otherwise require approval of the stockholders, security holders, officers, directors, partners, managers, members, or other owners of one or more of the Debtors

shall be deemed to have occurred and shall be in effect prior to, on, or after the Effective Date (as applicable) pursuant to the applicable law of the states or jurisdictions in which the Debtors are formed, without any further vote, consent, approval, authorization, or other action by such stockholders, security holders, officers, directors, partners, managers, members, or other owners of one or more of the Debtors or notice to, order of, or hearing before, the Bankruptcy Court.

6. Liquidating Trust.

a. Establishment of Liquidating Trust.

On the Effective Date, the Liquidating Trust will be established pursuant to the Liquidating Trust Agreement, which will be filed with the Bankruptcy Court not later than twenty (20) days prior to the Plan Confirmation Hearing. Upon establishment of the Liquidating Trust, all Liquidating Trust Assets shall be deemed transferred to the Liquidating Trust without any further action of any of the Debtors or any employees, officers, directors, members, partners, shareholders, agents, advisors, or representatives of the Debtors.

b. Transfer of Trust Assets.

Pursuant to Bankruptcy Code section 1141, all transfers and contributions made pursuant to this Section 6 shall be made free and clear of all Claims, Liens, encumbrances, charges, and other interests. Upon completion of the transfer of the Liquidating Trust Assets to the Liquidating Trust, the Debtors will have no further interest in, or with respect to, the Liquidating Trust Assets, or the Liquidating Trust. For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Liquidating Trust's beneficiaries) will treat the transfer of assets to the Liquidating Trust in accordance with the terms of the Plan, as a transfer to the Liquidating Trust's beneficiaries, followed by a transfer by such Liquidating Trust's beneficiaries to the Liquidating Trust, and the Liquidating Trust's beneficiaries will be treated as the grantors and owners thereof.

c. Purpose of Liquidating Trust.

The Liquidating Trust shall be established for the purpose of liquidating the Liquidating Trust Assets, prosecuting any Avoidance Actions and other Causes of Action transferred to the Liquidating Trust to maximize recoveries for the benefit of the Liquidating Trust's beneficiaries, and making distributions in accordance with the Plan to the Liquidating Trust's beneficiaries, with no objective to continue or engage in the conduct of a trade or business in accordance with Treas. Reg. § 301.7701-4(d). The Liquidating Trust is intended to qualify as a "grantor trust" for federal income tax purposes and, to the extent permitted by applicable law, for state and local income tax purposes, with the Liquidating Trust's beneficiaries treated as grantors and owners of the trust.

d. Liquidating Trustee.

i. Retention of Liquidating Trustee. The Liquidating Trustee will be Ronald Friedman or such other disinterested Person designated by the Debtors, in consultation and with the consent of the Creditors Committee, no later than ten (10) days prior to the Plan Confirmation Hearing. Mr. Friedman is a Partner of the law firm Silverman Acampora

LLP and has significant experience pursuing and prosecuting avoidance actions. The Liquidating Trustee shall file with the Bankruptcy Court an affidavit of disinterestedness. Once appointed, the Liquidating Trustee shall act as the representative of the Estates for all purposes. Pursuant to Bankruptcy Code section 1123(b)(3), the Liquidating Trustee shall be deemed the appointed representative to, and may pursue, litigate, and compromise and settle any such rights, Claims, any Avoidance Actions and any Causes of Action in accordance with the best interests of and for the benefit of the Liquidating Trust's beneficiaries. In the event that the Liquidating Trustee resigns, is removed, terminated or otherwise unable to serve as the Liquidating Trustee, then a successor shall be appointed by the Liquidating Trust Advisory Board as set forth in the Liquidating Trust Agreement. Any successor Liquidating Trustee appointed shall be bound by and comply with the terms of the Plan, the Plan Confirmation Order and the Liquidating Trust Agreement.

ii. Responsibilities and Authority of the Liquidating Trustee.

The responsibilities and authority of the Liquidating Trustee shall include: (a) calculating and implementing all Distributions for the Liquidating Trust's beneficiaries; (b) administering and paying taxes, including, among other things, (i) filing of tax returns, and (ii) representing the interest and account of the Liquidating Trust before any taxing authority in all matters including, without limitation, any action, suit, proceeding or audit; (c) periodic reporting to the Liquidating Trust's beneficiaries of the status of prosecution of any Avoidance Actions and other Causes of Action; (d) liquidating the Liquidating Trust Assets and providing payments to the Liquidating Trust's beneficiaries in accordance with the provisions of the Plan; (e) retaining and paying at normal and customary rates or contingency fee basis, on a monthly basis, professionals in connection with the Liquidating Trustee's performance of its duties under the Plan and Liquidating Trust Agreement; (f) distributing information statements as required for federal income tax and other applicable tax purposes; (g) filing an application for entry by the Bankruptcy Court of a final decree closing each of the Chapter 11 Cases; and (h) such other responsibilities as may be vested in the Liquidating Trustee pursuant to the Plan, the Liquidating Trust Agreement or Bankruptcy Court order or as may be necessary and proper to carry out the provisions of the Plan. In addition, after the Plan Confirmation Date, the Liquidating Trustee shall file with the Bankruptcy Court and submit to the United States Trustee regular post-confirmation status reports every three months, on or before each of the fifteenth (15th) day of January, April, July, and October as appropriate, and in accordance with the provisions of Rule 3021-1(c) of the Local Bankruptcy Rules for the U.S. Bankruptcy Court, Southern District of New York until the Chapter 11 Cases are closed, converted, or dismissed, whichever happens earlier.

iii. Powers of the Liquidating Trustee.

The powers of the Liquidating Trustee to administer the Liquidating Trust shall, without any further Bankruptcy Court approval in each of the following cases, include, without limitation, (a) the power to invest funds, in accordance with section 345 of the Bankruptcy Code, in, and withdraw, make Distributions and pay taxes and other obligations owed by the Liquidating Trust from funds held by the Liquidating Trustee in accordance with the Plan and Liquidating Trust Agreement, (b) the power to engage and compensate without prior Bankruptcy Court order or approval employees and professionals to assist the Liquidating Trustee with respect to its responsibilities, (c) the power to pursue, prosecute, resolve and compromise and settle any Avoidance Actions and other Causes of Action on behalf of the Liquidating Trust without prior Bankruptcy Court approval but

in accordance with the Liquidating Trust Agreement, (d) the power to object to claims, including, without limitation, the power to subordinate and recharacterize claims by objection, motion, or adversary proceeding, and (e) such other powers as may be vested in or assumed by the Liquidating Trustee pursuant to the Plan, the Liquidating Trust Agreement, Bankruptcy Court order, or as may be necessary and proper to carry out the provisions of the Plan. Except as expressly set forth in the Plan and in the Liquidating Trust Agreement, the Liquidating Trustee, on behalf of the Liquidating Trust, shall have absolute discretion to pursue or not to pursue any Avoidance Actions and other Causes of Action as it determines is in the best interests of the beneficiaries and consistent with the purposes of the Liquidating Trust, and shall have no liability for the outcome of its decision, other than those decisions constituting gross negligence or willful misconduct. The Liquidating Trustee may incur any reasonable and necessary expenses in liquidating and converting the Liquidating Trust Assets to Cash.

iv. Liquidating Trust Advisory Board. Prior to the Effective Date, the Creditors Committee shall appoint an administrative trust advisory board (the “Liquidating Trust Advisory Board”) consisting of at least one (1) member but no more than three (3) members, to consult with the Liquidating Trustee from time to time on various matters as set forth in the Liquidating Trust Agreement. As appointed by the Creditors Committee, the Liquidating Trust Advisory Board initially shall serve for a term of three (3) years. Thereafter, members of a subsequent Liquidating Trust Advisory Board shall be nominated to serve by the previous Liquidating Trust Advisory Board. If for any reason, no Liquidating Trust Advisory Board member remains to make such nomination, the Liquidating Trustee will make such nomination and such nominee shall qualify to serve upon an affirmative majority vote of the holders representing a majority (in dollar amount) of the Beneficial Interests (the “Majority Holders”) actually voting for such purpose (as recorded on the records of the Liquidating Trust as of such date). In the event that all members of the Liquidating Trust Advisory Board resign prior to the expiration of the initial term, the Liquidating Trustee shall nominate a new member and such nominee shall qualify to serve upon an affirmative majority vote of the Majority Holders actually voting for such purpose (as recorded on the records of the Liquidating Trust as of such date). The Liquidating Trust Advisory Board shall have the rights and powers set forth in the Liquidating Trust Agreement. In the event the Liquidating Trust Advisory Board is not formed and continuing to exist under the Liquidating Trust Agreement, all references therein to required approval or action of such Liquidating Trust Advisory Board shall be of no force and effect. In performance of their duties under the Liquidating Trust Agreement, members of the Liquidating Trust Advisory Board shall be entitled to receive reimbursement of reasonable costs, expenses and obligations as set forth in the Liquidating Trust Agreement.

v. Enforcement of Any Avoidance Actions and Other Causes of Action. Pursuant to Bankruptcy Code section 1123(b), the Liquidating Trustee, on behalf of and for the benefit of the Liquidating Trust’s beneficiaries, shall be vested with and shall retain and may enforce any Avoidance Actions and other Causes of Action transferred to the Liquidating Trust that were held by, through, or on behalf of the Debtors and/or the Estates against any other Person, arising before the Effective Date that have not been fully resolved or disposed of prior to the Effective Date, whether or not such Avoidance Actions and other Causes of Action are specifically identified in the Disclosure Statement accompanying the Plan and whether or not litigation with respect to same has been commenced prior to the Effective Date. For the avoidance of doubt, the Plan preserves and transfers to the Liquidating Trust certain

Avoidance Actions that exist as of the Effective Date and that were not transferred to the Purchaser in connection with the Sale. The recoveries from any Avoidance Actions and Causes of Action transferred to the Liquidating Trust will be deposited into the Liquidating Trust and distributed in accordance with the Liquidating Trust Agreement and the Plan.

vi. Valuation of Assets. As soon as practicable after the Effective Date, the Liquidating Trustee shall apprise the Liquidating Trust's beneficiaries of the estimated value of the Liquidating Trust Assets. The valuation shall be used consistently by all parties (including the Liquidating Trustee and the Liquidating Trust's beneficiaries) for all federal income tax purposes.

vii. Compensation of Liquidating Trustee. The Liquidating Trustee shall be compensated as set forth in the Liquidating Trust Agreement. The Liquidating Trustee shall fully comply with the terms, conditions and rights set forth in the Plan, the Plan Confirmation Order and the Liquidating Trust Agreement. The Liquidating Trustee shall not be required to file a fee application to receive compensation.

viii. Retention and Payment of Professionals. The Liquidating Trustee, in consultation and with the consent of the Liquidating Trust Advisory Board, shall have the right to retain the services of attorneys, accountants, and other professionals and agents, to assist and advise the Liquidating Trustee in the performance of his duties and compensate such professionals from the assets of the Plan Expenses Reserve as set forth in the Liquidating Trust Agreement.

ix. Limitation on Liability of the Liquidating Trustee. The Liquidating Trustee and his professionals shall be entitled to indemnification against any losses, liabilities, expenses (including attorneys' fees and disbursements), damages, taxes, suits, or claims that the Liquidating Trustee or its professionals may incur or sustain by reason of being or having been a Liquidating Trustee or professionals of the Liquidating Trustee for performing any functions incidental to such service; provided, however, the foregoing shall not relieve the Liquidating Trustee or his professionals from liability for bad faith, willful misconduct, reckless disregard of duty, criminal conduct, gross negligence, fraud, or self-dealing, or, in the case of an attorney professional and as required under Rule 1.8(h)(1) of the New York State Rules of Professional Conduct, malpractice.

e. Plan Expenses.

The Liquidating Trustee may, in the ordinary course of business and without the necessity for any application to, or approval of, the Bankruptcy Court, pay any accrued but unpaid Plan Expenses. All Plan Expenses shall be charged against and paid from the Plan Expenses Reserve and, thereafter, paid from the Liquidating Trust. On the Effective Date, the Liquidating Trustee shall establish the Plan Expenses Reserve with the Plan Expenses Reserve Amount, funded from the Sale Proceeds, which Plan Expenses Reserve Amount shall vest in the Liquidating Trust free and clear of all Liens, Claims, encumbrances, charges and other interests. Upon satisfaction of all valid Plan Expenses and entry by the Bankruptcy Court of a final decree closing each of the Chapter 11 Cases, any remaining balance of the Plan Expenses Reserve shall be distributed by the Liquidating Trustee to the Liquidating Trust's beneficiaries in accordance with the Plan as soon as practicable thereafter.

f. Termination of Liquidating Trust.

The Liquidating Trust shall be dissolved upon the earlier of the distribution of all of its assets to the Liquidating Trust's beneficiaries and the third anniversary of the creation of the Liquidating Trust, provided that, if warranted by the facts and circumstances involved in resolving any Avoidance Actions or other Causes of Action, upon application to, and if approved by, the Bankruptcy Court upon a finding such extension is necessary for purposes of resolving such Avoidance Actions or other Causes of Action and distributing the proceeds to Liquidating Trust's beneficiaries, the term of the Liquidating Trust may be extended by the Liquidating Trustee for a specified, finite term. Notwithstanding the foregoing, the Liquidating Trust shall be automatically terminated in the event that a final decree is entered closing each of the Chapter 11 Cases or if the Chapter 11 Cases are converted or dismissed.

g. Exculpation Relating to the Liquidating Trust.

No Holder of a Claim or Interest or any other party in interest will have, or otherwise pursue, any Claim or cause of action against the Liquidating Trustee, the Liquidating Trust or the employees or professionals thereof (solely in the performance of their duties), for making payments and Distributions in accordance with the Plan or for fulfilling any functions incidental to implementing the provisions of the Plan or the Liquidating Trust, except for any acts or omissions to act that are the result of bad faith, willful misconduct, reckless disregard of duty, criminal conduct, gross negligence, fraud, or self-dealing, or, in the case of an attorney professional and as required under Rule 1.8(h)(1) of the New York State Rules of Professional Conduct, malpractice.

7. Administrative and Priority Claims Reserve.

On the Effective Date, the Liquidation Trustee shall establish the Administrative and Priority Claims Reserve with the Administrative and Priority Claims Reserve Amount in an authorized depository in the Southern District of New York, funded from the Sale Proceeds, which funds shall vest in the Liquidation Trust free and clear of all liens, Claims, encumbrances, charges and other interests. Funds in the Administrative and Priority Claims Reserve shall be used by the Liquidating Trustee only for the payment of Administrative Expense Claims Allowed after the Effective Date, Compensation and Reimbursement Claims Allowed after the Effective Date, Priority Tax Claims Allowed after the Effective Date, Other Priority Claims Allowed after the Effective Date, Secured Tax Claims Allowed after the Effective Date, and Other Secured Claims Allowed after the Effective Date, to the extent that the foregoing Claims have not been paid in full on or prior to the Effective Date. To the extent any funds remain in the Administrative and Priority Claims Reserve after all of the foregoing Claims have been paid or otherwise satisfied in full, such remaining funds shall be distributed by the Liquidating Trustee to the other beneficiaries of the Liquidating Trust in accordance with the Plan.

D. Distributions Under the Plan.

1. 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 their respective

agents, 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 the Liquidating Trustee shall have no obligation to recognize any ownership transfer of the Claims or Interests occurring on or after the Distribution Record Date. The Debtors, the Liquidating Trustee, or any party responsible for making Distributions shall be entitled to recognize and deal for all purposes under the Plan 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.

2. Date of Distributions.

Except as otherwise provided in the Plan, any Distributions and deliveries to be made under the Plan with respect to Claims that are Allowed as of the Effective Date shall be made on the Effective Date or as soon thereafter as is reasonably practicable. Except as otherwise provided in the Plan, any Distributions and deliveries to be made under the Plan with respect to Claims that are Allowed after the Effective Date shall be made as soon as is reasonably practicable after the date on which such Claim becomes Allowed. Distributions made after the Effective Date to holders of Allowed Claims shall be deemed to have been made on the Effective Date and, except as otherwise provided in the Plan, no interest shall accrue or be payable with respect to such Claims or any distribution related thereto. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

3. Postpetition Interest on Claims.

Postpetition interest shall not accrue or be paid on any Claims against the Debtors, and no Holder of any such Claim against the Debtors shall be entitled to payment or Distributions on account of interest accruing on or after the Petition Date.

4. Disbursing Agent.

All Distributions under the Plan shall be made by the Debtors, the Liquidating Trustee, or their named successor or assign, as Disbursing Agent, on or after the Effective Date or as otherwise provided in the Plan. For the avoidance of doubt, the Debtors, or such other entity designated by the Debtors, shall act as Disbursing Agent with respect to all Effective Date Distributions. A Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court, and, in the event that a Disbursing Agent is so ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Disbursing Agent.

5. Powers of Disbursing Agent.

The Disbursing Agent may (i) effect all actions and execute all agreements, instruments, and other documents necessary to carry out the provisions of the Plan, (ii) make all Distributions contemplated hereby, and (iii) perform such other duties as may be required of the Disbursing Agent pursuant to the Plan.

6. Surrender Instruments.

Pursuant to Bankruptcy Code section 1143, as a condition precedent to receiving any Distribution under the Plan, each holder of a certificated instrument or note must surrender such instrument or note held by it to the Disbursing Agent or its designee. Any holder of such instrument or note that fails to (i) surrender the instrument or note or (ii) execute and deliver an affidavit of loss and/or indemnity reasonably satisfactory to the Disbursing Agent and furnish a bond in form, substance, and amount reasonably satisfactory to the Disbursing Agent before the third anniversary of the Plan Confirmation Date shall be deemed to have forfeited all rights and claims and may not participate any Distribution under the Plan.

7. Delivery of Distributions.

Subject to applicable Bankruptcy Rules, all Distributions to Holders of Allowed Claims shall be made to the Disbursing Agent who shall transmit such Distributions to the applicable Holders of Allowed Claims or their designees. If any Distribution to a Holder of an Allowed Claim is returned as undeliverable, the Disbursing Agent shall have no obligation to determine the correct current address of such Holder, and no Distribution to such Holder shall be made unless and until the Disbursing Agent is notified by the Holder of the current address of such Holder within ninety (90) days of such Distribution, at which time a Distribution shall be made to such Holder without interest; provided that such Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of ninety (90) days from the Distribution. After such date, all unclaimed property or interest in property shall revert to the Liquidating Trust to be distributed in accordance with the terms of the Liquidating Trust Agreement, and the Claim of any other holder to such property or interest in property shall be discharged and forever barred.

8. Manner of Payment.

Any distributions to be made by or on behalf of the Debtors pursuant to the Plan shall be made by checks drawn on accounts maintained by the Debtors or the Liquidation Trustee, as applicable, or by wire transfer if circumstances justify, at the option of the Debtors or the Liquidation Trustee, as applicable.

9. Setoffs.

The Debtors and the Liquidating Trustee, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable bankruptcy or nonbankruptcy law, with the approval of the Bankruptcy Court and upon no less than three (3) days notice to the applicable Holder of a Claim or Interest, or as may be agreed to by the Holder of a Claim or Interest, may, but shall not be required to, set off against any Allowed Claim or Interest and the Distributions to be made pursuant to the Plan on account of such Allowed Claim or Interest (before any Distribution is to be made on account of such Allowed Claim or Interest), any claims of any nature whatsoever that the Debtors may have against the Holder of such Allowed Claim or Interest, provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim or Interest under the Plan shall constitute a waiver or release by the Debtors or the Liquidating Trustee of any such claim the Debtors may have against the Holder of such Claim or Interest.

10. Minimum Distributions.

No payment of Cash in an amount of less than \$50.00 shall be required to be made on account of any Allowed Claim. Such undistributed amount may instead be used in accordance with the Plan and the Liquidating Trust Agreement. If the Cash available for the final Distribution is less than \$15,000, and the Liquidating Trustee, in his sole discretion, determines that it would cost more than \$5,000 to distribute such funds, the Liquidating Trustee may donate such funds to the charity of his choice in consultation with the Liquidating Trust Advisory Board.

11. Allocation of Distributions Between Principal and Interest.

To the extent that any Allowed Claim entitled to a Distribution under the Plan includes both principal and accrued but unpaid interest, such Distribution shall be allocated to the principal amount (as determined for federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

12. Distributions Free and Clear.

Except as otherwise provided in the Plan, any Distribution or transfer made under the Plan, including, without limitation, Distributions to any Holder of an Allowed Claim, shall be free and clear of any Liens, Claims, encumbrances, charges and other interests, and no other entity shall have any interest, whether legal, beneficial or otherwise, in property distributed or transferred pursuant to the Plan.

E. Procedures for Disputed Claims.

1. Allowance of Claims and Interests.

Except as expressly provided in the Plan, or in any order entered in the Chapter 11 Cases prior to the Effective Date, including the Plan Confirmation Order, no Claim or Interest shall be deemed Allowed unless and until such Claim or Interest is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including the Plan Confirmation Order, in the Chapter 11 Cases allowing such Claim or Interest. Prior to and following the Effective Date, the Liquidating Trust shall be vested with any and all rights and defenses each Debtor had with respect to any Claim or Interest immediately prior to the Effective Date.

2. Objections to Claims.

The Debtors and the Liquidating Trustee shall be entitled to file objections to all Claims and Interests that are otherwise not deemed Allowed Claims or Interests under the Plan or otherwise. Any objections to Claims shall be served and filed on or before the later of (i) one hundred eighty (180) days after the Effective Date or (ii) such later date as may be fixed by the Bankruptcy Court after reasonable notice and opportunity to object.

3. Estimation of Claims.

Before or after the Effective Date, the Debtors or the Liquidating Trustee may (but are not required to) at any time request that the Bankruptcy Court estimate any Contingent Claim or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether an objection was previously filed with the Bankruptcy Court with respect to such Claim, or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to such objection.

In the event that the Bankruptcy Court estimates any Contingent Claim or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Liquidating Trustee may pursue supplementary proceedings to object to the allowance of such Claim.

4. Distributions Relating to Disputed Claims.

At such time as a Disputed Claim becomes an Allowed Claim, the Disbursing Agent shall distribute to the Holder of such Claim, such Holder's Pro Rata Share of the property distributable with respect to the Class in which such Claim belongs. To the extent that all or a portion of a Disputed Claim is disallowed, the Holder of such Claim shall not receive any Distribution on account of the portion of such Claim that is disallowed and any property withheld pending the resolution of such Claim shall be reallocated *pro rata* to the Holders of Allowed Claims in the same Class.

5. Distributions after Allowance.

To the extent that a Disputed Claim becomes an Allowed Claim after the Effective Date, a Distribution shall be made to the Holder of such Allowed Claim in accordance with the provisions of the Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Disbursing Agent shall provide to the Holder of such Claim the Distribution to which such Holder is entitled under the Plan.

6. Preservations of Rights to Settle Claims.

Except as otherwise expressly provided in the Plan, including in Section 11.8 of the Plan (Releases), nothing contained in the Plan, the Plan Documents, or in the Plan Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights or causes of action that the Debtors may have or which the Liquidating Trustee may choose to assert on behalf of the Debtors' Estates under any provision of the Bankruptcy Code or any applicable nonbankruptcy law or rule, common law, equitable principle or other source of right or obligation, including, without limitation, (i) any and all Claims against any Person or Entity, to the extent such Person or Entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors, their officers, directors, or representatives, and (ii) the turnover of all property of the Debtors' Estates.

This Section shall not apply to any claims released, waived, relinquished, exculpated, compromised, or settled under the Plan or pursuant to a Final Order, expressly including the Final Order approving the Sale. Except as expressly provided in the Plan, nothing contained in the Plan, the Plan Documents, or in the Plan Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, cause of action, right of setoff, or other legal or equitable defense. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any cause of action against it as any indication that the Debtors or the Liquidating Trustee, as applicable, will not pursue any and all available causes of action against them. The Debtors and the Liquidating Trustee expressly reserve all rights to prosecute any and all causes of action against any Entity, except as otherwise expressly provided in the Plan.

7. Disallowed Claims.

All Claims held by Persons or Entities against whom or which any Debtor has commenced a proceeding asserting a cause of action under sections 542, 543, 544, 545, 547, 548, 549, and/or 550 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 548, 549 or 724(a) of the Bankruptcy Code shall be deemed disallowed Claims pursuant to section 502(d) of the Bankruptcy Code and Holders of such Claims shall not be entitled to vote to accept or reject the Plan. Claims deemed disallowed pursuant to this Section shall continue to be disallowed for all purposes until the Avoidance Action against such party has been settled or resolved by Final Order and any sums due to the Debtors or the Liquidating Trustee from such party have been paid.

F. Executory Contracts and Unexpired Leases.

1. General Treatment Under the Plan.

All executory contracts and unexpired leases to which any of the Debtors are parties are hereby rejected as of the Effective Date except for an executory contract or unexpired lease that (i) previously has been assumed pursuant to Final Order of the Bankruptcy Court, (ii) is specifically designated as an executory contract or unexpired lease to be assumed in the Plan or in any Plan Supplement, or (iii) is the subject of a separate assumption motion filed by the Debtors under section 365 of the Bankruptcy Code prior to the Effective Date.

Assumption of any executory contract or unexpired lease pursuant to the Plan or otherwise shall result in the full, final, and complete release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults or provisions restricting the change in control of ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time prior to the effective date of assumption. Any Claim listed in the Schedules and any Proofs of Claim filed with respect to any executory contract or unexpired lease that has been assumed prior to the Effective Date shall be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

2. Rejection Damages Claims.

In the event that the rejection of an executory contract or unexpired lease by any of the Debtors pursuant to the Plan results in a Rejection Damages Claim in favor of a counterparty to such executory contract or unexpired lease, such Rejection Damages Claim, if not heretofore evidenced by a timely and properly filed Proof of Claim, shall be forever barred and shall not be enforceable against the Debtors or the Liquidating Trust, or their respective properties or interests in property as agents, successors, or assigns, unless a Proof of Claim is filed with the Bankruptcy Court and served upon counsel for the Debtors and the Liquidating Trustee on or before the date that is thirty (30) days after the Effective Date or such later rejection date that occurs as a result of a dispute concerning amounts necessary to cure any defaults. All Allowed Rejection Damages Claims shall be treated as General Unsecured Claims pursuant to the terms of the Plan.

3. Reservation of Rights.

Neither the exclusion nor inclusion of any contract or lease in the Plan or Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtors that such contract or lease is in fact an executory contract or unexpired lease or that any Debtor has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtors or Liquidating Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease, provided that, notwithstanding anything to the contrary herein, any such dispute shall be resolved prior to the Plan Confirmation Date.

G. Conditions Precedent to Effective Date.

1. Conditions Precedent.

The occurrence of the Effective Date of the Plan is subject to the following conditions precedent:

- (a) the Plan Confirmation Order in form and substance satisfactory to the Debtor shall have been entered by the Bankruptcy Court and shall be a Final Order;
- (b) the Sale shall have been consummated;
- (c) all actions, documents, and agreements necessary to implement the Plan, including, without limitation, all actions, documents, and agreements necessary to implement any Plan Transactions, shall have been effected or executed;
- (d) the Debtors shall have received all authorizations, consents, regulatory approvals, rulings, letters, no-action letters, opinions, or documents necessary to implement the Plan and any Plan Transactions and that are required by law, regulation, or order;
- (e) the absence of any pending or threatened government action or any law that has the effect of or actually does prevent consummation of any Plan Transactions; and

(f) there shall have been no modification or stay of the Plan Confirmation Order or entry of other court order prohibiting transactions contemplated by the Plan from being consummated.

2. Waiver of Conditions.

Unless otherwise specifically provided in the Plan, the conditions set forth in Section 10.1 of the Plan may be waived in whole or in part by the Debtors, in consultation with the Creditors Committee, without notice to any other parties in interest or the Bankruptcy Court and without a hearing.

3. Effect of Failure of Conditions.

If the conditions precedent specified in Section 10.1 of the Plan have not been satisfied or waived by the Debtors within one hundred twenty (120) days after the Plan Confirmation Date, which period may be extended by the Debtors in consultation with the Creditors Committee, then (i) the Plan Confirmation Order shall be vacated, (ii) no Distributions under the Plan shall be made, (iii) the Debtors and all Holders of Claims and Interests shall be restored to the *status quo ante* as of the day immediately preceding the Plan Confirmation Date as though the Plan Confirmation Date never occurred, and (iv) all of the Debtors' obligations with respect to Claims and Interests shall remain unchanged and nothing contained in the Plan shall be deemed to constitute a waiver or release of any Claims or Interests by or against the Debtors or any other Entity or to prejudice in any manner the rights of the Debtors or any other Entity in any further proceedings involving the Debtors or otherwise.

H. Effect of Confirmation.

1. Vesting of Assets.

On the Effective Date, except as otherwise provided in the Plan, pursuant to sections 1141(b) and 1141(c) of the Bankruptcy Code, the Liquidating Trust Assets shall vest in the Liquidating Trust, subject to the rights and interests of the Liquidating Trust's beneficiaries.

2. Binding Effect.

On the Effective Date, and effective as of the Effective Date, the Plan shall be binding upon the Debtors, the Creditors Committee, and all present and former Holders of Claims against and Interests in any Debtor, and their respective Related Persons, regardless of whether any such Holder of a Claim or Interest has voted or failed to vote to accept or reject the Plan and regardless of whether any such Holder of a Claim or Interest is entitled to receive any Distribution under the Plan

3. Discharge of Claims and Termination of Interests.

To the fullest extent provided under section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in full and final satisfaction, settlement, release, and discharge, as of the Effective Date, of all Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether

known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Estates, the Debtors, or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (i) a Proof of Claim or Interest based upon such Claim, debt, right, or Interest is filed or deemed filed pursuant to section 501 of the Bankruptcy Code; (ii) a Claim or Interest based upon such Claim, debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (iii) the Holder of such a Claim or Interest has accepted the Plan. The Plan Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the Effective Date occurring, except as otherwise expressly provided in the Plan. The Plan is a liquidating plan and, as provided in section 1141(d)(3) of the Bankruptcy Code, the confirmation of a plan does not discharge a debtor if the plan provides for the liquidation of all or substantially all of the property of the estate.

4. Compromise and Settlement of Claims, Interests, and Controversies.

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest.

The entry of the Plan Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and is fair, equitable, and reasonable. After the Effective Date, the Liquidating Trustee, on behalf of the Debtors, may, and shall have the exclusive right to, compromise and settle any Claims and any Causes of Action against any other Person or Entity without notice to or approval from the Bankruptcy Court, including, without limitation, any and all derivative actions pending or otherwise existing against the Debtors as of the Effective Date.

5. Injunction.

Except as otherwise expressly provided in the Plan, the Plan Confirmation Order or a separate order of the Bankruptcy Court, all Persons and Entities who have held, hold or may hold Claims against or Interests in any or all of the Debtors, are permanently enjoined, on and after the Effective Date, from (a) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim or Interest, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtors on account of any such Claim or Interest, (c) creating, perfecting or enforcing any encumbrance of any kind against the Debtors or against the property or interests in property of the Debtors on account of any such Claim or Interest, (d) asserting any right of setoff, subrogation or recoupment of any

kind against any obligation due from the Debtors or against the property or interests in property of the Debtors or the Liquidating Trust on account of any such Claim or Interest, and (e) commencing or continuing in any manner any action or other proceeding of any kind with respect to any claims and causes of action which are retained pursuant to the Plan. Such injunction shall extend to successors of the Debtors, including, without limitation, the Liquidating Trust and its properties and interests in property.

6. Term of Injunctions or Stays.

Except as otherwise provided in the Plan, to the extent permitted by applicable law and subject to the Bankruptcy Court's post-confirmation jurisdiction to modify the injunctions and stays under the Plan, (a) all injunctions with respect to or stays against an action against property of the Debtors' Estates arising under or entered during the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code, and in existence on the Plan Confirmation Date, shall remain in full force and effect until such property is no longer property of the Debtors' Estates, and (b) all other injunctions and stays arising under or entered during the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code shall remain in full force and effect until the earliest of (i) the date that the Chapter 11 Cases are closed pursuant to a Final Order of the Bankruptcy Court or (ii) the date that the Chapter 11 Cases are dismissed pursuant to a Final Order of the Bankruptcy Court.

7. Injunction Against Interference with Plan.

Upon the Bankruptcy Court's entry of the Plan Confirmation Order, all Holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the Debtors', the Liquidating Trust's, the Liquidating Trustee's, and their respective affiliates, employees, advisors, officers and directors, agents, and other Related Persons implementation or consummation of the Plan.

8. Debtor Releases.

ON THE EFFECTIVE DATE, THE DEBTORS SHALL RELEASE AND BE PERMANENTLY ENJOINED FROM ANY PROSECUTION OR ATTEMPTED PROSECUTION OF ANY AND ALL CLAIMS AND CAUSES OF ACTION, INCLUDING ANY AVOIDANCE ACTIONS AND CAUSES OF ACTION, WHICH THEY HAVE OR MAY HAVE AGAINST ANY OF THE RELEASED PARTIES, AND ALL OF THEIR RESPECTIVE MEMBERS, OFFICERS, DIRECTORS, AGENTS, FINANCIAL ADVISORS, ATTORNEYS, EMPLOYEES, PARTNERS, AFFILIATES, REPRESENTATIVES, AND OTHER RELATED PERSONS, AND THEIR RESPECTIVE PROPERTY IN CONNECTION WITH (I) THE ASSET PURCHASE AGREEMENT, THE BAYSIDE DIP FACILITY, THE SENIOR CREDIT FACILITY, THE SUBORDINATE SECURED NOTES, AND ANY AGREEMENT RELATING TO ANY OF THE FOREGOING, AND (II) ANY ACTIONS TAKEN IN THE CHAPTER 11 CASES.

ADDITIONALLY, ON THE EFFECTIVE DATE, AND EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE PLAN OR IN THE PLAN CONFIRMATION ORDER, THE RELEASED PARTIES, AND ALL OF THEIR RESPECTIVE MEMBERS, OFFICERS, DIRECTORS, AGENTS, FINANCIAL ADVISORS, ATTORNEYS, EMPLOYEES, PARTNERS, AFFILIATES, REPRESENTATIVES, AND OTHER RELATED PERSONS AND THEIR RESPECTIVE PROPERTY SHALL BE RELEASED FROM ANY AND ALL CLAIMS, OBLIGATIONS, RIGHTS, CAUSES OF ACTION, AVOIDANCE ACTIONS AND LIABILITIES WHICH THE DEBTORS OR THE LIQUIDATING TRUSTEE MAY BE ENTITLED TO ASSERT, WHETHER FOR TORT, FRAUD, CONTRACT, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS, OR OTHERWISE, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, EXISTING OR THEREAFTER ARISING, BASED IN WHOLE OR IN PART UPON ANY, ACT OR OMISSION, TRANSACTION, OR OTHER OCCURRENCE TAKING PLACE ON OR BEFORE THE EFFECTIVE DATE, INCLUDING, BUT NOT LIMITED TO, THE NEGOTIATION, SOLICITATION, CONFIRMATION AND CONSUMMATION OF THE PLAN; PROVIDED, HOWEVER, THAT NOTHING SHALL RELEASE ANY PERSON FROM ANY CLAIMS, OBLIGATIONS, RIGHTS, CAUSES OF ACTION, OR LIABILITIES BASED UPON ANY ACT OR OMISSION IN CONNECTION WITH, RELATING TO, OR ARISING OUT OF, THE CHAPTER 11 CASES, THE SOLICITATION OF ACCEPTANCES OF THE PLAN, THE PURSUIT OF CONFIRMATION OF THE PLAN, THE CONSUMMATION OF THE PLAN, THE ADMINISTRATION OF THE PLAN, OR THE PROPERTY TO BE DISTRIBUTED UNDER THE PLAN ARISING OUT OF SUCH PERSON'S BAD FAITH, WILLFUL MISCONDUCT, RECKLESS DISREGARD OF DUTY, CRIMINAL CONDUCT, GROSS NEGLIGENCE, FRAUD, OR SELF-DEALING, OR, IN THE CASE OF AN ATTORNEY PROFESSIONAL AND AS REQUIRED UNDER RULE 1.8(h)(1) OF THE NEW YORK STATE RULES OF PROFESSIONAL CONDUCT, MALPRACTICE.

NOTWITHSTANDING ANYTHING IN THE PLAN TO THE CONTRARY, NOTHING IN THE PLAN SHALL RELEASE ANY PARTY FROM LIABILITY IN CONNECTION WITH THE INSIDER ACTIONS.

9. Releases by Holders of Claims and Interests.

EACH HOLDER OF A CLAIM RELATED TO THE DEBTORS (WHETHER OR NOT ALLOWED) AGAINST, OR INTEREST IN, THE DEBTORS, AND EACH PERSON OR ENTITY PARTICIPATING IN EXCHANGES AND DISTRIBUTIONS UNDER OR PURSUANT TO THE PLAN, FOR ITSELF AND ITS RESPECTIVE SUCCESSORS, ASSIGNS, TRANSFEREES, CURRENT AND FORMER⁴ OFFICERS,

⁴ Such former officers, directors, agents and employees referred to in Section 11.9 of the Plan shall be deemed to have released any and all Claims and Causes of Action against the Released Parties and all of their respective officers, directors, employees, attorneys, advisors, professionals, agents, or other Related

DIRECTORS, AGENTS AND EMPLOYEES, IN EACH CASE IN THEIR CAPACITY AS SUCH, SHALL BE DEEMED TO HAVE RELEASED ANY AND ALL CLAIMS AND CAUSES OF ACTION AGAINST THE RELEASED PARTIES AND ALL OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, ADVISORS, PROFESSIONALS, AGENTS, OR OTHER RELATED PERSONS ARISING PRIOR TO THE EFFECTIVE DATE; PROVIDED, HOWEVER, NOTHING IN SECTION 11.9 OF THE PLAN SHALL BE CONSTRUED TO RELEASE OR EXCULPATE ANY PERSON OR ENTITY FROM BAD FAITH, WILLFUL MISCONDUCT, RECKLESS DISREGARD OF DUTY, CRIMINAL CONDUCT, GROSS NEGLIGENCE, FRAUD, SELF-DEALING, UNAUTHORIZED USE OF CONFIDENTIAL INFORMATION THAT CAUSES DAMAGES OR FOR PERSONAL ULTRA VIRES ACTS, OR, IN THE CASE OF AN ATTORNEY PROFESSIONAL AND AS REQUIRED UNDER RULE 1.8(h)(1) OF THE NEW YORK STATE RULES OF PROFESSIONAL CONDUCT, MALPRACTICE.

FURTHER, NOTHING IN THE PLAN SHALL EFFECT A RELEASE OF ANY CLAIM BY THE UNITED STATES GOVERNMENT OR ANY OF ITS AGENCIES OR ANY STATE AND LOCAL AUTHORITY ARISING UNDER THE ENVIRONMENTAL LAWS OR ANY CRIMINAL LAWS OF THE UNITED STATES OR ANY STATE AND LOCAL AUTHORITY AGAINST THE RELEASED PARTIES AND ALL OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, ADVISORS, PROFESSIONALS, AGENTS, OR OTHER RELATED PERSONS, NOR SHALL ANYTHING IN THE PLAN ENJOIN THE UNITED STATES OR ANY STATE OR LOCAL AUTHORITY FROM BRINGING ANY CLAIM, SUIT, ACTION OR OTHER PROCEEDING AGAINST THE PARTIES REFERRED TO HEREIN FOR ANY LIABILITY ARISING UNDER THE ENVIRONMENTAL LAWS OR ANY CRIMINAL LAWS OF THE UNITED STATES OR ANY STATE AND LOCAL AUTHORITY, NOR SHALL ANYTHING IN THE PLAN EXCULPATE ANY PARTY FROM ANY LIABILITY TO THE UNITED STATES GOVERNMENT OR ANY OF ITS AGENCIES OR ANY STATE AND LOCAL AUTHORITY FOR LIABILITIES ARISING UNDER THE ENVIRONMENTAL LAWS OR ANY CRIMINAL LAWS OF THE UNITED STATES OR ANY STATE AND LOCAL AUTHORITY AGAINST THE PARTIES REFERRED TO HEREIN.

10. Exculpation.

None of the Released Parties, nor any of their respective members, officers, directors, employees, advisors, professionals, attorneys, agents, or other Related Persons or any of their successors and assigns, shall have or incur any liability to any holder of a Claim or Interest, or other party in interest, or any of their respective members, officers, directors, employees, advisors, professionals, attorneys, agents, or other Related Persons or any of their successors and assigns, for any act or omission in connection with, related to,

Persons arising prior to the Effective Date only to the extent that they have a Claim, Cause of Action, or Interest directly or derivatively.

or arising out of, the Chapter 11 Cases, the pursuit of confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan, including without limitation, the negotiation and solicitation of the Plan, except for bad faith, willful misconduct, reckless disregard of duty, criminal conduct, gross negligence, fraud, or self-dealing, or, in the case of an attorney professional and as required under Rule 1.8(h)(1) of the New York State Rules of Professional Conduct, malpractice, and, in all respects, the Debtors, the Liquidating Trust, the Liquidating Trustee, and each of their respective members, officers, directors, employees, advisors, professionals, attorneys, agents, and other Related Persons shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

11. Release of Liens.

Except as otherwise provided in the Plan, or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged.

12. Dissolution of Creditors Committee.

Prior to the Effective Date, the Creditors Committee shall nominate the Liquidating Trust Advisory Board, which will consult with the Liquidating Trustee from time to time pursuant to the terms of the Liquidating Trust Agreement. On the Effective Date, the Creditors Committee shall have no further powers or duties and shall be dissolved for all purposes; provided, however, that the Creditors Committee and its Professionals shall be entitled, after notice and a hearing, to reasonable compensation and reimbursement of actual and necessary expenses for post-Effective Date activities, including, without limitation, preparing and filing applications for Compensation and Reimbursement Claims or reimbursement of expenses incurred as a member of the Creditors Committee, and any motions or other actions seeking enforcement or implementation of the provisions of the Plan or the Plan Confirmation Order.

13. Retention of Causes of Action/Reservation of Rights.

Except as otherwise expressly provided in the Plan (including in Section 11.8 of the Plan), nothing contained in the Plan or in the Plan Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights or causes of action that the Debtors or the Liquidating Trustee may have or which the Liquidating Trustee may choose to assert on behalf of the Debtors' Estates under any provision of the Bankruptcy Code or any applicable nonbankruptcy law or rule, common law, equitable principle or other source of right or obligation, including, without limitation, (i) any and all Claims against any Person or Entity, to the extent such Person or Entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors or their officers, directors, or representatives, and (ii) the turnover of all property of the Debtors' Estates.

Except as otherwise expressly provided in the Plan, nothing contained in the Plan or in the Plan Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, cause of action, right of setoff, or other legal or equitable defense. No Entity may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any cause of action

against it as any indication that the Debtors or the Liquidating Trustee, as applicable, will not pursue any and all available causes of action against them. The Debtors and the Liquidating Trustee expressly reserve all rights to prosecute any and all causes of action against any Entity, except as otherwise expressly provided in the Plan.

14. Cancellation of Agreement, Notes and Interests.

On the Effective Date, except to the extent otherwise expressly provided in the Plan, all notes, stock, interests, instruments, certificates, and other documents evidencing the Notes and Interests in any of the Debtors shall be deemed automatically extinguished, cancelled and of no further force or effect, and the Debtors shall not have any continuing obligations thereunder. On the Effective Date, except to the extent otherwise expressly provided in the Plan, any indenture or other agreement relating to any of the foregoing shall be deemed automatically extinguished, cancelled and of no further force or effect, and the Debtors shall not have any continuing obligations thereunder; provided, that the Notes and any indenture or agreement related thereto shall continue in effect solely for purposes of allowing holders of Notes to receive any Distributions under the Plan.

I. Retention of Jurisdiction.

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Cases for, among other things, the following purposes:

(a) to hear and determine motions and/or applications for the assumption or rejection of executory contracts or unexpired leases and the allowance, classification, priority, compromise, estimation, or payment of Claims resulting therefrom;

(b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Plan Confirmation Date;

(c) to ensure that Distributions to holders of Allowed Claims are accomplished as provided in the Plan;

(d) to consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim;

(e) to enter, implement, or enforce such orders as may be appropriate in the event the Plan Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(f) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of the Plan, the Plan Confirmation Order, or any other order of the Bankruptcy Court;

(g) to hear and determine any application to modify the Plan in accordance with applicable provisions of the Bankruptcy Code, to remedy any defect or omission

or reconcile any inconsistency in the Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Plan Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) to hear and determine all applications under sections 330, 331, and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date;

(i) to hear and determine all requests for payment of Administrative Expense Claims;

(j) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Plan Confirmation Order, any transactions or payments contemplated hereby or under any agreement, instrument, or other document governing or relating to any of the foregoing;

(k) to consider requests for extensions of the term of the Liquidating Trust as provided in the Plan;

(l) to take any action and issue such orders as may be necessary to construe, enforce, implement, execute, and consummate the Plan or to maintain the integrity of the Plan following consummation;

(m) to hear any disputes arising out of, and to enforce any order approving alternative dispute resolution procedures to resolve, personal injury, employment litigation, and similar claims pursuant to section 105(a) of the Bankruptcy Code;

(n) to determine such other matters and for such other purposes as may be provided in the Plan Confirmation Order;

(o) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(q) to enter a final decree closing the Chapter 11 Cases;

(r) to recover all assets of the Debtors and property of the Debtors' Estates, wherever located; and

(s) to hear and determine any rights, Claims, or causes of action held by or accruing to the Debtors pursuant to the Bankruptcy Code or any applicable federal statute or legal theory.

J. Miscellaneous Provisions of the Plan.

1. Payment of Statutory Fees.

All fees payable pursuant to section 1930 of title 28 of the United States Code and any applicable interest thereon that are due and payable as of the Effective Date shall be paid by the Liquidating Trustee on the Effective Date or as soon thereafter as is reasonably practicable. All such fees and any applicable interest thereon that become due and payable after the Effective Date shall be paid by the Liquidating Trustee with funds from the Plan Expenses Reserve when such fees become due and payable. All such fees and any applicable interest thereon shall continue to become due and payable until the entry of a final decree closing the Chapter 11 Cases or conversion or dismissal of the Chapter 11 Cases, whichever is earlier.

2. Substantial Consummation.

On the Effective Date, the Plan shall be deemed to be substantially consummated within the meaning set forth in section 1101 and pursuant to section 1127(b) of the Bankruptcy Code.

3. Operations Between the Confirmation Date and the Effective Date.

During the period from the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate as debtors in possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all orders of the Bankruptcy Court that are then in full force and effect. After the Effective Date, the Liquidating Trustee shall file with the Bankruptcy Court and submit to the United States Trustee regular post-confirmation status reports every three months, on or before each of the fifteenth (15th) day of January, April, July, and October as appropriate, and in accordance with the provisions of Rule 3021-1(c) of the Local Bankruptcy Rules for the U.S. Bankruptcy Court, Southern District of New York until the Chapter 11 Cases are closed, converted, or dismissed, whichever happens earlier.

4. Tax Treatment of the Liquidating Trust.

The Liquidating Trust is intended to qualify as a liquidating trust for U.S. federal income tax purposes that will be treated as a pass-through entity. All parties must treat the transfer of the Liquidating Trust Assets to the Liquidating Trust as a transfer of such assets directly to the beneficiaries of the Liquidating Trust, followed by the transfer of such assets by each beneficiary to the Liquidating Trust. Consistent therewith, all parties must treat the Liquidating Trust as a grantor trust of which the Liquidating Trust's beneficiaries are the owners and grantors. Assuming the Liquidating Trust is treated as a liquidating trust, the beneficiaries of Liquidating Trust generally should be treated for U.S. federal income tax purposes as the direct owners of an undivided interest in the Liquidating Trust Assets. The Liquidating Trustee will determine the fair market value of the Liquidating Trust Assets as soon as possible after the Effective Date, and all parties must consistently use this valuation for all U.S. federal income tax purposes.

5. Determination of Tax Liabilities.

The Debtors or the Liquidating Trustee (as applicable) shall, pursuant to section 505(b) of the Bankruptcy Code, have the right to request an expedited determination of any unpaid liability of the Debtors' Estates and the Liquidating Trust for any tax incurred during the administration of the Chapter 11 Cases. As of the Effective Date, the Liquidating Trustee will be responsible for preparing and filing any tax forms or returns on behalf of the Debtors' Estates; provided, however, that the Liquidating Trustee shall not be responsible for preparing or filing any tax forms for holders of Interests in the Debtors (which Interests shall be canceled pursuant to the Plan), but shall provide such holders with any information reasonably required to prepare such forms.

6. Modifications to Plan and Plan Supplement.

The Plan and/or the Plan Supplement may be amended, modified, or supplemented by the Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, provided that notice and an opportunity to object shall be provided with respect to any material post-confirmation modifications to the Plan or the Plan Supplement. In addition, after the Plan Confirmation Date, the Debtors may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Plan Supplement, or the Plan Confirmation Order with respect to such matters as may be necessary to carry out the purposes and effects of the Plan.

7. Other Amendments.

The Debtors may make appropriate technical adjustments and modifications to the Plan or the Plan Supplement prior to the Effective Date without further order or approval of the Bankruptcy Court..

8. Revocation or Withdrawal of the Plan.

The Debtors reserve the right to revoke or withdraw the Plan prior to the Effective Date. Any such action may only be taken if it is in the exercise of the Debtors' fiduciary duty to their

creditors. If the Debtors take such action, the Plan shall be deemed null and void. In such event, nothing contained in the Plan shall constitute or be deemed to be a waiver or release of any Claims by or against the Debtors or any other Person or to prejudice in any manner the rights of the Debtors or any Person in further proceedings involving the Debtors.

9. Continuing Exclusivity of Debtors' Right to Propose Plan.

The Debtors are currently operating within the exclusivity period under Bankruptcy Code section 1121. Accordingly, the Debtors retain, and the Debtors have, the exclusive right to amend or modify the Plan and to solicit acceptances of such amended or modified Plan.

10. Severability.

If, prior to the entry of the Plan Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent 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 the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Plan Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

11. Governing Law.

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of New York, without giving effect to the principles of conflicts of laws, shall govern the rights, obligations, construction, and implementation of the Plan and the transactions consummated or to be consummated in connection therewith.

12. Time.

Bankruptcy Rule 9006 shall apply to all computations of time periods prescribed or allowed by the Plan unless otherwise set forth in the Plan or provided by the Bankruptcy Court.

13. Binding Effect on Debtors, Holders and Successors and Assigns.

Upon the occurrence of the Effective Date, the terms of the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, the Creditors Committee, and any and all Holders of Claims and Interests (irrespective of whether any such Holders of Claims and Interests failed to vote to accept or reject the Plan, voted to accept or reject the Plan, or are deemed to accept or reject the Plan), all Persons or Entities that are parties to or are subject to any settlements, compromises, releases, exculpations, discharges, and injunctions described in the Plan, each Person or Entity acquiring or retaining property under

the Plan, and any and all non-Debtor parties to executory contracts and unexpired lease with the Debtors.

14. Entire Agreement.

On the Effective Date, the Plan and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

15. Section 1125(e) Good Faith Compliance.

The Debtors and each of their respective Related Persons shall be deemed to have acted in good faith under section 1125(e) of the Bankruptcy Code.

16. Effective Notice.

All notices, requests, and demands to or upon the Debtors or the Creditors Committee in the Chapter 11 Cases shall be in writing and, unless otherwise provided in the Plan, shall be deemed to have been duly given or made when actually delivered or, if by facsimile transmission, when received and telephonically confirmed to the below recipients:

(a) If to the Debtors, to:

Alexander Gallo Holdings, LLC
2700 Centennial Tower
101 Marietta Street
Atlanta, Georgia 30303
Attn: Marc L. Pfefferle
Anthony Accordinio
Telephone: (877) 495-0777
Facsimile: (404) 529-9299

-and-

DLA Piper LLP US
1251 Avenue of the Americas
New York, New York 10020
Attn: Thomas R. Califano, Esq.
Jeremy R. Johnson, Esq.
Telephone: (212) 335-4500
Facsimile: (212) 335-4501

(b) If to the Creditors Committee, to:

Cooley LLP
1114 Avenue of the Americas
New York, New York 10036

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V. RISKS AND CONSIDERATIONS

A. Bankruptcy Considerations.

Although the Debtors believe that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will confirm the Plan as proposed. Moreover, there can be no assurance that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate the re-solicitation of votes.

In addition, the occurrence of the Effective Date is conditioned on the satisfaction (or waiver) of the conditions precedent set forth in Section 10.1 of the Plan, and there can be no assurance that such conditions will be satisfied or waived. In the event the conditions precedent described in Section 10.1 of the Plan have not been satisfied or waived (to the extent possible) by the Debtors (as provided for in the Plan) within one hundred twenty (120) days after the Plan Confirmation Date, which period may be extended by the Debtors in consultation with the Creditors Committee, then the Plan Confirmation Order will be vacated, no Distributions will be made pursuant to the Plan, and the Debtors and all Holders of Claims and Interests will be restored to the *status quo ante* as of the day immediately preceding the Plan Confirmation Date as though the Plan Confirmation Date had never occurred.

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtors believe that the classification of Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtors created eight Classes of Claims and Interests, each encompassing Claims or Interests, as applicable, that are substantially similar to the other Claims and Interests in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

The Plan provides for no Distribution to certain Classes as specified in Sections 3 and 4 of the Plan. The Bankruptcy Code conclusively deems these Classes to have rejected the Plan. Pursuant to section 1129(a)(10) of the Bankruptcy Code, notwithstanding the fact that these Classes are deemed to have rejected the Plan, the Bankruptcy Court may confirm the Plan if at least one Impaired Class votes to accept the Plan (with such acceptance being determined without including the vote of any “insider” in such class). As to each Impaired Class that has not accepted the Plan, the Plan may be confirmed if the Bankruptcy Court determines that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to these Classes. The Debtors believe that the Plan satisfies these requirements.

B. No Duty to Update Disclosures.

The Debtors have no duty to update the information contained in this Disclosure Statement as of the date hereof, unless otherwise specified herein, or unless the Debtors are required to do pursuant to an order of the Bankruptcy Court. Delivery of the Disclosure Statement after the date hereof does not imply that the information contained herein has remained unchanged.

C. Representations Outside this Disclosure Statement.

This Disclosure Statement contains representations concerning or related to the Debtors and the Plan that are authorized by the Bankruptcy Code and the Bankruptcy Court. Please be advised that any representations or inducements outside this Disclosure Statement and any related documents which are intended to secure your acceptance or rejection of the Plan should not be relied upon by Holders of Claims or Interests that are entitled to vote to accept or reject the Plan.

D. No Admission.

The information and representations contained herein shall not be construed to constitute an admission of, or be deemed evidence of, any legal effect of the Plan on the Debtors or Holders of Claims and Interests.

E. Tax and Other Related Considerations.

The content of this Disclosure Statement is not intended and should not be construed as tax, legal, business or other professional advice. Holders of Claims and/or Interests should seek advice from their own independent tax, legal or other professional advisors based on their own individual circumstances.

VI. PLAN CONFIRMATION AND CONSUMMATION

A. Plan Confirmation Hearing.

Bankruptcy Code section 1128(a) requires the Bankruptcy Court, after appropriate notice, to hold a hearing on confirmation of a Plan. On, or as promptly as practicable after the filing of the Plan and this Disclosure Statement, the Debtors will request pursuant to the requirements of the Bankruptcy Code and the Bankruptcy Rules, that the Bankruptcy Court schedule the Plan Confirmation Hearing. Notice of the Plan Confirmation Hearing will be provided to all known creditors, equity holders or their representatives. The Plan Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Plan Confirmation Hearing or any subsequent adjourned Plan Confirmation Hearing.

Pursuant to Bankruptcy Code section 1128(b), any party in interest may object to confirmation of a plan of reorganization. Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules, must set forth the name of the objector, the nature and amount of Claims or Interests held or asserted by the objector against the particular

Debtor or Debtors, the basis for the objection and the specific grounds of the objection, and must be filed with the Bankruptcy Court, with a copy to Chambers, together with proof of service thereof, and served upon: (i) DLA Piper LLP (US), 1251 Avenue of the Americas, New York, New York 10020 (Attn: Tom Califano, Esq. and Jeremy R. Johnson, Esq.), attorneys for the Debtors; (ii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Nazar Khodorovsky, Esq., Trial Attorney); (iii) Cooley LLP, The Grace Building, 1114 Avenue of the Americas, New York, New York 10036 (Attn: Cathy Herschopf, Esq. and Jeffrey L Cohen, Esq.), (iv) Dechert LLP, 1095 Avenue of the Americas, New York, New York 10036 (Attn: Michael J. Sage, Esq.), attorneys for the Bayside DIP Agent; and (v) such other parties as the Bankruptcy Court may order.

Bankruptcy Rule 9014 governs objections to confirmation of the Plan. **UNLESS AN OBJECTION TO CONFIRMATION OF THE PLAN IS TIMELY SERVED UPON THE PARTIES LISTED ABOVE AND FILED WITH THE BANKRUPTCY COURT, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT IN DETERMINING WHETHER TO CONFIRM THE PLAN.**

B. Plan Confirmation Requirements Under the Bankruptcy Code.

At the Plan Confirmation Hearing, the Bankruptcy Court will consider the terms of the Plan and determine whether the Plan terms satisfy the requirements set out in section 1129 of the Bankruptcy Code. The Debtors believe that the Plan satisfies or will satisfy the following requirements of section 1129, certain of which are discussed in more detail below:

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtors, as 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 promised by the Debtors or by a person acquiring property under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been disclosed to the Bankruptcy Court, and any such payment: (i) made before the confirmation of the Plan is reasonable; or (ii) is subject to the approval of the Bankruptcy Court as reasonable, if such payment is to be fixed after confirmation of the Plan.
- Each holder of an Impaired Claim or Interest either has accepted the Plan or will receive or retain under the Plan, on account of such holder's Claim or Interest, property of a value as of the Effective Date that is not less than the amount such holder would receive or retain if the Debtors were liquidated on the Effective Date under chapter 7 of the Bankruptcy Code.

- Except to the extent the Plan meets the requirements of section 1129(b) of the Bankruptcy Code, each Class of Claims or Interests either has accepted the Plan or is not an Impaired Class 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 Expense Claims, Allowed Priority Tax Claims and Allowed Other Priority Claims will be paid in full as required by the Bankruptcy Code.

C. Plan Consummation.

Upon confirmation of the Plan by the Bankruptcy Court, the Plan will be deemed consummated on the Effective Date. Distributions to Holders of Claims receiving a Distribution pursuant to the terms of the Plan will follow consummation of the Plan.

D. Best Interests of Creditors Test.

The Bankruptcy Code requires that, with respect to an impaired class of claims or interests, each holder of an impaired claim or interest in such class either (i) accept the plan or (ii) receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the amount (value) such holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on the effective date.

The Debtors' costs of a chapter 7 liquidation would necessarily include fees payable to a trustee in bankruptcy, as well as fees likely to be payable to attorneys, advisors, and other professionals that such a chapter 7 trustee may engage to carry out its duties under the Bankruptcy Code. Other costs of liquidating the Debtors' Estates would include the expenses incurred during the bankruptcy cases and allowed by the Bankruptcy Court in the chapter 7 case, such as reimbursable compensation for the Debtors' professionals, including, but not limited to, attorneys, financial advisors, appraisers, accountants.

The foregoing types of claims, costs, expenses, and fees that may arise in a chapter 7 liquidation case would be paid in full before payments would be made towards pre-chapter 11 priority and unsecured claims. The Debtors believe that in a chapter 7 liquidation, Holders of Claims and Interests would receive less distribution than such Holders would receive under the Plan.

E. Liquidation Analysis.

As noted above, the Debtors believe that under the proposed terms of the Plan all Holders of Impaired Claims and Interests will receive property with a value not less than the value such Holders would receive in a chapter 7 liquidation of the Debtors' assets. The Debtors' belief is based primarily on (i) consideration of the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to Holders of Impaired Claims and Interests, including (a) the increased costs and expenses of a liquidation under chapter 7 arising from fees payable to a chapter 7 trustee and professional advisors to the trustee, (b) the erosion in value of assets in a chapter 7 case in the context of the rapid liquidation required under chapter 7, (c) the

substantial delay in Distributions to the Holders of Impaired Claims and Interests that would likely ensue in a chapter 7 liquidation, and (ii) the liquidation analysis (the “**Liquidation Analysis**”) prepared by the Debtors’ Professionals, which is attached as Exhibit B to this Disclosure Statement.

The Debtors believe that any liquidation analysis is speculative, as such an analysis necessarily is premised on assumptions and estimates which are inherently subject to significant uncertainties and contingencies, many of which would be beyond the control of the Debtors. Thus, there can be no assurance as to values that would actually be realized in a chapter 7 liquidation, nor can there be any assurance that a Bankruptcy Court would accept the Debtors’ conclusions or concur with such assumptions in making its determinations under section 1129(a)(7) of the Bankruptcy Code.

For example, the Liquidation Analysis necessarily contains an estimate of the amount of Claims which will ultimately become Allowed Claims. This estimate is based solely upon the Debtors’ review of its books and records and the Debtors’ estimates as to additional Claims that may be filed in the Chapter 11 Cases or that would arise in the event of a conversion of the case from chapter 11 to chapter 7. No order or finding has been entered by the Bankruptcy Court or any other court estimating or otherwise fixing the amount of Claims at the projected amounts of Allowed Claims set forth in the Liquidation Analysis. In preparing the Liquidation Analysis, the Debtors have projected an amount of Allowed Claims that is at the lower end of a range of reasonableness such that, for purposes of the Liquidation Analysis, the largest possible liquidation dividend to holders of Allowed Claims can be assessed. The estimate of the amount of Allowed Claims set forth in the Liquidation Analysis should not be relied on for any other purpose, including any determination of the value of any Distribution to be made on account of Allowed Claims under the Plan.

The Liquidation Analysis is being provided solely to disclose to Holders of Claims the effects of a hypothetical chapter 7 liquidation of the Debtors, subject to the assumptions set forth therein.

F. Feasibility.

Pursuant to section 1129(a)(11) of the Bankruptcy Code, a debtor must demonstrate that a bankruptcy court’s confirmation of a plan is not likely to be followed by the liquidation or need for further financial reorganization of the debtor or its successor under the plan, unless such liquidation or reorganization is proposed under the plan. Pursuant to the Plan, all of the Debtors’ Assets that were not sold to the Purchaser under the Asset Purchase Agreement are being transferred to the Liquidating Trust to be liquidated and distributed to the Liquidating Trust’s beneficiaries. Therefore, the Bankruptcy Court’s confirmation of the Plan is not likely to be followed by liquidation or the need for any further reorganization.

G. Acceptance by Impaired Classes.

The Bankruptcy Code requires, as a condition to confirmation, that, except as described in Article VI.H below, each class of claims or equity interests that is impaired under a plan, accept the plan. A class that is not “impaired” under a plan is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. As a general

matter under the Bankruptcy Code, a class is “impaired,” unless the plan: (a) leaves unaltered the legal, equitable and contractual rights to which the claim or the equity interest entitles the holder of such claim or equity interest; (b) cures any default and reinstates the original terms of such claim or equity interest; or (c) provides that, on the consummation date, the holder of such claim or equity interest receives cash equal to the allowed amount of that claim or, with respect to any equity interest, any fixed liquidation preference to which the holder of such equity interest is entitled to any fixed price at which the debtor may redeem the security.

Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the plan. Thus, a class of claims will have voted to accept the plan only if two-thirds (2/3) in amount and a majority in number actually voting cast their ballots in favor of acceptance. A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

The Claims in Classes 1, 2, 3, 4 and 5 are not Impaired under the Plan and, as a result, the Holders of such Claims are deemed to have accepted the Plan. Any Class of Claims that is not occupied as of the commencement of the Plan Confirmation Hearing by an Allowed Claim shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code. If no votes to accept or reject the Plan are received with respect to a Class whose votes have been solicited under the Plan (other than a Class that is deemed eliminated under the Plan), such Class shall be deemed to have voted to accept the Plan.

H. Section 1129(b).

Section 1129(b) of the Bankruptcy Code provides that the Bankruptcy Court may confirm a plan even if a class of impaired claims or interests votes to reject the plan if the plan does not unfairly discriminate and is fair and equitable with respect to each impaired class of claims or interests that has not accepted the plan.

1. No Unfair Discrimination.

The “no unfair discrimination” test requires that the plan not provide for unfair treatment with respect to classes of claims or interests that are of equal priority, but are receiving different treatment under the plan.

2. Fair and Equitable.

The fair and equitable requirement applies to classes of claims of different priority and status, such as secured versus unsecured. The plan satisfies the fair and equitable requirement if no class of claims receives more than 100% of the allowed amount of the claims in such class. Further, if a class of claims is considered a dissenting class (“***Dissenting Class***”), *i.e.*, a Class of Claims that is deemed to reject the Plan because the required majorities in amount and number of votes is not received from the Class, the following requirements apply:

a. Class of Secured Claims:

Each holder of an impaired secured claim either (i) retains its liens on the subject property, to the extent of the allowed amount of its secured claim and receives deferred cash payments having a value, as of the effective date of the plan of at least the allowed amount of such claim, (ii) has the right to credit bid the amount of its claim if its property is sold and retains its liens on the proceeds of the sale (or if sold, on the proceeds thereof), or (iii) receives the “indubitable equivalent” of its allowed secured claim.

b. Class of Unsecured Creditors:

Either (i) each holder of an impaired unsecured claim receives or retains under the plan property of a value equal to the amount of its allowed claim or (ii) the holders of claims and interests that are junior to the claims of the Dissenting Class will not receive any property under the plan.

c. Class of Interests:

Either (i) each interest holder will receive or retain under the plan property of a value equal to the greater of (a) the fixed liquidation preference or redemption price, if any, of such stock and (b) the value of the stock, or (ii) the holders of interests that are junior to the interests of the Dissenting Class will not receive any property under the plan.

The Debtors believe the Plan does not “discriminate unfairly” and will satisfy the “fair and equitable” requirement notwithstanding that certain Classes of Claims are deemed to reject the Plan because no Class that is junior to such Class will receive or retain any property on account of the Claims and Interests in such Class and the Plan not provide for unfair treatment with respect to Classes of Claims or Interests that are of equal priority.

VII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Debtors believe the Plan is in the best interests of creditors and should accordingly be accepted and confirmed. If the Plan as proposed, however, is not confirmed, the following alternatives may be available to the Debtors: (i) a liquidation of the Debtors’ assets pursuant to chapter 7 of the Bankruptcy Code; (ii) an alternative chapter 11 plan may be proposed and confirmed; or (iii) the Debtors’ Chapter 11 Cases may be dismissed.

A. Chapter 7 Liquidation.

If a plan pursuant to chapter 11 of the Bankruptcy Code is not confirmed by the Bankruptcy Court, the Chapter 11 Cases may be converted to liquidation cases under chapter 7 of the Bankruptcy Code in which a trustee would be elected or appointed, pursuant to applicable provisions of chapter 7 of the Bankruptcy Code, to liquidate the assets of the Debtors for distribution in accordance with the priorities established by the Bankruptcy Code. A discussion of the effect that a chapter 7 liquidation would have on the recoveries of Holders of Claims is set forth in Article VI hereof. The Debtors believe that such a liquidation would result in smaller distributions being made to the Debtors' creditors than those provided for in the Plan because (a) the likelihood that other assets of the Debtors would have to be sold or otherwise disposed of in a less orderly fashion, (b) additional administrative expenses attendant to the appointment of a trustee and the trustee's employment of attorneys and other professionals, and (c) additional expenses and Claims, some of which would be entitled to priority, which would be generated during the liquidation.

B. Alternative Plan Pursuant to Chapter 11 of the Bankruptcy Code.

If the Plan is not confirmed, the Debtors, or any party in interest (if, pursuant to section 1121 of the Bankruptcy Code, the Debtors have not filed a plan within the time period prescribed under the Bankruptcy Code) may propose a different plan. Such a plan might involve an alternative means for the liquidation of the Debtors' assets in a chapter 11 bankruptcy proceeding. However, the Debtors believe that the terms of the Plan provide for an orderly and efficient liquidation of the Debtors' assets and will result in the realization of the most value for Holders of Claims and Interests against the Debtors' Estates.

C. Dismissal of the Debtors' Chapter 11 Cases.

Dismissal of all of the Debtors' Chapter 11 Cases would have the effect of restoring (or attempting to restore) all parties to the *status quo ante*. Upon dismissal of all of the Debtors' Chapter 11 Cases, the Debtors would lose the protection of the Bankruptcy Code, thereby requiring, at the very least, an extensive and time-consuming process of negotiation with the various creditors of the Debtors, and possibly resulting in costly and protracted litigation in various jurisdictions. Most significantly, dismissal of all of the Debtors' Chapter 11 Cases would permit secured creditors to foreclose upon any assets that are subject to their Liens. Dismissal will also permit unpaid unsecured creditors to obtain and enforce judgments against the Debtors. The Debtors believe that these actions could lead ultimately to the liquidation of the Debtors under chapter 7 of the Bankruptcy Code. Therefore, the Debtors believe that dismissal of the Debtors' Chapter 11 Cases is not a preferable alternative to the Plan.

VIII. CERTAIN FEDERAL TAX CONSEQUENCES

Confirmation of the Plan may have federal income tax consequences for the Debtors and Holders of Claims and Interests. The Debtors have not obtained and do not intend to request a ruling from the Internal Revenue Service, nor have the Debtors obtained an opinion of counsel with respect to any tax matters. Any federal income tax matters raised by confirmation of the Plan are governed by the Internal Revenue Code and the regulations promulgated thereunder. Holders of Claims and Interests are urged to consult their own counsel and tax advisors as to the

consequences to them, under federal and applicable state, local and foreign tax laws, of the Plan. The following is intended to be a summary only and not a substitute for careful tax planning with a tax professional. The federal, state and local tax consequences of the Plan may be complex in some circumstances and, in some cases, uncertain. Accordingly, each Holder of a Claim or Interest is strongly urged to consult with his or her own tax advisor regarding the federal, state and local tax consequences of the Plan, including but not limited to the receipt of Cash under the Plan.

The Debtors may not recognize income as a result of the discharge of debt pursuant to the Plan because section 108 of the Internal Revenue Code provides that taxpayers in bankruptcy proceedings do not recognize income from discharge of indebtedness. However, a taxpayer is required to reduce its "tax attributes" by the amount of the debt discharged. Tax attributes are reduced in the following order: (i) net operating losses for the taxable year of the discharge, and any net operating loss carryover to such taxable year; (ii) general business credits; (iii) minimum tax credits, (iv) capital loss carryovers; (v) the basis of the property of the taxpayer; (vi) passive activity loss and credit carryovers; and (vii) foreign tax credit carryovers.

An unsecured creditor that receives Cash in satisfaction of its Claim may recognize gain or loss, with respect to the principal amount of its Claim, equal to the difference between (i) the creditor's basis in the Claim (other than the portion of the Claim, if any, attributable to accrued interest), and (ii) the balance of the Cash received after any allocation to accrued interest. The character of the gain or loss as capital gain or loss, or ordinary income or loss, will generally be determined by whether the Claim is a capital asset in the creditor's hands. A creditor may also recognize income or loss in respect of consideration received for accrued interest on the Claim. The income or loss will generally be ordinary, regardless of whether the creditor's Claim is a capital asset in its hands

DUE TO A LACK OF DEFINITIVE JUDICIAL OR ADMINISTRATIVE AUTHORITY AND INTERPRETATION, SUBSTANTIAL UNCERTAINTIES EXIST WITH RESPECT TO VARIOUS TAX CONSEQUENCES OF THE PLAN. FOR THE FOREGOING REASONS CREDITORS ARE URGED TO CONSULT WITH THEIR OWN TAX ADVISORS AS TO SPECIFIC TAX CONSEQUENCES (FEDERAL, STATE AND LOCAL) OF THE PLAN.

IX. Recommendation and Conclusion.

The Debtors believe the Plan is in the best interests of all creditors and the Estates and urges the Holders of Impaired Claims entitled to vote to accept the Plan and to evidence such acceptance by properly voting and timely returning their ballots.

Dated: February 6, 2012 New York, New York	Respectfully submitted,
	Alexander Gallo Holdings, LLC By: <u>/s/ Marc L. Pfefferle</u> Name: <u>Marc L. Pfefferle</u> Title: <u>Chief Restructuring Officer</u> Unlimited Languages, Inc. The Hobart West Group, Inc. By: <u>/s/ Marc L. Pfefferle</u> Name: <u>Marc L. Pfefferle</u> Title: <u>Chief Restructuring Officer</u> D-M Information Systems, Inc. By: <u>/s/ Marc L. Pfefferle</u> Name: <u>Marc L. Pfefferle</u> Title: <u>Chief Restructuring Officer</u> Set Depo, LLC By: <u>/s/ Marc L. Pfefferle</u> Name: <u>Marc L. Pfefferle</u> Title: <u>Chief Restructuring Officer</u> AG/Sanction LLC By: <u>/s/ Marc L. Pfefferle</u> Name: <u>Marc L. Pfefferle</u> Title: <u>Chief Restructuring Officer</u>

	<p>Deponet, LLC Esquire Deposition Services, LLC Esquire Litigation Solutions, LLC Esquire Solutions, LLC Hobart West Solutions, LLC</p> <p>By: <u>/s/ Marc L. Pfefferle</u> Name: <u>Marc L. Pfefferle</u> Title: <u>Chief Restructuring Officer</u></p>
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EXHIBIT A TO DISCLOSURE STATEMENT

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
In re

AGH LIQUIDATING, LLC (f/k/a
Alexander Gallo Holdings, LLC), *et al.*,¹

Debtors.
-----X

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:
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:
:

Chapter 11

Case No. 11-14220 (ALG)

(Jointly Administered)

**DEBTORS' SECOND MODIFIED JOINT PLAN OF
LIQUIDATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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*Attorneys for Debtors and Debtors in
Possession*

Dated: February 6, 2012

¹ The Debtors, together with the last four digits of each Debtor's federal tax identification number, are: Alexander Gallo Holdings, LLC (4040); Set Depo, LLC (4236); AG/Sanction LLC (2187); Unlimited Languages, Inc. (7755); The Hobart West Group, Inc. (9849); Deponet, LLC (0336); Esquire Deposition Services, LLC (9684); Esquire Litigation Solutions, LLC (0947); Esquire Solutions, LLC (9382); Hobart West Solutions, LLC (6005); and D-M Information Systems, Inc. (3504).

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AGH Liquidating, LLC (f/k/a Alexander Gallo Holdings, LLC); SD Liquidating, LLC (f/k/a Set Depo, LLC); AG/S Liquidating, LLC (f/k/a AG/Sanction LLC); UL Liquidating, Inc. (f/k/a Unlimited Languages, Inc.); HWG Liquidating, Inc. (f/k/a The Hobart West Group, Inc.); DN Liquidating, LLC (f/k/a Deponet, LLC); EDS Liquidating, LLC (f/k/a Esquire Deposition Services, LLC); ELS Liquidating, LLC (f/k/a Esquire Litigation Solutions, LLC); ES Liquidating, LLC (f/k/a Esquire Solutions, LLC); HWS Liquidating, LLC (f/k/a Hobart West Solutions, LLC); and DMIS Liquidating, Inc. (f/k/a D-M Information Systems, Inc.) (collectively, the “**Debtors**”) hereby propose the following joint plan of liquidation pursuant to chapter 11 of the Bankruptcy Code:

SECTION 1. DEFINITIONS AND INTERPRETATION

A. Definitions.

The following terms used herein shall have the respective meanings defined below:

1.1 *Administrative and Priority Claims Reserve* means the account to be established by the Liquidation Trustee in an authorized depository in the Southern District of New York and funded with the Administrative and Priority Claims Reserve Amount pursuant to Section 6.7 of this Plan.

1.2 *Administrative and Priority Claims Reserve Amount* means cash in an amount to be determined to be funded from the Sale Proceeds and used by the Liquidating Trustee for the payment of Administrative Expense Claims Allowed after the Effective Date, Compensation and Reimbursement Claims Allowed after the Effective Date, Priority Tax Claims Allowed after the Effective Date, Other Priority Claims Allowed after the Effective Date, Secured Tax Claims Allowed after the Effective Date, and Other Secured Claims Allowed after the Effective Date, to the extent that the foregoing Claims have not been paid in full on or prior to the Effective Date.

1.3 *Administrative Expense Claim* means any Allowed Claim pursuant to Bankruptcy Code sections 503(b) and 507(a)(1) arising from actual, necessary costs or expenses of administration of the Chapter 11 Cases and preservation of the Debtors’ Estates.

1.4 *Administrative Expense Claim Bar Date* means the date that is the first Business Day that is thirty (30) days after the Effective Date.

1.5 *Advisors* means the Debtors’ financial advisor, investment banker, corporate communications consultant, tax consultant, and attorneys, and each of their respective employees, members, parent corporations, subsidiaries, affiliates and partners.

1.6 *AKKR Noteholder Claims* means the Claims, rights or interests of the AKKR Noteholders arising under, related to, or in connection with the AKKR Notes and any related document, including, but not limited to, any AKKR Noteholder Guaranty Claim.

1.7 *AKKR Noteholder Guaranty Claim* means a Claim arising from a unsecured subordinated guarantee issued by any of the Debtors in connection with the AKKR Notes.

1.8 *AKKR Noteholder Representative* means Gallo Holdings, LLC, as representative for the AKKR Noteholders.

1.9 *AKKR Noteholders* means the beneficial holders of the unsecured subordinated AKKR Notes.

1.10 *AKKR Notes* means the AKKR Tranche A Notes and the AKKR Tranche B Notes, collectively.

1.11 *AKKR Tranche A Notes* means the Tranche A junior unsecured subordinated notes, due November 30, 2013, issued by the Company in favor of the AKKR Noteholder Representative in the original principal amount of approximately \$35,400,000.

1.12 *AKKR Tranche B Notes* means the Tranche B junior unsecured subordinated notes, due November 30, 2013, issued by the Company in favor of the AKKR Noteholder Representative in the original principal amount of approximately \$60,600,000.

1.13 *Allowed* means, with respect to any Claim, (i) a Claim against a Debtor which has been listed on the Debtor's Schedules, as such Schedules may be amended from time to time pursuant to Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent and for which no contrary Proof of Claim has been filed, (ii) any Claim for which a Proof of Claim was properly and timely filed in accordance with any order of the Bankruptcy Court, the Plan, the Bankruptcy Code, and the Bankruptcy Rules, as to which no objection to allowance has been interposed by a party in interest or as to which any objection has been determined by a Final Order to the extent such objection is determined in favor of the respective Holder, (iii) any Claim expressly allowed by a Final Order or pursuant to this Plan, or (iv) Claims under or evidenced by the Bayside DIP Facility. Any Claim that has been or is hereafter listed in the Schedules as contingent, unliquidated or disputed, and for which no Proof of Claim has been timely filed, is not considered Allowed and shall be expunged on the Effective Date without further action by the Debtors or the Liquidating Trustee and without any further notice to or action, order or approval of the Bankruptcy Court.

1.14 *Asset Purchase Agreement* means that certain asset purchase agreement by and between the Debtors and the Purchaser memorializing the terms and conditions of the Sale, as may be amended, modified, and/or supplemented in accordance with the terms thereof.

1.15 *Assets* means all tangible and intangible assets of every kind and nature of the Debtors and the Estates, including, without limitation, the Causes of Action, and all proceeds thereof.

1.16 *Avoidance Actions* means, subject to the releases, exculpations, and injunctions set forth in this Plan, any and all potential claims or causes of action to avoid a transfer of property or an obligation incurred by the Debtors pursuant to sections 542 through 553 of the Bankruptcy Code.

1.17 *Bankruptcy Code* means title 11 of the United States Code, 11 U.S.C. §§ 101, et seq.

1.18 *Bankruptcy Court* means the United States Bankruptcy Court for the Southern District of New York.

1.19 *Bankruptcy Rules* means the Federal Rules of Bankruptcy Procedure and any local rules of the Bankruptcy Court applicable to the Chapter 11 Cases.

1.20 *Bayside DIP Agent* means Bayside Gallo Recovery, LLC or its affiliate ("***Bayside***"), in its capacity as administrative agent under the Bayside DIP Facility.

1.21 *Bayside DIP Lenders* means Bayside, as lender under the Bayside DIP Facility, together with any other lender under the Bayside DIP Facility.

1.22 *Bayside DIP Facility* means that certain revolving credit facility provided under the Debtor-in-Possession Credit, Security, Pledge and Guaranty Agreement, dated as of September 22, 2011, by and among the Debtors, the Bayside DIP Agent, and the Bayside DIP Lenders in the aggregate principal amount not to exceed \$20 million at any one time outstanding.

1.23 *Bayside DIP Facility Claims* means the Claims, Liens, rights or interests of the Bayside DIP Agent and the Bayside DIP Lenders arising under, related to, or in connection with the Bayside DIP Facility and any related document.

1.24 *Beaver Note* means that certain 10% unsecured subordinated note, due November 14, 2011, issued by the Company in favor of the Beaver Noteholder in the original principal amount of \$2,150,000.

1.25 *Beaver Noteholder* means Legal Reprographics, Inc., on behalf of itself and the Beaver Family Trust and Steven Beaver, an individual.

1.26 *Beaver Noteholder Claim* means the Claim, rights or interests of the Beaver Noteholder arising under, related to, or in connection with the Beaver Note and any related document.

1.27 *Borrowers* has the meaning defined in the Bayside DIP Facility.

1.28 *Business* means the Debtors' business as of the Petition Date.

1.29 *Business Day* means any day of the calendar week, except Saturday, Sunday, a "legal holiday," as defined in Bankruptcy Rule 9006(a), or any day on which commercial banks are authorized or required by law to close.

1.30 *Cash* means legal tender of the United States of America.

1.31 *Cash Collateral Stipulation* means that certain Final Stipulation for Use of Cash Collateral, Adequate Protection and Continuing Use of Purchase Cards on a Secured Basis, filed on September 27, 2011 (Dkt. No. 115).

1.32 *Causes of Action* means, subject to the releases, exculpations, and injunctions set forth in this Plan, any and all claims, causes of action and enforceable rights of a

Person against third parties, or assertable by a Person or on behalf of its creditors, its estate, or itself, whether brought in the Bankruptcy Court or any other forum for recovery or avoidance, that has not been settled or resolved as of the Effective Date, of, among other things: (a) obligations, transfers of property or interests in property, offsets, debt forgiveness, Cash, and other types or kinds of property or interests in property or the value thereof, recoverable or avoidable pursuant to Chapter 5 of the Bankruptcy Code or other sections of the Bankruptcy Code or any applicable law; (b) damages, general or statutory or exemplary (or all) or other relief, including but not limited to actions relating to or based upon – (i) indebtedness owing to a Person, (ii) fraud, negligence, gross negligence, willful injury or misconduct, acts or malice, or any other tort actions, including but not limited to defamation, malicious prosecution, or tortious interference with contract, (iii) breaches of contract, (iv) violations of federal or state securities laws, (v) violations of applicable corporate, limited liability company or partnership laws, (vi) breaches of fiduciary or agency duties, including, but not limited to, the duties of care and/or loyalty, (vii) recharacterization, (viii) illegal dividends, (ix) misrepresentations, (x) causes of action based on disregard of the corporate form or piercing the corporate veil or other liability theories, (xi) corporate waste, (xii) corporate opportunity, (xiii) any theory of recovery against a lending institution not otherwise released by this Plan, including any action or any action causing harm to a Person, (xiv) equitable or legal subordination, (xv) indemnity rights against third parties, or (xvi) any other action listed in Bankruptcy Rule 7001; and (c) damages or other relief based upon any other claim of a Person to the extent not specifically compromised or released pursuant to this Plan ((b) and (c) above, “*Non-Avoidance Causes of Actions*”).

1.33 Chapter 11 Cases means the cases commenced in the Bankruptcy Court by the Debtors pursuant to chapter 11 of the Bankruptcy Code.

1.34 Claim means a “claim,” as that term is described in Bankruptcy Code section 101(5), against any Debtor.

1.35 Class means any group of Claims or Interests classified in Section 3 of this Plan pursuant to Bankruptcy Code section 1122.

1.36 Collateral means any property or interest in property of the Estate of any Debtor subject to a valid Lien, charge, or other encumbrance to secure the payment or performance of a Claim.

1.37 Company means AGH Liquidating, LLC (f/k/a Alexander Gallo Holdings, LLC), together with SD Liquidating, LLC (f/k/a Set Depo, LLC), AG/S Liquidating, LLC (f/k/a AG/Sanction LLC), UL Liquidating, Inc. (f/k/a Unlimited Languages, Inc.), HWG Liquidating, Inc. (f/k/a The Hobart West Group, Inc.), DN Liquidating, LLC (f/k/a Deponet, LLC), EDS Liquidating, LLC (f/k/a Esquire Deposition Services, LLC), ELS Liquidating, LLC (f/k/a Esquire Litigation Solutions, LLC), ES Liquidating, LLC (f/k/a Esquire Solutions, LLC), HWS Liquidating, LLC (f/k/a Hobart West Solutions, LLC), and DMIS Liquidating, Inc. (f/k/a D-M Information Systems, Inc.)

1.38 Compensation and Reimbursement Claim means a Claim for compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date pursuant to Bankruptcy Code sections 330, 331, 503(b)(2),

503(b)(3), 503(b)(4), or 503(b)(5), including, but not limited to, Claims of any Professional seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date.

1.39 *Contingent Claim* means any contingent or unliquidated Claim asserted or which may be asserted against any Debtor.

1.40 *Creditors Committee* means the statutory committee of unsecured creditors appointed in the Chapter 11 Cases by the United States Trustee on September 15, 2011.

1.41 *Debtor Releasees* means each of the Debtors, their Estates, and each of their respective Related Persons.

1.42 *Debtors* means AGH Liquidating, LLC (f/k/a Alexander Gallo Holdings, LLC); SD Liquidating, LLC (f/k/a Set Depo, LLC); AG/S Liquidating, LLC (f/k/a AG/Sanction LLC); UL Liquidating, Inc. (f/k/a Unlimited Languages, Inc.); HWG Liquidating, Inc. (f/k/a The Hobart West Group, Inc.); DN Liquidating, LLC (f/k/a Deponet, LLC); EDS Liquidating, LLC (f/k/a Esquire Deposition Services, LLC); ELS Liquidating, LLC (f/k/a Esquire Litigation Solutions, LLC); ES Liquidating, LLC (f/k/a Esquire Solutions, LLC); HWS Liquidating, LLC (f/k/a Hobart West Solutions, LLC); and DMIS Liquidating, Inc. (f/k/a D-M Information Systems, Inc.).

1.43 *Debtors in Possession* means the Debtors in their capacity as debtors in possession in the Chapter 11 Cases pursuant to Bankruptcy Code sections 1101, 1107(a) and 1108.

1.44 *Disbursing Agent* means any Entity, including any Debtor and the Liquidating Trustee, which acts as a Disbursing Agent pursuant to Section 7.4 hereof.

1.45 *Disclosure Statement* means that certain disclosure statement relating to this Plan as amended or modified from time to time, including, among other things, all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to Bankruptcy Code section 1125.

1.46 *Disputed Claim* means a Claim that has neither been Allowed nor disallowed pursuant to a Final Order of the Bankruptcy Court, and (a) if no Proof of Claim has been filed by the applicable deadline: (i) a Claim that has been or hereafter is listed on the Schedules as disputed, contingent, or unliquidated; or (ii) a Claim that has been or hereafter is listed on the Schedules as other than disputed, contingent, or unliquidated, but as to which the Debtors or any other party in interest has interposed an objection or request for estimation which has not been withdrawn or determined by a Final Order; or (b) if a Proof of Claim or other request for payment has been filed by the applicable deadline: (i) a Claim for which no corresponding Claim has been or hereafter is listed on the Schedules or Allowed in this Plan; (ii) a Claim for which a corresponding Claim has been or hereafter is listed on the Schedules as other than disputed, contingent, or unliquidated, but the nature or amount of the Claim or as asserted in the Proof of Claim varies from the nature and amount of such Claim as listed on the Schedules to the extent of such variance; (iii) a Claim for which a corresponding Claim has been or hereafter is listed on the Schedules as disputed, contingent, or unliquidated; or (iv) a Claim for

which a timely objection or request for estimation is interposed by the Debtors or any other party in interest which has not been withdrawn or determined by a Final Order.

1.47 *Distribution* means Cash, property, interests in property or other value distributed to Holders of Allowed Claims, or their designated agents, under this Plan.

1.48 *Distribution Record Date* means five (5) Business Days prior to the Plan Confirmation Date.

1.49 *Effective Date* means the first Business Day after the Plan Confirmation Date on which the conditions precedent specified herein have been either satisfied or waived.

1.50 *Effective Date Cash Payment* means Cash in an amount equal to the aggregate of all Administrative Expense Claims Allowed as of the Effective Date, Compensation and Reimbursement Claims Allowed as of the Effective Date, Priority Tax Claims Allowed as of the Effective Date, Other Priority Claims Allowed as of the Effective Date, Secured Tax Claims Allowed as of the Effective Date, Other Secured Claims Allowed as of the Effective Date, and Senior Secured Wells Claims Allowed as of the Effective Date, to the extent that the foregoing Claims have not been paid in full prior to the Effective Date.

1.51 *Effective Date Distributions* means all Distributions required to be made on the Effective Date under this Plan to the holders of Claims that are Allowed as of the Effective Date.

1.52 *Entity* means an entity as defined in section 101(15) of the Bankruptcy Code.

1.53 *Estate* means the estate created in each Debtor's chapter 11 bankruptcy case containing all property and other interests of the applicable Debtor pursuant to Bankruptcy Code section 541.

1.54 *Final Order* means an order or judgment of the Bankruptcy Court entered by the Clerk of the Bankruptcy Court on the docket in the Chapter 11 Cases, which has not been reversed, vacated, or stayed and as to which (i) the time to appeal, petition for *certiorari*, or move for a new trial, reargument, or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (ii) if an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, reargument, or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for *certiorari* or move for a new trial, reargument, or rehearing shall have expired; provided, however, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or Bankruptcy Rule 9024, may be filed relating to such order shall not cause such order to not be a Final Order.

1.55 *General Unsecured Claim* means any Claim asserted against any Debtor which is not included within any other specifically defined Class hereunder or which is otherwise determined by the Bankruptcy Court to be a General Unsecured Claim. For the avoidance of

doubt, Rejection Damages Claims, Winston Noteholder Claims, the Beaver Noteholder Claim, and the AKKR Noteholder Claims are General Unsecured Claims.

1.56 *Holder* means the legal or beneficial holder of a Claim or Interest.

1.57 *Impaired* means, with respect to a Claim or Interest, that such Class of Claims or Interests is impaired within the meaning of Bankruptcy Code section 1124.

1.58 *Insider Actions* means potential Avoidance Actions against Alexander Gallo and Andrew Sims.

1.59 *Interest* means the interest of any Holder of an equity security of any Debtor, within the meaning of Bankruptcy Code section 101(16), represented by any issued and outstanding shares of common or preferred stock or other instrument evidencing a present ownership or membership interest in any of the Debtors, whether or not transferable, or any option, warrant, or right, contractual or otherwise, to acquire any such interest, including a partnership, limited liability company or similar interest in a Debtor.

1.60 *Junior Subordination Agreement* means that certain First Amended and Restated Subordination and Standstill Agreement, dated as of December 22, 2008, as further amended, by and among the Debtors, the Wells Agent, the VSS Agent and certain other lender parties, the Winston Noteholder, and the AKKR Noteholders.

1.61 *Lien* means a lien as defined in section 101(37) of the Bankruptcy Code.

1.62 *Liquidating Trust* means the trust established on the Effective Date pursuant to Section 6.6 hereof.

1.63 *Liquidating Trust Advisory Board* shall have the meaning ascribed to it in Section 6.6.4 hereof.

1.64 *Liquidating Trust Agreement* means the agreement to be executed as of the Effective Date establishing the Liquidating Trust pursuant to this Plan.

1.65 *Liquidating Trust Assets* means all Assets of the Debtors and the Estates other than (a) the Purchased Assets, (b) the Effective Date Cash Payment, and (c) any Cause of Action and Claim released pursuant to Sections 11.8, 11.9, and 11.10 hereof.

1.66 *Liquidating Trustee* means Ronald Friedman or such other disinterested Person appointed by the Debtors, in consultation with the Creditors Committee, pursuant to Section 6.6.4 hereof to act as trustee of and administer the Liquidating Trust.

1.67 *Local Bankruptcy Rules* means the Local Bankruptcy Rules for the Southern District of New York.

1.68 *Mezzanine Subordination Agreement* means that certain Subordination and Standstill Agreement, dated as of November 30, 2007, as further amended, by and among the Debtors, the Wells Agent, the VSS Agent, and certain other lender parties.

1.69 Notes means, collectively, the AKKR Notes, the Beaver Note, the Subordinate Secured Notes, the Winston Notes, and any other notes or promissory notes that may have been issued by any of the Debtors prior to the Petition Date.

1.70 Other Priority Claim means any Claim entitled to priority pursuant to Bankruptcy Code section 507(a) other than an Administrative Expense Claim, Compensation and Reimbursement Claim, Priority Tax Claim, or Bayside DIP Facility Claim.

1.71 Other Secured Claim means any Secured Claim other than a Senior Secured Wells Claim, a Subordinate Secured Note Claim, a Secured Tax Claim, or a Bayside DIP Facility Claim against any of the Debtors.

1.72 Person means any individual, corporation, partnership, joint venture, association, limited liability company, joint stock company, trust, unincorporated organization, government or agency or political subdivision thereof or any other Entity.

1.73 Petition Date means September 7, 2011, the date on which the Debtors' chapter 11 bankruptcy petitions were filed with the Bankruptcy Court.

1.74 Plan means this joint plan of liquidation under chapter 11 of the Bankruptcy Code, either in its present form or as it may be altered, amended, modified, or supplemented from time to time in accordance with the Bankruptcy Code, the Bankruptcy Rules, or the terms hereof, as the case may be, and the Plan Supplement, which is incorporated herein by reference, including, without limitation, all exhibits and schedules hereto and thereto.

1.75 Plan Confirmation Date means the date on which the Clerk of the Bankruptcy Court enters the Plan Confirmation Order.

1.76 Plan Confirmation Hearing means the hearing to be held by the Bankruptcy Court to consider approval of this Plan, as such hearing may be adjourned or continued from time to time.

1.77 Plan Confirmation Order means any order entered by the Bankruptcy Court confirming this Plan pursuant to Bankruptcy Code section 1129.

1.78 Plan Documents means all documents, forms of documents, schedules, and exhibits to this Plan to be executed, delivered, assumed and/or performed in conjunction with consummation of this Plan on the Effective Date.

1.79 Plan Expenses means all actual and necessary fees, costs, expenses and obligations incurred by or owed to the Liquidating Trustee and its agents, employees, attorneys, advisors and other professionals in administering this Plan and the Liquidating Trust, including, without limitation, (a) reasonable compensation for services rendered, and reimbursement for actual and necessary expenses incurred by the Liquidating Trustee and its agents, employees and professionals after the Effective Date through and including the date upon which the Bankruptcy Court enters a final decree closing the Chapter 11 Cases, and (b) all fees payable pursuant to Section 13.1 of this Plan.

1.80 Plan Expenses Reserve means the account to be established by the Liquidating Trustee in an authorized depository in the Southern District of New York and funded with the Plan Expenses Reserve Amount pursuant to Section 6.6.5 of this Plan to be used for the payment of Plan Expenses.

1.81 Plan Expenses Reserve Amount means Cash in an amount to be determined to be funded from the Sale Proceeds and used for the payment of Plan Expenses.

1.82 Plan Supplement means the compilation of all Plan Documents to be entered into as of the Effective Date and which will be filed with the Bankruptcy Court not later than ten (10) days prior to the Plan Confirmation Hearing.

1.83 Plan Transactions shall have the meaning ascribed to it in Section 6.3 hereof.

1.84 Preserved Actions means all Avoidance Actions and other Causes of Action transferred to the Liquidating Trust pursuant to this Plan.

1.85 Priority Tax Claim means any Allowed Claim of a governmental unit pursuant to Bankruptcy Code sections 502(i) and 507(a)(8); provided, however, that any Claims for penalties asserted by governmental units shall not be Priority Tax Claims.

1.86 Professional means any professional firm or professional Person retained by the Debtors in connection with these Chapter 11 Cases pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330, or 331 of the Bankruptcy Code.

1.87 Proof of Claim or Interest means a written statement conforming substantially to the appropriate official form and Bankruptcy Rule 3001 describing the basis and amount of a Claim or Interest, together with supporting documentation evidencing such Claim or Interest, which complies with applicable provisions of this Plan, the Bankruptcy Code, other Bankruptcy Rules, and any orders of the Bankruptcy Court.

1.88 Pro Rata Share means, with respect to any Distribution on account of any Allowed Claim, the ratio that the amount of such Allowed Claim bears to the aggregate amount of all Allowed Claims in the same Class.

1.89 Purchased Assets means the Assets that were sold, transferred, assigned, conveyed, and delivered to the Purchaser pursuant to the Sale Order and in accordance with the terms and subject to the conditions of the Asset Purchase Agreement.

1.90 Purchaser means Bayside Gallo Acquisition, LLC.

1.91 Related Persons means, with respect to any Person, such Person's predecessors, successors, assigns and present and former affiliates (whether by operation of law or otherwise) and each of their respective members, partners, equity holders, officers, directors,

employees, representatives, advisors, attorneys, auditors, agents, and professionals, in each case acting in such capacity, and any Person claiming by or through any of them.

1.92 Released Parties means the Debtor Releasees and the Third Party Releasees.

1.93 Rejection Damages Claims means any Claim arising from, or relating to, the rejection of an executory contract or unexpired lease pursuant to section 365(a) of the Bankruptcy Code by any of the Debtors, as limited, in the case of a rejected unexpired lease, by section 502(b)(6) of the Bankruptcy Code.

1.94 Sale means the sale of substantially all of the Debtors' assets in these Chapter 11 Cases pursuant to the terms and conditions of the Asset Purchase Agreement.

1.95 Sale Order means the *Order Pursuant to Bankruptcy Code Sections 105 and 363 (I) Authorizing and Approving the Sale of Substantially All of the Debtors' Assets Free and Clear of All Liens, Claims, Encumbrances, and Other Interests, and (II) Granted Related Relief*, dated November 10, 2011.

1.96 Sale Proceeds means the gross Cash proceeds generated by the Sale and actually received by the Debtors.

1.97 Schedules means the schedules of assets and liabilities and the statements of financial affairs filed by the Debtors pursuant to Bankruptcy Code section 521, Bankruptcy Rule 1007, and the Official Bankruptcy Forms of the Bankruptcy Rules as such schedules and statements have been or may be supplemented or amended from time to time through the Plan Confirmation Date.

1.98 Secured Claim means a Claim (i) secured by a valid and perfected Lien on collateral that is enforceable pursuant to applicable law, the amount of which is equal to or less than the value of such collateral (a) as set forth in this Plan, (b) as agreed to by the Holder of such Claim and the Debtors, or (c) as determined by a Final Order in accordance with Bankruptcy Code section 506(a), or (ii) secured by the amount of any rights of setoff of the Holder thereof under Bankruptcy Code section 553.

1.99 Secured Tax Claim means any Secured Claim that, absent its secured status, would be entitled to priority in right of payment under Bankruptcy Code section 507(a)(8) (determined irrespective of any time limitations therein), and including any related Secured Claim for penalties.

1.100 Senior Credit Facility means that certain revolving credit facility in an aggregate amount of up to \$12 million with a \$4 million letter of credit sublimit, the term credit facility in an aggregate amount of up to \$36 million, and the uncommitted incremental term credit facility in an aggregate amount of up to \$20 million (up to \$14 million of which has been funded), as more specifically provided for in the Wells Credit Agreement.

1.101 Senior Secured Wells Claims means the Claims, Liens, rights or interests of the Wells Lenders and Wells Agent arising under, related to, or in connection with the Wells

Credit Agreement and any related document, including, but not limited to, any Wells Guaranty Claim, and any other Secured Claim in favor of any of the Wells Lenders or the Wells Agent as provided in the Cash Collateral Stipulation.

1.102 Subordinated 510(b) Claim means any Claim subordinated pursuant to Bankruptcy Code section 510(b), which shall include any Claim arising from the rescission of a purchase or sale of any Interest, any Claim for damages arising from the purchase or sale of any Interest, or any Claim for reimbursement, contribution or indemnification on account of any such Claim.

1.103 Subordinate Secured Note Claims means the Claims, Liens, rights or interests of the Subordinate Secured Noteholders arising under, related to, or in connection with the Subordinate Secured Notes and any related document, including, but not limited to, any Subordinate Secured Notes Guaranty Claim.

1.104 Subordinate Secured Noteholders means Grace Bay Holdings II, LLC (an affiliate of Bayside) or such other beneficial holder or holders of the Subordinate Secured Notes.

1.105 Subordinate Secured Notes those certain senior secured subordinated notes, due March 1, 2013, issued by the Company in favor of the VSS Agent and certain other lender parties in the approximate aggregate original principal amount of \$26,285,518, and subsequently assigned to the Subordinate Secured Noteholders.

1.106 Subordinate Secured Notes Guaranty Claim means a Claim arising from a secured subordinated guarantee issued by any of the Debtors in connection with the Subordinate Secured Notes.

1.107 Third Party Releasees means the Liquidating Trust, the Liquidating Trustee, Bayside, the Bayside DIP Agent, the Bayside DIP Lenders, the Holders of Senior Secured Wells Claims, the Holders of Subordinate Secured Note Claims, the AKKR Noteholders, AKKR in its capacity as a Holder of Interests in Hobart West Solutions, LLC, the Creditors Committee and its members, and each of their respective Related Persons.

1.108 Unimpaired means, with respect to a Claim or Interest, a Class of Claims or Interests that is not Impaired within the meaning of Bankruptcy Code section 1124.

1.109 Voting Agent means Kurtzman Carson Consultants LLC.

1.110 Voting Record Date means the date of the final hearing on the Disclosure Statement.

1.111 VSS Agent means VSS Mezzanine Partners, L.P., as original agent with respect to the Subordinate Secured Notes.

1.112 Wells Agent means Wells Fargo Bank, National Association, in its capacity as administrative agent under the Wells Credit Agreement.

1.113 Wells Credit Agreement means that certain Credit Agreement, dated November 30, 2007 (as amended, restated, supplemented or otherwise modified from time to time), by and among the Company, as borrower, the Wells Lenders, as lenders, and the Wells Agent, as administrative agent, pursuant to which the Wells Lenders agreed to make certain loans and other financial accommodations to the Company, including (a) a revolving credit facility in an aggregate amount of up to \$12 million with a \$4 million letter of credit sublimit, (b) a term credit facility in an aggregate amount of up to \$36 million, and (c) an uncommitted incremental term credit facility in an aggregate amount of up to \$20 million (up to \$14 million of which has been funded).

1.114 Wells Guaranty Claim means a Claim arising from a senior secured guarantee issued by any of the Debtors in connection with the Senior Credit Facility.

1.115 Wells Lenders means Wells Fargo Bank, National Association, CIT Lending Services Corporation, and Brown Brothers Harriman & Co., as lenders under the Wells Credit Agreement, together with any other lender under the Wells Credit Agreement.

1.116 Winston Noteholder means Winston Noteholders, LLC.

1.117 Winston Noteholder Claim means the Claim, rights or interests of the Winston Noteholder arising under, related to, or in connection with the Winston Note and any related document, including, but not limited to, any Winston Noteholder Guaranty Claim.

1.118 Winston Noteholder Guaranty Claim means a Claim arising from an unsecured subordinated guarantee issued by any of the Debtors in connection with the Winston Note.

1.119 Winston Note means that certain junior unsecured subordinated note, due November 30, 2013, issued by the Company in favor of the Winston Noteholder in the original principal amount of approximately \$25,500,000.

B. Interpretation: Application of Definitions and Rules of Construction.

Unless otherwise specified, all section or exhibit references in this Plan are to the respective section in, or exhibit to, this Plan, as the same may be amended, waived, or modified from time to time. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to this Plan as a whole and not to any particular section, subsection, or clause contained therein. A term used herein that is not defined herein shall have the meaning assigned to that term in the Bankruptcy Code. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to this Plan. The headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. Unless otherwise provided, any reference in this Plan to an existing document, exhibit or schedule means such document, exhibit or schedule as it may have been amended, restated, revised, supplemented or otherwise modified. If a time or date is specified for any payments or other Distribution under this Plan, it shall mean on or as soon as reasonably practicable thereafter. Further, where appropriate from a contextual reading of a term, each term includes the singular and plural form of the term regardless of how the term is stated and each stated pronoun is gender neutral. In

computing any period of time prescribed or allowed by this Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

SECTION 2. ADMINISTRATIVE EXPENSE AND PRIORITY CLAIMS

2.1 *Administrative Expense Claims.*

Except to the extent that a Holder of an Allowed Administrative Expense Claim agrees with the Debtors or the Liquidating Trustee to a different treatment or has been paid by any applicable Debtor prior to the Effective Date from the Sale Proceeds or otherwise, each Holder of an Allowed Administrative Expense Claim will be paid the full unpaid amount of such Allowed Administrative Expense Claim in Cash (a) on the Effective Date or as soon thereafter as is reasonably practicable or, if not then due, when such Allowed Administrative Expense Claim is due or as soon thereafter as is reasonably practicable, (b) if an Administrative Expense Claim is Allowed after the Effective Date, on the date such Administrative Expense Claim is Allowed or as soon thereafter as is reasonably practicable or, if not then due, when such Allowed Administrative Expense Claim is due, (c) at such time and upon such terms as may be agreed upon by such Holder and the Debtors or the Liquidating Trustee, as the case may be, or (d) at such time and upon such terms as set forth in an order of the Bankruptcy Court; provided, however, that Administrative Expense Claims that have been assumed by the Purchaser pursuant to the Asset Purchase Agreement shall not be an obligation of the Debtors; provided further that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors, as Debtors in Possession, or liabilities arising under obligations incurred by the Debtors, as Debtors in Possession, in accordance with the Debtors' wind-down budget and to the extent such obligations have not been assumed by the Purchaser, shall be paid by the Debtors, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to such transactions. For the avoidance of doubt, all postpetition tax claims of governmental units have been assumed by the Purchaser and, therefore, do not constitute obligations of the Debtors.

The Holder of an Administrative Expense Claim, other than (i) a Compensation and Reimbursement Claim, (ii) a liability incurred but not yet due and payable in the ordinary course of business by a Debtor until after the thirtieth (30th) day after the Effective Date, (iii) an Administrative Expense Claim that has been Allowed on or before the Effective Date, (iv) an expense or liability incurred in the ordinary course of business on or after the Effective Date, or (v) fees of the United States Trustee arising under 28 U.S.C. § 1930 and any applicable interest thereon, must file with the Bankruptcy Court and serve on the Debtors, the Liquidating Trustee, and the Office of the United States Trustee, a request for payment of such Administrative Expense Claim so as to be received on or before the Administrative Expense Claim Bar Date. Failure to file and serve such request for payment timely and properly shall result in the Administrative Expense Claim being forever barred and discharged. The Debtors estimate that

the aggregate amount of Allowed Administrative Expense Claims to be paid between the date hereof and the Effective Date will not exceed \$300,000.²

2.2 Compensation and Reimbursement Claims.

All parties seeking payment of Compensation and Reimbursement Claims (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is forty-five (45) days after the Plan Confirmation Date, (ii) shall be paid in full in such amounts as are allowed by the Bankruptcy Court (a) upon the later of (i) the Effective Date, (ii) the date upon which the order relating to any such Allowed Compensation and Reimbursement Claim is entered, or (b) upon such other terms as may be mutually agreed upon between the Holder of such an Allowed Compensation and Reimbursement Claim and the Debtors or Liquidating Trustee, as the case may be. The Debtors are authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Plan Confirmation Date and until the Effective Date in the ordinary course and without the need for Bankruptcy Court approval, subject to the requirement that invoices evidencing the amount sought will be distributed to those parties set forth in the Order Pursuant to Sections 105(a) and 331 of the Bankruptcy Code and Rule 2016 of the Federal Rules of Bankruptcy Procedure Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals (Dkt. No. 196) and payment shall be governed by such order, except for the provisions related to the 20% holdback. The Debtors estimate that an aggregate amount of approximately \$4.3 million in Allowed Compensation and Reimbursement Claims have been paid during these Chapter 11 Cases or will be paid in accordance with this Plan.

2.3 Priority Tax Claims.

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees with the Debtors or the Liquidating Trustee to a different treatment or has been paid by any applicable Debtor prior to the Effective Date from the Sale Proceeds or otherwise, in full and final satisfaction, settlement, release, and discharge of and in exchange for release of each Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall receive on account of such Claim, in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, regular installment payments in Cash over a period ending not later than five (5) years after the Petition Date of a total value, as of the Effective Date, equal to the Allowed amount of such Priority Tax Claim. The Debtors reserve the right to prepay at any time under this option. All Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business as such obligations become due. Any Claims asserted by a governmental unit on account of any penalties and assessments shall not be Priority Tax Claims and shall be subordinated to General Unsecured Claims. On the Effective Date, any Liens securing any Allowed Priority Tax Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any

² The Debtors estimate that fees of the United States Trustee arising under 28 U.S.C. § 1930 and any applicable interest thereon remaining to be paid during these Chapter 11 Cases will be approximately \$50,000. In addition, the estimate of Allowed Administrative Expense Claims does not include any Allowed Compensation and Reimbursement Claims.

Person. The Debtors estimate that an aggregate amount of approximately \$1.44 million or less in Allowed Priority Tax Claims will be paid during these Chapter 11 Cases in accordance with this Plan.

2.4 Bayside DIP Facility Claims.

Pursuant to the Asset Purchase Agreement and Sale, the Purchaser credit bid the full amount of the Bayside DIP Facility Claims, in an amount equal to approximately \$8.1 million, towards the purchase price of the Purchased Assets. Accordingly, the Bayside DIP Facility Claims have been fully and finally satisfied, settled, released, and discharged, and Holders of Bayside DIP Facility Claims will not receive any Distribution on account of such Bayside DIP Facility Claims pursuant to this Plan.

SECTION 3. CLASSIFICATION OF CLAIMS AND INTERESTS

A. The following table designates the Classes of Claims against and Interests in the Debtors' Estates, and specifies which of those Classes are (i) Impaired or Unimpaired by this Plan, (ii) entitled to vote to accept this Plan in accordance with section 1126 of the Bankruptcy Code, (iii) deemed to reject this Plan, or (iv) deemed to accept this Plan. A Claim or Interest is classified in a particular Class only to the extent that any such Claim or Interest is an Allowed Claim or Interest in that Class and has not been paid, released, settled or otherwise satisfied prior to the Effective Date.

Class	Description	Treatment	Entitled to Vote
---	United States Trustee Fees	Payment in full	No
---	Administrative Expense Claims	Payment in full	No
---	Compensation and Reimbursement Claims	Payment in full	No
---	Priority Tax Claims	Payment in full	No
---	Bayside DIP Facility Claims	Satisfied in full	No
1	Other Priority Claims	Unimpaired	No (deemed to accept)
2	Secured Tax Claims	Unimpaired	No (deemed to accept)
3	Senior Secured Wells Claims	Unimpaired	No (deemed to accept)

Class	Description	Treatment	Entitled to Vote
4	Subordinate Secured Note Claims	Unimpaired	No (deemed to accept)
5	Other Secured Claims	Unimpaired	No (deemed to accept)
6	General Unsecured Claims	Impaired	Yes
7	Subordinated 510(b) Claims	Impaired	No (deemed to reject)
8	Equity Interests	Impaired	No (deemed to reject)

SECTION 4. TREATMENT OF CLAIMS AND INTERESTS

4.1 *Other Priority Claims (Class 1).*

Except to the extent that a Holder of an Allowed Other Priority Claim has agreed with the Debtors or the Liquidating Trustee to a different treatment of such Claim, and only to the extent that any such Allowed Other Priority Claim has not been paid in full prior to the Effective Date from the Sale Proceeds or otherwise, each such Holder shall receive, in full satisfaction of such Allowed Other Priority Claim, Cash in an amount equal to such Allowed Other Priority Claim, on or as soon as reasonably practicable after the later of (i) the Effective Date; (ii) the date the Other Priority Claim becomes an Allowed Claim; or (iii) the date for payment provided by any agreement or arrangement between the Debtors or Liquidating Trustee, as the case may be, and the Holder of the Allowed Other Priority Claim. The Debtors do not anticipate that there will be any Allowed Other Priority Claims.

Class 1 is Unimpaired and is deemed to accept this Plan.

4.2 *Secured Tax Claims (Class 2).*

On the Effective Date or as soon thereafter as is reasonably practicable, and only to the extent that any such Allowed Secured Tax Claim has not been paid in full prior to the Effective Date from the Sale Proceeds or otherwise, each Holder of an Allowed Secured Tax Claim shall receive, at the option of the Debtors or the Liquidating Trustee, (i) the proceeds of the sale or disposition of the collateral securing such Allowed Secured Tax Claim to the extent of the value of the Holder's secured interest in the Allowed Secured Tax Claim, (ii) such treatment that leaves unaltered the legal, equitable, and contractual rights to which the holder of such Allowed Secured Tax Claim is entitled, or (iii) such other Distribution as necessary to satisfy the requirements of the Bankruptcy Code. In the event the Debtors or the Liquidating Trustee treat a Claim under clause (i) of this Section, the Liens securing such Allowed Secured Tax Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order

of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person. The Debtors and the Liquidating Trustee specifically reserve the right to challenge the validity, nature, and perfection of, and to avoid pursuant to the provisions of the Bankruptcy Code and other applicable law, any purported Liens relating to the Secured Tax Claims. The Debtors do not anticipate that there will be any Allowed Secured Tax Claims.

Class 2 is Unimpaired and is deemed to accept this Plan.

4.3 *Senior Secured Wells Claims (Class 3).*

Except to the extent that a Holder of an Allowed Senior Secured Wells Claim has agreed with the Debtors to a different treatment of such Claim, and only to the extent that any such Allowed Senior Secured Wells Claim has not been paid in full prior to the Effective Date from the Sale Proceeds or otherwise, in full and final satisfaction, settlement, release, and discharge of each Allowed Senior Secured Wells Claim, each such Holder shall be paid in full in Cash on the Effective Date or as soon thereafter as is reasonably practicable. Upon such payment, the Liens securing such Allowed Senior Secured Wells Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person. Holders of Allowed Senior Secured Wells Claims have received payments in the amount of approximately \$47.8 million from the Sale Proceeds.

Class 3 is Unimpaired and is deemed to accept this Plan.

4.4 *Subordinate Secured Note Claims (Class 4).*

Pursuant to the Asset Purchase Agreement and Sale, the Purchaser credit bid the full amount of the Subordinate Secured Note Claims, in the amount of approximately \$23.2 million, towards the purchase price of the Purchased Assets. Accordingly, the Subordinate Secured Note Claims have been fully and finally satisfied, settled, released, and discharged, and Holders of Subordinate Secured Note Claims will not receive any Distribution on account of such Subordinate Secured Note Claims pursuant to this Plan.

Class 4 is Unimpaired and is deemed to accept this Plan.

4.5 *Other Secured Claims (Class 5).*

Except to the extent that a Holder of an Allowed Other Secured Claim has agreed with the Debtors or the Liquidating Trustee to a different treatment of such Claim, and only to the extent that any such Allowed Other Secured Claim has not been paid in full prior to the Effective Date from the Sale Proceeds or otherwise, in full and final satisfaction, settlement, release, and discharge of each Allowed Other Secured Claim, each such Holder, at the option of the Debtors, shall (i) be paid in full in Cash, (ii) receive the collateral securing its Allowed Other Secured Claim, plus post-petition interest to the extent required under section 506(b) of the Bankruptcy Code, or (iii) receive other treatment rendering such Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code, in each case on the later of the Effective Date and the date such Other Secured Claim becomes an Allowed Other Secured Claim, or as soon thereafter as is

reasonably practicable. In the event the Debtors or the Liquidating Trustee treat a Claim under clause (i) of this Section, the Liens securing such Allowed Other Secured Claim shall be deemed released, terminated and extinguished, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person. The Debtors and the Liquidating Trustee specifically reserve the right to challenge the validity, nature, and perfection of, and to avoid pursuant to the provisions of the Bankruptcy Code and other applicable law, any purported Liens relating to the Other Secured Claims.

If an Allowed Other Secured Claim exceeds the value of the collateral that secures such Allowed Other Secured Claim, the Holder of such Allowed Other Secured Claim will have a General Unsecured Claim for the deficiency. The Debtors do not anticipate that there will be any Allowed Other Secured Claims.

Class 5 is Unimpaired and is deemed to accept this Plan.

4.6 General Unsecured Claims (Class 6).

Except to the extent that a Holder of an Allowed General Unsecured Claim has agreed to a different treatment of such Claim, and only to the extent that any such Allowed General Unsecured Claim has not been paid by any applicable Debtor prior to the Effective Date from the Sale Proceeds or otherwise, in full and final satisfaction, settlement, release, and discharge of each Allowed General Unsecured Claim, each Holder of an Allowed General Unsecured Claim will receive on account of such Allowed General Unsecured Claim such Holder's Pro Rata Share of the proceeds of the Liquidating Trust Assets, including, but not limited to the proceeds of the Preserved Actions, until all Allowed General Unsecured Claims are paid in full or the Liquidating Trust Assets are exhausted; provided, however, that no portion of the Administrative and Priority Claims Reserve or the Plan Expenses Reserve shall be used for payment of any Allowed General Unsecured Claims until all Allowed Administrative Expense Claims, Allowed Compensation and Reimbursement Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, Allowed Secured Tax Claims, Allowed Other Secured Claims, and Plan Expenses have been paid or otherwise satisfied in full in accordance with this Plan. As of the date hereof, an aggregate amount of approximately \$215 million in General Unsecured Claims has been either scheduled by the Debtors or asserted against the Estates.³ This amount includes AKKR Noteholder Claims in the aggregate amount of approximately \$143 million. However, by letter filed with the Bankruptcy Court dated December 28, 2011 (Docket No. 370), after discussions with and in consultation with the Creditors Committee, Holders of AKKR Noteholder Claims waived, released, abandoned, and discharged the AKKR Noteholder Claims. Of the approximately \$72 million in remaining General Unsecured Claims either scheduled by the Debtors or asserted against the Estates, approximately \$33,025,426.42 (or 46%) is held by Winston Noteholders, LLC.

³ This figure does not account for cure payments made to counterparties of contracts and leases assumed and assigned to the Purchaser in these Chapter 11 Cases. Accordingly, remaining General Unsecured Claims against the Estates may be substantially lower than this amount.

Class 6 is Impaired and is entitled to vote to accept or reject this Plan. Any recovery under the Plan to Holders of Allowed General Unsecured Claims is contingent upon the continued investigative efforts of the Creditors Committee and any recoveries by the Liquidating Trust on account of the Insider Actions and other Avoidance Actions transferred to the Liquidating Trust. It is impossible to estimate at this time the amount, if any, of any recoveries by the Liquidating Trust.

4.7 Subordinated 510(b) Claims (Class 7).

Each Holder of Subordinated 510(b) Claim will not receive any Distribution on account of such Subordinated 510(b) Claim, and each such Holder of a Subordinated 510(b) Claim shall not receive or retain an interest in the Debtors, the Liquidating Trust, the Estates, or other property or interests of the Debtors or Liquidating Trust on account of such Subordinated 510(b) Claim. The Debtors do not anticipate that there will be any Subordinated 510(b) Claims.

Class 7 is Impaired and is deemed to reject this Plan.

4.8 Equity Interests (Class 8).

Each Holder of an Equity Interest in any Debtor will not receive any Distribution on account of such Equity Interest. Each such Equity Interest shall not receive or retain an interest in the Debtors, the Liquidating Trust, the Estates, or other property or interests of the Debtors or Liquidating Trust on account of such Equity Interests. Each such Equity Interest will be cancelled as of the Effective Date.

Class 8 is Impaired and is deemed to reject this Plan.

SECTION 5. ACCEPTANCE OR REJECTION OF THE PLAN

5.1 Impaired Classes.

Pursuant to section 1126 of the Bankruptcy Code, each Impaired Class of Claims or Interests that will receive a Distribution pursuant to this Plan may vote separately to accept or reject this Plan. Each Holder of an Allowed Claim in such an Impaired Class as of the Voting Record Date shall receive a ballot and may cast a vote to accept or reject this Plan.

Classes 7 and 8 are not entitled to receive or retain any Distributions or property under this Plan and are, therefore, conclusively presumed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code. Class 6 is Impaired and is the only Class of Claims or Interests entitled to vote on this Plan.

5.2 Acceptance by a Class.

A Class of Claims entitled to vote to accept or reject this Plan shall be deemed to accept this Plan if the Holders of Claims in such voting Class that hold at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Claims that vote in such Class vote to accept this Plan. A Class of Interests is deemed to accept this Plan if this Plan has been accepted by Holders of at least 2/3 of the amount of the Allowed Interests held by Holders of such

Interests in who vote in such Class. Classes 1, 2, 3, 4, and 5 are Unimpaired under this Plan and are, therefore, conclusively presumed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code.

5.3 *Claims and Interests Not Entitled to Vote.*

Holders of Claims are not entitled to vote if, as of the Voting Record Date, the Claim (a) has been disallowed, (b) is the subject of a pending objection, or (c) (i) was not listed on the Debtors' Schedules or was listed on the Debtors' Schedules as unliquidated, contingent or disputed, and (ii) a Proof of Claim was not filed or was filed for an unliquidated, contingent or disputed claim, unless on or before the Voting Record Date the Bankruptcy Court enters a Final Order directing otherwise. However, if a Claim is disallowed in part, the Holder shall be entitled to vote the Allowed portion of the Claim.

SECTION 6. MEANS FOR IMPLEMENTATION

6.1 *Limited Substantive Consolidation.*

This Plan provides for the limited substantive consolidation of the Debtors' Estates, but solely for the purposes of this Plan, including voting on this Plan by the Holders of Claims and making any Distributions to Holders of Claims. The Debtors propose limited substantive consolidation to avoid the inefficiency of proposing and voting in respect of entity-specific Claims and Interests for which there would be no impact on distributions. On the Effective Date, (i) all assets and liabilities of the Debtors will, solely for voting and Distribution purposes, be treated as if they were merged, (ii) each Claim against the Debtors will be deemed a single Claim against and a single obligation of the Debtors, (iii) any Claims filed or to be filed in the Chapter 11 Cases will be deemed single Claims against all of the Debtors, (iv) all guarantees of any Debtor of the payment, performance, or collection of obligations of any other Debtor shall be eliminated and canceled, (v) all transfers, disbursements and Distributions on account of Claims made by or on behalf of any Debtor hereunder will be deemed to be made by or on behalf of all of the Debtors, and (vi) any obligation of the Debtors as to Claims will be deemed to be one obligation of all of the Debtors. Holders of Allowed Claims entitled to Distributions under this Plan shall be entitled to their share of assets available for Distribution to such Claim without regard to which Debtor was originally liable for such Claim. Except as set forth herein, such limited substantive consolidation shall not (other than for purposes related to this Plan) affect the legal and corporate structures of the Debtors.

6.2 *Corporate Action.*

6.2.1 *Transfer of Assets and Assumption of Liabilities.*

On the Effective Date, (i) the Debtors shall, in accordance with this Plan, cause the Liquidating Trust Assets to be transferred to the Liquidating Trust and (ii) the Liquidating Trust shall assume all obligations of the Debtors under this Plan.

6.2.2 *Dissolution of the Debtors.*

On the Effective Date and upon (i) the Debtors, or such entity designated by the Debtors, making the Effective Date Distributions and (ii) the Debtors causing the Liquidating Trust Assets to be transferred to the Liquidating Trust in accordance with Section 6.2.1 of this Plan, the Debtors shall have no further duties or responsibilities in connection with implementation of this Plan, and the members of the board of directors or managers, as the case may be, of each of the Debtors shall be deemed to have resigned. Upon entry of a final decree closing the Chapter 11 Cases, each of the Debtors shall be dissolved for all purposes in accordance with applicable state law.

6.2.3 *Cancellation of Existing Securities and Agreements.*

On the Effective Date, all agreements and other documents evidencing (i) any Claim or rights of any holder of a Claim against the Debtors, including any notes evidencing such Claims or (ii) any Interest in the Debtors, including any options or warrants to purchase Interests, shall be canceled. The holders of, or parties to, such canceled agreements and documents shall have no rights arising from or relating to such agreements and documents or the cancellation thereof, except any rights provided pursuant to this Plan.

6.3 *Plan Transactions.*

On the Effective Date or as soon thereafter as is reasonably practicable, the Debtors and the Liquidating Trustee may take any and all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate this Plan (the “*Plan Transactions*”), including, but not limited to, (i) the execution and delivery of appropriate agreements or other documents of financing, merger, consolidation, restructuring, conversion, disposition, transfer, or dissolution containing terms that are consistent with the terms of this Plan and that satisfy the requirements of applicable law, (ii) the execution and delivery of any appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, debt, duty or obligation on terms consistent with this Plan, (iii) the filing of appropriate certificates of incorporation or other similar documents with the appropriate governmental authorities pursuant to applicable law, and (iv) any and all other actions that the Debtors or Liquidating Trustee determine are necessary or appropriate.

6.4 *Effectuating Documents and Further Transactions.*

Upon entry of the Plan Confirmation Order, the Debtors and the Liquidating Trustee shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, consents, certificates, resolutions, programs, and other agreements and/or documents, and take such acts and actions as may be reasonable, necessary, or appropriate to effectuate, implement, consummate, and/or further evidence the terms and conditions of this Plan and any transactions described in or contemplated by this Plan. The Debtors or Liquidating Trustee, as applicable, and all Holders of Claims or Interests receiving Distributions pursuant to this Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents, and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan.

6.5 Authority to Act.

Prior to, on, or after the Effective Date (as appropriate), all matters expressly provided for under this Plan that would otherwise require approval of the stockholders, security holders, officers, directors, partners, managers, members, or other owners of one or more of the Debtors shall be deemed to have occurred and shall be in effect prior to, on, or after the Effective Date (as applicable) pursuant to the applicable law of the states or jurisdictions in which the Debtors are formed, without any further vote, consent, approval, authorization, or other action by such stockholders, security holders, officers, directors, partners, managers, members, or other owners of one or more of the Debtors or notice to, order of, or hearing before, the Bankruptcy Court.

6.6 Liquidating Trust.

6.6.1 Establishment of Liquidating Trust.

On the Effective Date, the Liquidating Trust will be established pursuant to the Liquidating Trust Agreement, which will be filed with the Bankruptcy Court not later than twenty (20) days prior to the Plan Confirmation Hearing. Upon establishment of the Liquidating Trust, all Liquidating Trust Assets shall be deemed transferred to the Liquidating Trust without any further action of any of the Debtors or any employees, officers, directors, members, partners, shareholders, agents, advisors, or representatives of the Debtors.

6.6.2 Transfer of Trust Assets.

Pursuant to Bankruptcy Code section 1141, all transfers and contributions made pursuant to this Section 6 shall be made free and clear of all Claims, Liens, encumbrances, charges, and other interests. Upon completion of the transfer of the Liquidating Trust Assets to the Liquidating Trust, the Debtors will have no further interest in, or with respect to, the Liquidating Trust Assets, or the Liquidating Trust. For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidating Trustee and the Liquidating Trust's beneficiaries) will treat the transfer of assets to the Liquidating Trust in accordance with the terms of this Plan, as a transfer to the Liquidating Trust's beneficiaries, followed by a transfer by such Liquidating Trust's beneficiaries to the Liquidating Trust, and the Liquidating Trust's beneficiaries will be treated as the grantors and owners thereof.

6.6.3 Purpose of Liquidating Trust.

The Liquidating Trust shall be established for the purpose of liquidating the Liquidating Trust Assets, prosecuting any Avoidance Actions and other Causes of Action transferred to the Liquidating Trust to maximize recoveries for the benefit of the Liquidating Trust's beneficiaries, and making distributions in accordance with this Plan to the Liquidating Trust's beneficiaries, with no objective to continue or engage in the conduct of a trade or business in accordance with Treas. Reg. § 301.7701-4(d). The Liquidating Trust is intended to qualify as a "grantor trust" for federal income tax purposes and, to the extent permitted by applicable law, for state and local income tax purposes, with the Liquidating Trust's beneficiaries treated as grantors and owners of the trust.

6.6.4 *Liquidating Trustee.*

(i) Retention of Liquidating Trustee. The Liquidating Trustee will be Ronald Friedman or such other disinterested Person designated by the Debtors, in consultation and with the consent of the Creditors Committee, no later than ten (10) days prior to the Plan Confirmation Hearing. Mr. Friedman is a Partner of the law firm Silverman Acampora LLP and has significant experience pursuing and prosecuting avoidance actions. The Liquidating Trustee shall file with the Bankruptcy Court an affidavit of disinterestedness. Once appointed, the Liquidating Trustee shall act as the representative of the Estates for all purposes. Pursuant to Bankruptcy Code section 1123(b)(3), the Liquidating Trustee shall be deemed the appointed representative to, and may pursue, litigate, and compromise and settle any such rights, Claims, any Avoidance Actions and other Causes of Action in accordance with the best interests of and for the benefit of the Liquidating Trust's beneficiaries. In the event that the Liquidating Trustee resigns, is removed, terminated or otherwise unable to serve as the Liquidating Trustee, then a successor shall be appointed by the Liquidating Trust Advisory Board as set forth in the Liquidating Trust Agreement. Any successor Liquidating Trustee appointed shall be bound by and comply with the terms of this Plan, the Plan Confirmation Order and the Liquidating Trust Agreement.

(ii) Responsibilities and Authority of the Liquidating Trustee. The responsibilities and authority of the Liquidating Trustee shall include: (a) calculating and implementing all Distributions for the Liquidating Trust's beneficiaries; (b) administering and paying taxes, including, among other things, (i) filing of tax returns, and (ii) representing the interest and account of the Liquidating Trust before any taxing authority in all matters including, without limitation, any action, suit, proceeding or audit; (c) periodic reporting to the Liquidating Trust's beneficiaries of the status of prosecution of any Avoidance Actions and other Causes of Action; (d) liquidating the Liquidating Trust Assets and providing payments to the Liquidating Trust's beneficiaries in accordance with the provisions of this Plan; (e) retaining and paying at normal and customary rates or contingency fee basis, on a monthly basis, professionals in connection with the Liquidating Trustee's performance of its duties under this Plan and Liquidating Trust Agreement; (f) distributing information statements as required for federal income tax and other applicable tax purposes; (g) filing an application for entry by the Bankruptcy Court of a final decree closing each of the Chapter 11 Cases; and (h) such other responsibilities as may be vested in the Liquidating Trustee pursuant to this Plan, the Liquidating Trust Agreement or Bankruptcy Court order or as may be necessary and proper to carry out the provisions of this Plan. In addition, after the Plan Confirmation Date, the Liquidating Trustee shall file with the Bankruptcy Court and submit to the United States Trustee regular post-confirmation status reports every three months, on or before each of the fifteenth (15th) day of January, April, July, and October as appropriate, and in accordance with the provisions of Rule 3021-1(c) of the Local Bankruptcy Rules for the U.S. Bankruptcy Court, Southern District of New York until the Chapter 11 Cases are closed, converted, or dismissed, whichever happens earlier.

(iii) Powers of the Liquidating Trustee. The powers of the Liquidating Trustee to administer the Liquidating Trust shall, without any further Bankruptcy Court approval in each of the following cases, include, without limitation, (a) the power to invest funds, in accordance with section 345 of the Bankruptcy Code, in, and withdraw, make

Distributions and pay taxes and other obligations owed by the Liquidating Trust from funds held by the Liquidating Trustee in accordance with this Plan and Liquidating Trust Agreement, (b) the power to engage and compensate without prior Bankruptcy Court order or approval employees and professionals to assist the Liquidating Trustee with respect to its responsibilities, (c) the power to pursue, prosecute, resolve and compromise and settle any Avoidance Actions and other Causes of Action on behalf of the Liquidating Trust without prior Bankruptcy Court approval but in accordance with the Liquidating Trust Agreement, (d) the power to object to claims, including, without limitation, the power to subordinate and recharacterize claims by objection, motion, or adversary proceeding, and (e) such other powers as may be vested in or assumed by the Liquidating Trustee pursuant to this Plan, the Liquidating Trust Agreement, Bankruptcy Court order, or as may be necessary and proper to carry out the provisions of this Plan. Except as expressly set forth herein and in the Liquidating Trust Agreement, the Liquidating Trustee, on behalf of the Liquidating Trust, shall have absolute discretion to pursue or not to pursue any Avoidance Actions and other Causes of Action as it determines is in the best interests of the beneficiaries and consistent with the purposes of the Liquidating Trust, and shall have no liability for the outcome of its decision, other than those decisions constituting gross negligence or willful misconduct. The Liquidating Trustee may incur any reasonable and necessary expenses in liquidating and converting the Liquidating Trust Assets to Cash.

(iv) Liquidating Trust Advisory Board. Prior to the Effective Date, the Creditors Committee shall appoint an administrative trust advisory board (the “Liquidating Trust Advisory Board”) consisting of at least one (1) member but no more than three (3) members, to consult with the Liquidating Trustee from time to time on various matters as set forth in the Liquidating Trust Agreement. As appointed by the Creditors Committee, the Liquidating Trust Advisory Board initially shall serve for a term of three (3) years. Thereafter, members of a subsequent Liquidating Trust Advisory Board shall be nominated to serve by the previous Liquidating Trust Advisory Board. If for any reason, no Liquidating Trust Advisory Board member remains to make such nomination, the Liquidating Trustee will make such nomination and such nominee shall qualify to serve upon an affirmative majority vote of the holders representing a majority (in dollar amount) of the Beneficial Interests (the “Majority Holders”) actually voting for such purpose (as recorded on the records of the Liquidating Trust as of such date). In the event that all members of the Liquidating Trust Advisory Board resign prior to the expiration of the initial term, the Liquidating Trustee shall nominate a new member and such nominee shall qualify to serve upon an affirmative majority vote of the Majority Holders actually voting for such purpose (as recorded on the records of the Liquidating Trust as of such date). The Liquidating Trust Advisory Board shall have the rights and powers set forth in the Liquidating Trust Agreement. In the event the Liquidating Trust Advisory Board is not formed and continuing to exist under the Liquidating Trust Agreement, all references therein to required approval or action of such Liquidating Trust Advisory Board shall be of no force and effect. In performance of their duties under the Liquidating Trust Agreement, members of the Liquidating Trust Advisory Board shall be entitled to receive reimbursement of reasonable costs, expenses and obligations as set forth in the Liquidating Trust Agreement.

(v) Enforcement of Any Avoidance Actions and Other Causes of Action. Pursuant to Bankruptcy Code section 1123(b), the Liquidating Trustee, on behalf of and for the benefit of the Liquidating Trust’s beneficiaries, shall be vested with and shall retain and may enforce any Avoidance Actions and other Causes of Action transferred to the

Liquidating Trust that were held by, through, or on behalf of the Debtors and/or the Estates against any other Person, arising before the Effective Date that have not been fully resolved or disposed of prior to the Effective Date, whether or not such Avoidance Actions and other Causes of Action are specifically identified in the Disclosure Statement accompanying this Plan and whether or not litigation with respect to same has been commenced prior to the Effective Date. For the avoidance of doubt, this Plan preserves and transfers to the Liquidating Trust certain Avoidance Actions that exist as of the Effective Date and that were not transferred to the Purchaser in connection with the Sale. The recoveries from any Avoidance Actions and Causes of Action transferred to the Liquidating Trust will be deposited into the Liquidating Trust and distributed in accordance with the Liquidating Trust Agreement and this Plan.

(vi) Valuation of Assets. As soon as practicable after the Effective Date, the Liquidating Trustee shall apprise the Liquidating Trust's beneficiaries of the estimated value of the Liquidating Trust Assets. The valuation shall be used consistently by all parties (including the Liquidating Trustee and the Liquidating Trust's beneficiaries) for all federal income tax purposes.

(vii) Compensation of Liquidating Trustee. The Liquidating Trustee shall be compensated as set forth in the Liquidating Trust Agreement. The Liquidating Trustee shall fully comply with the terms, conditions and rights set forth in this Plan, the Plan Confirmation Order and the Liquidating Trust Agreement. The Liquidating Trustee shall not be required to file a fee application to receive compensation.

(viii) Retention and Payment of Professionals. The Liquidating Trustee, in consultation and with the consent of the Liquidating Trust Advisory Board, shall have the right to retain the services of attorneys, accountants, and other professionals and agents, to assist and advise the Liquidating Trustee in the performance of his duties and compensate such professionals from the assets of the Plan Expenses Reserve as set forth in the Liquidating Trust Agreement.

(ix) Limitation on Liability of the Liquidating Trustee. The Liquidating Trustee and his professionals shall be entitled to indemnification against any losses, liabilities, expenses (including attorneys' fees and disbursements), damages, taxes, suits, or claims that the Liquidating Trustee or its professionals may incur or sustain by reason of being or having been a Liquidating Trustee or professionals of the Liquidating Trustee for performing any functions incidental to such service; provided, however, the foregoing shall not relieve the Liquidating Trustee or his professionals from liability for bad faith, willful misconduct, reckless disregard of duty, criminal conduct, gross negligence, fraud, or self-dealing, or, in the case of an attorney professional and as required under Rule 1.8(h)(1) of the New York State Rules of Professional Conduct, malpractice.

6.6.5 Plan Expenses.

The Liquidating Trustee may, in the ordinary course of business and without the necessity for any application to, or approval of, the Bankruptcy Court, pay any accrued but unpaid Plan Expenses. All Plan Expenses shall be charged against and paid from the Plan Expenses Reserve and, thereafter, paid from the Liquidating Trust. On the Effective Date, the

Liquidating Trustee shall establish the Plan Expenses Reserve with the Plan Expenses Reserve Amount, funded from the Sale Proceeds, which Plan Expenses Reserve Amount shall vest in the Liquidating Trust free and clear of all Liens, Claims, encumbrances, charges and other interests. Upon satisfaction of all valid Plan Expenses and entry by the Bankruptcy Court of a final decree closing each of the Chapter 11 Cases, any remaining balance of the Plan Expenses Reserve shall be distributed by the Liquidating Trustee to the Liquidating Trust's beneficiaries in accordance with this Plan as soon as practicable thereafter.

6.6.6 *Termination of Liquidating Trust.*

The Liquidating Trust shall be dissolved upon the earlier of the distribution of all of its assets to the Liquidating Trust's beneficiaries and the third anniversary of the creation of the Liquidating Trust, provided that, if warranted by the facts and circumstances involved in resolving any Avoidance Actions or other Causes of Action, upon application to, and if approved by, the Bankruptcy Court upon a finding such extension is necessary for purposes of resolving such Avoidance Actions or other Causes of Action and distributing the proceeds to Liquidating Trust's beneficiaries, the term of the Liquidating Trust may be extended by the Liquidating Trustee for a specified, finite term. Notwithstanding the foregoing, the Liquidating Trust shall be automatically terminated in the event that a final decree is entered closing each of the Chapter 11 Cases or if the Chapter 11 Cases are converted or dismissed.

6.6.7 *Exculpation Relating to the Liquidating Trust.*

No Holder of a Claim or Interest or any other party in interest will have, or otherwise pursue, any Claim or cause of action against the Liquidating Trustee, the Liquidating Trust or the employees or professionals thereof (solely in the performance of their duties), for making payments and Distributions in accordance with this Plan or for fulfilling any functions incidental to implementing the provisions of this Plan or the Liquidating Trust, except for any acts or omissions to act that are the result of bad faith, willful misconduct, reckless disregard of duty, criminal conduct, gross negligence, fraud, or self-dealing, or, in the case of an attorney professional and as required under Rule 1.8(h)(1) of the New York State Rules of Professional Conduct, malpractice.

6.7 *Administrative and Priority Claims Reserve.*

On the Effective Date, the Liquidation Trustee shall establish the Administrative and Priority Claims Reserve with the Administrative and Priority Claims Reserve Amount in an authorized depository in the Southern District of New York, funded from the Sale Proceeds, which funds shall vest in the Liquidation Trust free and clear of all liens, Claims, encumbrances, charges and other interests. Funds in the Administrative and Priority Claims Reserve shall be used by the Liquidating Trustee only for the payment of Administrative Expense Claims Allowed after the Effective Date, Compensation and Reimbursement Claims Allowed after the Effective Date, Priority Tax Claims Allowed after the Effective Date, Other Priority Claims Allowed after the Effective Date, Secured Tax Claims Allowed after the Effective Date, and Other Secured Claims Allowed after the Effective Date, to the extent that the foregoing Claims have not been paid in full on or prior to the Effective Date. To the extent any funds remain in the Administrative and Priority Claims Reserve after all of the foregoing Claims have been paid or

otherwise satisfied in full, such remaining funds shall be distributed by the Liquidating Trustee to the other beneficiaries of the Liquidating Trust in accordance with the Plan.

SECTION 7. DISTRIBUTIONS

7.1 *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 their respective agents, 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 the Liquidating Trustee shall have no obligation to recognize any ownership transfer of the Claims or Interests occurring on or after the Distribution Record Date. The Debtors, the Liquidating Trustee, or any party responsible for making Distributions 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.

7.2 *Date of Distributions.*

Except as otherwise provided herein, any Distributions and deliveries to be made hereunder with respect to Claims that are Allowed as of the Effective Date shall be made on the Effective Date or as soon thereafter as is reasonably practicable. Except as otherwise provided herein, any Distributions and deliveries to be made hereunder with respect to Claims that are Allowed after the Effective Date shall be made as soon as is reasonably practicable after the date on which such Claim becomes Allowed. Distributions made after the Effective Date to holders of Allowed Claims shall be deemed to have been made on the Effective Date and, except as otherwise provided in this Plan, no interest shall accrue or be payable with respect to such Claims or any distribution related thereto. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

7.3 *Postpetition Interest on Claims.*

Postpetition interest shall not accrue or be paid on any Claims against the Debtors, and no Holder of any such Claim against the Debtors shall be entitled to payment or Distributions on account of interest accruing on or after the Petition Date.

7.4 *Disbursing Agent.*

All Distributions hereunder shall be made by the Debtors, the Liquidating Trustee, or their named successor or assign, as Disbursing Agent, on or after the Effective Date or as otherwise provided herein. For the avoidance of doubt, the Debtors, or such other entity designated by the Debtors, shall act as Disbursing Agent with respect to all Effective Date Distributions. A Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court, and,

in the event that a Disbursing Agent is so ordered, all costs and expenses of procuring any such bond or surety shall be borne by the Disbursing Agent.

7.5 Powers of Disbursing Agent.

The Disbursing Agent may (i) effect all actions and execute all agreements, instruments, and other documents necessary to carry out the provisions of this Plan, (ii) make all Distributions contemplated hereby, and (iii) perform such other duties as may be required of the Disbursing Agent pursuant to this Plan.

7.6 Surrender Instruments.

Pursuant to Bankruptcy Code section 1143, as a condition precedent to receiving any Distribution under this Plan, each holder of a certificated instrument or note must surrender such instrument or note held by it to the Disbursing Agent or its designee. Any holder of such instrument or note that fails to (i) surrender the instrument or note or (ii) execute and deliver an affidavit of loss and/or indemnity reasonably satisfactory to the Disbursing Agent and furnish a bond in form, substance, and amount reasonably satisfactory to the Disbursing Agent before the third anniversary of the Plan Confirmation Date shall be deemed to have forfeited all rights and claims and may not participate any Distribution hereunder.

7.7 Delivery of Distributions.

Subject to applicable Bankruptcy Rules, all Distributions to Holders of Allowed Claims shall be made to the Disbursing Agent who shall transmit such Distributions to the applicable Holders of Allowed Claims or their designees. If any Distribution to a Holder of an Allowed Claim is returned as undeliverable, the Disbursing Agent shall have no obligation to determine the correct current address of such Holder, and no Distribution to such Holder shall be made unless and until the Disbursing Agent is notified by the Holder of the current address of such Holder within ninety (90) days of such Distribution, at which time a Distribution shall be made to such Holder without interest; provided that such Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of ninety (90) days from the Distribution. After such date, all unclaimed property or interest in property shall revert to the Liquidating Trust to be distributed in accordance with the terms of the Liquidating Trust Agreement, and the Claim of any other holder to such property or interest in property shall be discharged and forever barred.

7.8 Manner of Payment.

Any distributions to be made by or on behalf of the Debtors pursuant to this Plan shall be made by checks drawn on accounts maintained by the Debtors or the Liquidation Trustee, as applicable, or by wire transfer if circumstances justify, at the option of the Debtors or the Liquidation Trustee, as applicable.

7.9 Setoffs.

The Debtors and the Liquidating Trustee, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable bankruptcy or nonbankruptcy law, with the

approval of the Bankruptcy Court and upon no less than three (3) days notice to the applicable Holder of a Claim or Interest, or as may be agreed to by the Holder of a Claim or Interest, may, but shall not be required to, set off against any Allowed Claim or Interest and the Distributions to be made pursuant to this Plan on account of such Allowed Claim or Interest (before any Distribution is to be made on account of such Allowed Claim or Interest), any claims of any nature whatsoever that the Debtors may have against the Holder of such Allowed Claim or Interest, provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim or Interest hereunder shall constitute a waiver or release by the Debtors or the Liquidating Trustee of any such claim the Debtors may have against the Holder of such Claim or Interest.

7.10 *Minimum Distributions.*

No payment of Cash in an amount of less than \$50.00 shall be required to be made on account of any Allowed Claim. Such undistributed amount may instead be used in accordance with the Plan and the Liquidating Trust Agreement. If the Cash available for the final Distribution is less than \$15,000, and the Liquidating Trustee, in his sole discretion, determines that it would cost more than \$5,000 to distribute such funds, the Liquidating Trustee may donate such funds to the charity of his choice in consultation with the Liquidating Trust Advisory Board.

7.11 *Allocation of Distributions Between Principal and Interest.*

To the extent that any Allowed Claim entitled to a Distribution under this Plan includes both principal and accrued but unpaid interest, such Distribution shall be allocated to the principal amount (as determined for federal income tax purposes) of the Claim first, and then to accrued but unpaid interest.

7.12 *Distributions Free and Clear.*

Except as otherwise provided in this Plan, any Distribution or transfer made under this Plan, including, without limitation, Distributions to any Holder of an Allowed Claim, shall be free and clear of any Liens, Claims, encumbrances, charges and other interests, and no other entity shall have any interest, whether legal, beneficial or otherwise, in property distributed or transferred pursuant to this Plan.

SECTION 8. PROCEDURES FOR DISPUTED CLAIMS

8.1 *Allowance of Claims and Interests.*

Except as expressly provided herein, or in any order entered in the Chapter 11 Cases prior to the Effective Date, including the Plan Confirmation Order, no Claim or Interest shall be deemed Allowed unless and until such Claim or Interest is deemed Allowed under this Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including the Plan Confirmation Order, in the Chapter 11 Cases allowing such Claim or Interest. Prior to and following the Effective Date, the Liquidating Trust shall be vested with any and all rights and defenses each Debtor had with respect to any Claim or Interest immediately prior to the Effective Date.

8.2 *Objections to Claims.*

The Debtors and the Liquidating Trustee shall be entitled to file objections to all Claims and Interests that are otherwise not deemed Allowed Claims or Interests under this Plan or otherwise. Any objections to Claims shall be served and filed on or before the later of (i) one hundred eighty (180) days after the Effective Date or (ii) such later date as may be fixed by the Bankruptcy Court after reasonable notice and opportunity to object.

8.3 *Estimation of Claims.*

Before or after the Effective Date, the Debtors or the Liquidating Trustee may (but are not required to) at any time request that the Bankruptcy Court estimate any Contingent Claim or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether an objection was previously filed with the Bankruptcy Court with respect to such Claim, or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to such objection. In the event that the Bankruptcy Court estimates any Contingent Claim or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Liquidating Trustee may pursue supplementary proceedings to object to the allowance of such Claim.

8.4 *Distributions Relating to Disputed Claims.*

At such time as a Disputed Claim becomes an Allowed Claim, the Disbursing Agent shall distribute to the Holder of such Claim, such Holder's Pro Rata Share of the property distributable with respect to the Class in which such Claim belongs. To the extent that all or a portion of a Disputed Claim is disallowed, the Holder of such Claim shall not receive any Distribution on account of the portion of such Claim that is disallowed and any property withheld pending the resolution of such Claim shall be reallocated *pro rata* to the Holders of Allowed Claims in the same Class.

8.5 *Distributions after Allowance.*

To the extent that a Disputed Claim becomes an Allowed Claim after the Effective Date, a Distribution shall be made to the Holder of such Allowed Claim in accordance with the provisions of this Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Disbursing Agent shall provide to the Holder of such Claim the Distribution to which such Holder is entitled hereunder.

8.6 *Preservations of Rights to Settle Claims.*

Except as otherwise expressly provided herein, including in Section 11.8 of this Plan (Releases), nothing contained in this Plan, the Plan Documents, or in the Plan Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights or causes of action that the Debtors may have or which the Liquidating Trustee may choose to assert on behalf of the

Debtors' Estates under any provision of the Bankruptcy Code or any applicable nonbankruptcy law or rule, common law, equitable principle or other source of right or obligation, including, without limitation, (i) any and all Claims against any Person or Entity, to the extent such Person or Entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors, their officers, directors, or representatives, and (ii) the turnover of all property of the Debtors' Estates. This Section shall not apply to any claims released, waived, relinquished, exculpated, compromised, or settled under this Plan or pursuant to a Final Order, expressly including the Final Order approving the Sale. Except as expressly provided in this Plan, nothing contained in this Plan, the Plan Documents, or in the Plan Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, cause of action, right of setoff, or other legal or equitable defense. No Entity may rely on the absence of a specific reference in this Plan, the Plan Supplement, or the Disclosure Statement to any cause of action against it as any indication that the Debtors or the Liquidating Trustee, as applicable, will not pursue any and all available causes of action against them. The Debtors and the Liquidating Trustee expressly reserve all rights to prosecute any and all causes of action against any Entity, except as otherwise expressly provided in this Plan.

8.7 *Disallowed Claims.*

All Claims held by Persons or Entities against whom or which any Debtor has commenced a proceeding asserting a cause of action under sections 542, 543, 544, 545, 547, 548, 549, and/or 550 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 548, 549 or 724(a) of the Bankruptcy Code shall be deemed disallowed Claims pursuant to section 502(d) of the Bankruptcy Code and Holders of such Claims shall not be entitled to vote to accept or reject this Plan. Claims deemed disallowed pursuant to this Section shall continue to be disallowed for all purposes until the Avoidance Action against such party has been settled or resolved by Final Order and any sums due to the Debtors or the Liquidating Trustee from such party have been paid.

SECTION 9. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

9.1 *General Treatment.*

All executory contracts and unexpired leases to which any of the Debtors are parties are hereby rejected as of the Effective Date except for an executory contract or unexpired lease that (i) previously has been assumed pursuant to Final Order of the Bankruptcy Court, (ii) is specifically designated as an executory contract or unexpired lease to be assumed in this Plan or in any Plan Supplement, or (iii) is the subject of a separate assumption motion filed by the Debtors under section 365 of the Bankruptcy Code prior to the Effective Date.

Assumption of any executory contract or unexpired lease pursuant to this Plan or otherwise shall result in the full, final, and complete release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults or provisions restricting the change in control of ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time prior to the effective date of assumption. Any Claim listed in the Schedules and any Proofs of Claim filed with respect to any executory contract or unexpired lease that has been assumed prior to the Effective Date shall

be deemed disallowed and expunged, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

9.2 *Rejection Damages Claims.*

In the event that the rejection of an executory contract or unexpired lease by any of the Debtors pursuant to this Plan results in a Rejection Damages Claim in favor of a counterparty to such executory contract or unexpired lease, such Rejection Damages Claim, if not heretofore evidenced by a timely and properly filed Proof of Claim, shall be forever barred and shall not be enforceable against the Debtors or the Liquidating Trust, or their respective properties or interests in property as agents, successors, or assigns, unless a Proof of Claim is filed with the Bankruptcy Court and served upon counsel for the Debtors and the Liquidating Trustee on or before the date that is thirty (30) days after the Effective Date or such later rejection date that occurs as a result of a dispute concerning amounts necessary to cure any defaults. All Allowed Rejection Damages Claims shall be treated as General Unsecured Claims pursuant to the terms of this Plan.

9.3 *Reservation of Rights.*

Neither the exclusion nor inclusion of any contract or lease in this Plan or Plan Supplement, nor anything contained in this Plan, shall constitute an admission by the Debtors that such contract or lease is in fact an executory contract or unexpired lease or that any Debtor has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtors or Liquidating Trustee, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease, provided that, notwithstanding anything to the contrary herein, any such dispute shall be resolved prior to the Plan Confirmation Date.

SECTION 10. CONDITIONS PRECEDENT TO EFFECTIVE DATE

10.1 *Conditions Precedent.*

The occurrence of the Effective Date of this Plan is subject to the following conditions precedent:

(a) the Plan Confirmation Order in form and substance satisfactory to the Debtor shall have been entered by the Bankruptcy Court and shall be a Final Order;

(b) the Sale shall have been consummated;

(c) all actions, documents, and agreements necessary to implement this Plan, including, without limitation, all actions, documents, and agreements necessary to implement any Plan Transactions, shall have been effected or executed;

(d) the Debtors shall have received all authorizations, consents, regulatory approvals, rulings, letters, no-action letters, opinions, or documents necessary to implement this Plan and any Plan Transactions and that are required by law, regulation, or order;

(e) the absence of any pending or threatened government action or any law that has the effect of or actually does prevent consummation of any Plan Transactions; and

(f) there shall have been no modification or stay of the Plan Confirmation Order or entry of other court order prohibiting transactions contemplated by this Plan from being consummated.

10.2 *Waiver of Conditions.*

Unless otherwise specifically provided in this Plan, the conditions set forth in Section 10.1 of this Plan may be waived in whole or in part by the Debtors, in consultation with the Creditors Committee, without notice to any other parties in interest or the Bankruptcy Court and without a hearing.

10.3 *Effect of Failure of Conditions.*

If the conditions precedent specified in Section 10.1 hereof have not been satisfied or waived by the Debtors within one hundred twenty (120) days after the Plan Confirmation Date, which period may be extended by the Debtors in consultation with the Creditors Committee, then (i) the Plan Confirmation Order shall be vacated, (ii) no Distributions under this Plan shall be made, (iii) the Debtors and all Holders of Claims and Interests shall be restored to the status quo ante as of the day immediately preceding the Plan Confirmation Date as though the Plan Confirmation Date never occurred, and (iv) all of the Debtors' obligations with respect to Claims and Interests shall remain unchanged and nothing contained herein shall be deemed to constitute a waiver or release of any Claims or Interests by or against the Debtors or any other Entity or to prejudice in any manner the rights of the Debtors or any other Entity in any further proceedings involving the Debtors or otherwise.

SECTION 11. EFFECT OF CONFIRMATION

11.1 *Vesting of Assets.*

On the Effective Date, except as otherwise provided in this Plan, pursuant to sections 1141(b) and 1141(c) of the Bankruptcy Code, the Liquidating Trust Assets shall vest in the Liquidating Trust, subject to the rights and interests of the Liquidating Trust's beneficiaries.

11.2 *Binding Effect.*

On the Effective Date, and effective as of the Effective Date, this Plan shall be binding upon the Debtors, the Creditors Committee, and all present and former Holders of Claims against and Interests in any Debtor, and their respective Related Persons, regardless of whether any such Holder of a Claim or Interest has voted or failed to vote to accept or reject this Plan and regardless of whether any such Holder of a Claim or Interest is entitled to receive any Distribution under this Plan.

11.3 *Discharge of Claims and Termination of Interests.*

To the fullest extent provided under section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in this Plan, the distributions, rights, and treatment that are provided in this Plan shall be in full and final satisfaction, settlement, release, and discharge, as of the Effective Date, of all Claims, Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Estates, the Debtors, or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to this Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (i) a Proof of Claim or Interest based upon such Claim, debt, right, or Interest is filed or deemed filed pursuant to section 501 of the Bankruptcy Code; (ii) a Claim or Interest based upon such Claim, debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (iii) the Holder of such a Claim or Interest has accepted this Plan. The Plan Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the Effective Date occurring, except as otherwise expressly provided in this Plan. This Plan is a liquidating plan and, as provided in section 1141(d)(3) of the Bankruptcy Code, the confirmation of a plan does not discharge a debtor if the plan provides for the liquidation of all or substantially all of the property of the estate.

11.4 *Compromise and Settlement of Claims, Interests, and Controversies.*

Pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to this Plan, the provisions of this Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Plan Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and is fair, equitable, and reasonable. After the Effective Date, the Liquidating Trustee, on behalf of the Debtors, may, and shall have the exclusive right to, compromise and settle any Claims and any Causes of Action against any other Person or Entity without notice to or approval from the Bankruptcy Court, including, without limitation, any and all derivative actions pending or otherwise existing against the Debtors as of the Effective Date.

11.5 *Injunction.*

Except as otherwise expressly provided in this Plan, the Plan Confirmation Order or a separate order of the Bankruptcy Court, all Persons and Entities who have held, hold or may hold Claims against or Interests in any or all of the Debtors, are permanently enjoined, on and after the Effective Date, from (a) commencing or continuing in any

manner any action or other proceeding of any kind with respect to any such Claim or Interest, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the Debtors on account of any such Claim or Interest, (c) creating, perfecting or enforcing any encumbrance of any kind against the Debtors or against the property or interests in property of the Debtors on account of any such Claim or Interest, (d) asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Debtors or against the property or interests in property of the Debtors or the Liquidating Trust on account of any such Claim or Interest, and (e) commencing or continuing in any manner any action or other proceeding of any kind with respect to any claims and causes of action which are retained pursuant to this Plan. Such injunction shall extend to successors of the Debtors, including, without limitation, the Liquidating Trust and its properties and interests in property.

11.6 *Term of Injunctions or Stays.*

Except as otherwise provided in this Plan, to the extent permitted by applicable law and subject to the Bankruptcy Court's post-confirmation jurisdiction to modify the injunctions and stays under this Plan, (a) all injunctions with respect to or stays against an action against property of the Debtors' Estates arising under or entered during the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code, and in existence on the Plan Confirmation Date, shall remain in full force and effect until such property is no longer property of the Debtors' Estates, and (b) all other injunctions and stays arising under or entered during the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code shall remain in full force and effect until the earliest of (i) the date that the Chapter 11 Cases are closed pursuant to a Final Order of the Bankruptcy Court or (ii) the date that the Chapter 11 Cases are dismissed pursuant to a Final Order of the Bankruptcy Court.

11.7 *Injunction Against Interference with Plan.*

Upon the Bankruptcy Court's entry of the Plan Confirmation Order, all Holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the Debtors', the Liquidating Trust's, the Liquidating Trustee's, and their respective affiliates, employees, advisors, officers and directors, agents, and other Related Persons implementation or consummation of this Plan.

11.8 *Debtor Releases.*

ON THE EFFECTIVE DATE, THE DEBTORS SHALL RELEASE AND BE PERMANENTLY ENJOINED FROM ANY PROSECUTION OR ATTEMPTED PROSECUTION OF ANY AND ALL CLAIMS AND CAUSES OF ACTION, INCLUDING ANY AVOIDANCE ACTIONS AND CAUSES OF ACTION, WHICH THEY HAVE OR MAY HAVE AGAINST ANY OF THE RELEASED PARTIES, AND ALL OF THEIR RESPECTIVE MEMBERS, OFFICERS, DIRECTORS, AGENTS, FINANCIAL ADVISORS, ATTORNEYS, EMPLOYEES, PARTNERS, AFFILIATES, REPRESENTATIVES, AND OTHER RELATED PERSONS, AND THEIR RESPECTIVE PROPERTY IN CONNECTION WITH (I) THE ASSET PURCHASE AGREEMENT,

THE BAYSIDE DIP FACILITY, THE SENIOR CREDIT FACILITY, THE SUBORDINATE SECURED NOTES, AND ANY AGREEMENT RELATING TO ANY OF THE FOREGOING, AND (II) ANY ACTIONS TAKEN IN THE CHAPTER 11 CASES.

ADDITIONALLY, ON THE EFFECTIVE DATE, AND EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS PLAN OR IN THE PLAN CONFIRMATION ORDER, THE RELEASED PARTIES, AND ALL OF THEIR RESPECTIVE MEMBERS, OFFICERS, DIRECTORS, AGENTS, FINANCIAL ADVISORS, ATTORNEYS, EMPLOYEES, PARTNERS, AFFILIATES, REPRESENTATIVES, AND OTHER RELATED PERSONS AND THEIR RESPECTIVE PROPERTY SHALL BE RELEASED FROM ANY AND ALL CLAIMS, OBLIGATIONS, RIGHTS, CAUSES OF ACTION, AVOIDANCE ACTIONS AND LIABILITIES WHICH THE DEBTORS OR THE LIQUIDATING TRUSTEE MAY BE ENTITLED TO ASSERT, WHETHER FOR TORT, FRAUD, CONTRACT, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS, OR OTHERWISE, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, EXISTING OR THEREAFTER ARISING, BASED IN WHOLE OR IN PART UPON ANY, ACT OR OMISSION, TRANSACTION, OR OTHER OCCURRENCE TAKING PLACE ON OR BEFORE THE EFFECTIVE DATE, INCLUDING, BUT NOT LIMITED TO, THE NEGOTIATION, SOLICITATION, CONFIRMATION AND CONSUMMATION OF THIS PLAN; PROVIDED, HOWEVER, THAT NOTHING SHALL RELEASE ANY PERSON FROM ANY CLAIMS, OBLIGATIONS, RIGHTS, CAUSES OF ACTION, OR LIABILITIES BASED UPON ANY ACT OR OMISSION IN CONNECTION WITH, RELATING TO, OR ARISING OUT OF, THE CHAPTER 11 CASES, THE SOLICITATION OF ACCEPTANCES OF THIS PLAN, THE PURSUIT OF CONFIRMATION OF THIS PLAN, THE CONSUMMATION OF THIS PLAN, THE ADMINISTRATION OF THIS PLAN, OR THE PROPERTY TO BE DISTRIBUTED UNDER THIS PLAN ARISING OUT OF SUCH PERSON'S BAD FAITH, WILLFUL MISCONDUCT, RECKLESS DISREGARD OF DUTY, CRIMINAL CONDUCT, GROSS NEGLIGENCE, FRAUD, OR SELF-DEALING, OR, IN THE CASE OF AN ATTORNEY PROFESSIONAL AND AS REQUIRED UNDER RULE 1.8(h)(1) OF THE NEW YORK STATE RULES OF PROFESSIONAL CONDUCT, MALPRACTICE.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, NOTHING IN THIS PLAN SHALL RELEASE ANY PARTY FROM LIABILITY IN CONNECTION WITH THE INSIDER ACTIONS.

11.9 *Releases by Holders of Claims and Interests.*

EACH HOLDER OF A CLAIM RELATED TO THE DEBTORS (WHETHER OR NOT ALLOWED) AGAINST, OR INTEREST IN, THE DEBTORS, AND EACH PERSON OR ENTITY PARTICIPATING IN EXCHANGES AND DISTRIBUTIONS UNDER OR PURSUANT TO THIS PLAN, FOR ITSELF AND ITS RESPECTIVE

SUCCESSORS, ASSIGNS, TRANSFEREES, CURRENT AND FORMER⁴ OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES, IN EACH CASE IN THEIR CAPACITY AS SUCH, SHALL BE DEEMED TO HAVE RELEASED ANY AND ALL CLAIMS AND CAUSES OF ACTION AGAINST THE RELEASED PARTIES AND ALL OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, ADVISORS, PROFESSIONALS, AGENTS, OR OTHER RELATED PERSONS ARISING PRIOR TO THE EFFECTIVE DATE; PROVIDED, HOWEVER, NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RELEASE OR EXCULPATE ANY PERSON OR ENTITY FROM BAD FAITH, WILLFUL MISCONDUCT, RECKLESS DISREGARD OF DUTY, CRIMINAL CONDUCT, GROSS NEGLIGENCE, FRAUD, SELF-DEALING, UNAUTHORIZED USE OF CONFIDENTIAL INFORMATION THAT CAUSES DAMAGES OR FOR PERSONAL ULTRA VIRES ACTS, OR, IN THE CASE OF AN ATTORNEY PROFESSIONAL AND AS REQUIRED UNDER RULE 1.8(h)(1) OF THE NEW YORK STATE RULES OF PROFESSIONAL CONDUCT, MALPRACTICE.

FURTHER, NOTHING IN THIS PLAN SHALL EFFECT A RELEASE OF ANY CLAIM BY THE UNITED STATES GOVERNMENT OR ANY OF ITS AGENCIES OR ANY STATE AND LOCAL AUTHORITY ARISING UNDER THE ENVIRONMENTAL LAWS OR ANY CRIMINAL LAWS OF THE UNITED STATES OR ANY STATE AND LOCAL AUTHORITY AGAINST THE RELEASED PARTIES AND ALL OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, ATTORNEYS, ADVISORS, PROFESSIONALS, AGENTS, OR OTHER RELATED PERSONS, NOR SHALL ANYTHING IN THE PLAN ENJOIN THE UNITED STATES OR ANY STATE OR LOCAL AUTHORITY FROM BRINGING ANY CLAIM, SUIT, ACTION OR OTHER PROCEEDING AGAINST THE PARTIES REFERRED TO HEREIN FOR ANY LIABILITY ARISING UNDER THE ENVIRONMENTAL LAWS OR ANY CRIMINAL LAWS OF THE UNITED STATES OR ANY STATE AND LOCAL AUTHORITY, NOR SHALL ANYTHING IN THIS PLAN EXCULPATE ANY PARTY FROM ANY LIABILITY TO THE UNITED STATES GOVERNMENT OR ANY OF ITS AGENCIES OR ANY STATE AND LOCAL AUTHORITY FOR LIABILITIES ARISING UNDER THE ENVIRONMENTAL LAWS OR ANY CRIMINAL LAWS OF THE UNITED STATES OR ANY STATE AND LOCAL AUTHORITY AGAINST THE PARTIES REFERRED TO HEREIN.

11.10 *Exculpation.*

None of the Released Parties, nor any of their respective members, officers, directors, employees, advisors, professionals, attorneys, agents, or other Related Persons or any of their successors and assigns, shall have or incur any liability to any holder of a Claim or Interest, or other party in interest, or any of their respective members, officers, directors, employees, advisors, professionals, attorneys, agents, or other Related Persons or

⁴ Such former officers, directors, agents and employees referred to in this section shall be deemed to have released any and all Claims and Causes of Action against the Released Parties and all of their respective officers, directors, employees, attorneys, advisors, professionals, agents, or other Related Persons arising prior to the Effective Date only to the extent that they have a Claim, Cause of Action, or Interest directly or derivatively.

any of their successors and assigns, for any act or omission in connection with, related to, or arising out of, the Chapter 11 Cases, the pursuit of confirmation of this Plan, the consummation of this Plan or the administration of this Plan or the property to be distributed under this Plan, including without limitation, the negotiation and solicitation of this Plan, except for bad faith, willful misconduct, reckless disregard of duty, criminal conduct, gross negligence, fraud, or self-dealing, or, in the case of an attorney professional and as required under Rule 1.8(h)(1) of the New York State Rules of Professional Conduct, malpractice, and, in all respects, the Debtors, the Liquidating Trust, the Liquidating Trustee, and each of their respective members, officers, directors, employees, advisors, professionals, attorneys, agents, and other Related Persons shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under this Plan.

11.11 *Release of Liens.*

Except as otherwise provided herein, or in any contract, instrument, release, or other agreement or document created pursuant to this Plan, on the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged.

11.12 *Dissolution of Creditors Committee.*

Prior to the Effective Date, the Creditors Committee shall nominate the Liquidating Trust Advisory Board, which will consult with the Liquidating Trustee from time to time pursuant to the terms of the Liquidating Trust Agreement. On the Effective Date, the Creditors Committee shall have no further powers or duties and shall be dissolved for all purposes; provided, however, that the Creditors Committee and its Professionals shall be entitled, after notice and a hearing, to reasonable compensation and reimbursement of actual and necessary expenses for post-Effective Date activities, including, without limitation, preparing and filing applications for Compensation and Reimbursement Claims or reimbursement of expenses incurred as a member of the Creditors Committee, and any motions or other actions seeking enforcement or implementation of the provisions of this Plan or the Plan Confirmation Order.

11.13 *Retention of Causes of Action/Reservation of Rights.*

11.13.1 Except as otherwise expressly provided herein (including in Section 11.8 hereof), nothing contained in this Plan or in the Plan Confirmation Order shall be deemed to be a waiver or the relinquishment of any rights or causes of action that the Debtors or the Liquidating Trustee may have or which the Liquidating Trustee may choose to assert on behalf of the Debtors' Estates under any provision of the Bankruptcy Code or any applicable nonbankruptcy law or rule, common law, equitable principle or other source of right or obligation, including, without limitation, (i) any and all Claims against any Person or Entity, to the extent such Person or Entity asserts a crossclaim, counterclaim, and/or Claim for setoff which seeks affirmative relief against the Debtors or their officers, directors, or representatives, and (ii) the turnover of all property of the Debtors' Estates.

11.13.2 Except as otherwise expressly provided in this Plan, nothing contained herein or in the Plan Confirmation Order shall be deemed to be a waiver or

relinquishment of any claim, cause of action, right of setoff, or other legal or equitable defense. No Entity may rely on the absence of a specific reference in this Plan or the Disclosure Statement to any cause of action against it as any indication that the Debtors or the Liquidating Trustee, as applicable, will not pursue any and all available causes of action against them. The Debtors and the Liquidating Trustee expressly reserve all rights to prosecute any and all causes of action against any Entity, except as otherwise expressly provided in this Plan.

11.14 *Cancellation of Agreement, Notes and Interests.*

On the Effective Date, except to the extent otherwise expressly provided herein, all notes, stock, interests, instruments, certificates, and other documents evidencing the Notes and Interests in any of the Debtors shall be deemed automatically extinguished, cancelled and of no further force or effect, and the Debtors shall not have any continuing obligations thereunder. On the Effective Date, except to the extent otherwise expressly provided herein, any indenture or other agreement relating to any of the foregoing shall be deemed automatically extinguished, cancelled and of no further force or effect, and the Debtors shall not have any continuing obligations thereunder; provided, that the Notes and any indenture or agreement related thereto shall continue in effect solely for purposes of allowing holders of Notes to receive any Distributions under this Plan.

SECTION 12. RETENTION OF JURISDICTION

On and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising in, arising under, and related to the Chapter 11 Cases for, among other things, the following purposes:

- (a) to hear and determine motions and/or applications for the assumption or rejection of executory contracts or unexpired leases and the allowance, classification, priority, compromise, estimation, or payment of Claims resulting therefrom;
- (b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Plan Confirmation Date;
- (c) to ensure that Distributions to holders of Allowed Claims are accomplished as provided herein;
- (d) to consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim;
- (e) to enter, implement, or enforce such orders as may be appropriate in the event the Plan Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;
- (f) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of this Plan, the Plan Confirmation Order, or any other order of the Bankruptcy Court;

(g) to hear and determine any application to modify this Plan in accordance with applicable provisions of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in this Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Plan Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) to hear and determine all applications under sections 330, 331, and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date;

(i) to hear and determine all requests for payment of Administrative Expense Claims;

(j) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan, the Plan Confirmation Order, any transactions or payments contemplated hereby or under any agreement, instrument, or other document governing or relating to any of the foregoing;

(k) to consider requests for extensions of the term of the Liquidating Trust as provided herein;

(l) to take any action and issue such orders as may be necessary to construe, enforce, implement, execute, and consummate this Plan or to maintain the integrity of this Plan following consummation;

(m) to hear any disputes arising out of, and to enforce any order approving alternative dispute resolution procedures to resolve, personal injury, employment litigation, and similar claims pursuant to section 105(a) of the Bankruptcy Code;

(n) to determine such other matters and for such other purposes as may be provided in the Plan Confirmation Order;

(o) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(q) to enter a final decree closing the Chapter 11 Cases;

(r) to recover all assets of the Debtors and property of the Debtors' Estates, wherever located; and

(s) to hear and determine any rights, Claims, or causes of action held by or accruing to the Debtors pursuant to the Bankruptcy Code or any applicable federal statute or legal theory.

SECTION 13. MISCELLANEOUS PROVISIONS

13.1 *Payment of Statutory Fees.*

All fees payable pursuant to section 1930 of title 28 of the United States Code and any applicable interest thereon that are due and payable as of the Effective Date shall be paid by the Liquidating Trustee on the Effective Date or as soon thereafter as is reasonably practicable. All such fees and any applicable interest thereon that become due and payable after the Effective Date shall be paid by the Liquidating Trustee with funds from the Plan Expenses Reserve when such fees become due and payable. All such fees and any applicable interest thereon shall continue to become due and payable until the entry of a final decree closing the Chapter 11 Cases or conversion or dismissal of the Chapter 11 Cases, whichever is earlier.

13.2 *Substantial Consummation.*

On the Effective Date, this Plan shall be deemed to be substantially consummated within the meaning set forth in section 1101 and pursuant to section 1127(b) of the Bankruptcy Code.

13.3 *Operations Between the Confirmation Date and the Effective Date.*

During the period from the Confirmation Date through and until the Effective Date, the Debtors shall continue to operate as debtors in possession, subject to the oversight of the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules, and all orders of the Bankruptcy Court that are then in full force and effect. After the Effective Date, the Liquidating Trustee shall file with the Bankruptcy Court and submit to the United States Trustee regular post-confirmation status reports every three months, on or before each of the fifteenth (15th) day of January, April, July, and October as appropriate, and in accordance with the provisions of Rule 3021-1(c) of the Local Bankruptcy Rules for the U.S. Bankruptcy Court, Southern District of New York until the Chapter 11 Cases are closed, converted, or dismissed, whichever happens earlier.

13.4 *Tax Treatment of the Liquidating Trust.*

The Liquidating Trust is intended to qualify as a liquidating trust for U.S. federal income tax purposes that will be treated as a pass-through entity. All parties must treat the transfer of the Liquidating Trust Assets to the Liquidating Trust as a transfer of such assets directly to the beneficiaries of the Liquidating Trust, followed by the transfer of such assets by each beneficiary to the Liquidating Trust. Consistent therewith, all parties must treat the Liquidating Trust as a grantor trust of which the Liquidating Trust's beneficiaries are the owners and grantors. Assuming the Liquidating Trust is treated as a liquidating trust, the beneficiaries of Liquidating Trust generally should be treated for U.S. federal income tax purposes as the direct owners of an undivided interest in the Liquidating Trust Assets. The Liquidating Trustee will determine the fair market value of the Liquidating Trust Assets as soon as possible after the Effective Date, and all parties must consistently use this valuation for all U.S. federal income tax purposes.

13.5 *Determination of Tax Liabilities.*

The Debtors or the Liquidating Trustee (as applicable) shall, pursuant to section 505(b) of the Bankruptcy Code, have the right to request an expedited determination of any unpaid liability of the Debtors' Estates and the Liquidating Trust for any tax incurred during the administration of the Chapter 11 Cases. As of the Effective Date, the Liquidating Trustee will be responsible for preparing and filing any tax forms or returns on behalf of the Debtors' Estates; provided, however, that the Liquidating Trustee shall not be responsible for preparing or filing any tax forms for holders of Interests in the Debtors (which Interests shall be canceled pursuant to this Plan), but shall provide such holders with any information reasonably required to prepare such forms.

13.6 *Amendments.*

13.6.1 *Modifications to Plan and Plan Supplement.*

This Plan and/or the Plan Supplement may be amended, modified, or supplemented by the Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, provided that notice and an opportunity to object shall be provided with respect to any material post-confirmation modifications to this Plan or the Plan Supplement. In addition, after the Plan Confirmation Date, the Debtors may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in this Plan, the Plan Supplement, or the Plan Confirmation Order with respect to such matters as may be necessary to carry out the purposes and effects of this Plan.

13.6.2 *Other Amendments.*

The Debtors may make appropriate technical adjustments and modifications to this Plan or the Plan Supplement prior to the Effective Date without further order or approval of the Bankruptcy Court.

13.7 *Revocation or Withdrawal of the Plan.*

The Debtors reserve the right to revoke or withdraw this Plan prior to the Effective Date. Any such action may only be taken if it is in the exercise of the Debtors' fiduciary duty to their creditors. If the Debtors take such action, this Plan shall be deemed null and void. In such event, nothing contained herein shall constitute or be deemed to be a waiver or release of any Claims by or against the Debtors or any other Person or to prejudice in any manner the rights of the Debtors or any Person in further proceedings involving the Debtors.

13.8 *Continuing Exclusivity of Debtors' Right to Propose Plan.*

The Debtors are currently operating within the exclusivity period under Bankruptcy Code section 1121. Accordingly, the Debtors retain, and the Debtors have, the exclusive right to amend or modify this Plan and to solicit acceptances of such amended or modified Plan.

13.9 Severability.

If, prior to the entry of the Plan Confirmation Order, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent 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 will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Plan 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.

13.10 Governing Law.

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of New York, without giving effect to the principles of conflicts of laws, shall govern the rights, obligations, construction, and implementation of this Plan and the transactions consummated or to be consummated in connection therewith.

13.11 Time.

Bankruptcy Rule 9006 shall apply to all computations of time periods prescribed or allowed by this Plan unless otherwise set forth herein or provided by the Bankruptcy Court.

13.12 Binding Effect on Debtors, Holders and Successors and Assigns.

Upon the occurrence of the Effective Date, the terms of this Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, the Creditors Committee, and any and all Holders of Claims and Interests (irrespective of whether any such Holders of Claims and Interests failed to vote to accept or reject this Plan, voted to accept or reject this Plan, or are deemed to accept or reject this Plan), all Persons or Entities that are parties to or are subject to any settlements, compromises, releases, exculpations, discharges, and injunctions described in this Plan, each Person or Entity acquiring or retaining property under this Plan, and any and all non-Debtor parties to executory contracts and unexpired lease with the Debtors.

13.13 Entire Agreement.

On the Effective Date, this Plan and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

13.14 *Section 1125(e) Good Faith Compliance.*

The Debtors and each of their respective Related Persons shall be deemed to have acted in good faith under section 1125(e) of the Bankruptcy Code.

13.15 *Effective Notice.*

All notices, requests, and demands to or upon the Debtors or the Creditors Committee in the Chapter 11 Cases shall be in writing and, unless otherwise provided herein, shall be deemed to have been duly given or made when actually delivered or, if by facsimile transmission, when received and telephonically confirmed to the below recipients:

(a) If to the Debtors, to:

Alexander Gallo Holdings, LLC
2700 Centennial Tower
101 Marietta Street
Atlanta, Georgia 30303
Attn: Marc L. Pfefferle
Anthony Accordino
Telephone: (877) 495-0777
Facsimile: (404) 529-9299

-and-

DLA Piper LLP US
1251 Avenue of the Americas
New York, New York 10020
Attn: Thomas R. Califano, Esq.
Jeremy R. Johnson, Esq.
Telephone: (212) 335-4500
Facsimile: (212) 335-4501

(b) If to the Creditors Committee, to:

Cooley LLP
1114 Avenue of the Americas
New York, New York 10036
Attn: Cathy Herschopf, Esq.
Jeffrey L. Cohen, Esq.
Telephone: (212) 479-6000
Facsimile: (212) 479-6275

Dated: February 6, 2012
New York, New York

Respectfully submitted,

Alexander Gallo Holdings, LLC

By: /s/ Marc L. Pfefferle
Name: Marc L. Pfefferle
Title: Chief Restructuring Officer

Unlimited Languages, Inc.
The Hobart West Group, Inc.

By: /s/ Marc L. Pfefferle
Name: Marc L. Pfefferle
Title: Chief Restructuring Officer

D-M Information Systems, Inc.

By: /s/ Marc L. Pfefferle
Name: Marc L. Pfefferle
Title: Chief Restructuring Officer

Set Depo, LLC

By: /s/ Marc L. Pfefferle
Name: Marc L. Pfefferle
Title: Chief Restructuring Officer

AG/Sanction LLC

By: /s/ Marc L. Pfefferle

Name: Marc L. Pfefferle

Title: Chief Restructuring Officer

Deponet, LLC

Esquire Deposition Services, LLC

Esquire Litigation Solutions, LLC

Esquire Solutions, LLC

Hobart West Solutions, LLC

By: /s/ Marc L. Pfefferle

Name: Marc L. Pfefferle

Title: Chief Restructuring Officer

EXHIBIT B TO DISCLOSURE STATEMENT

Alexander Gallo Holdings, LLC
Liquidation Analysis - Illustration
(In 000's)

	Est. Recovery Rate		Est. Liq. Proceeds		Est. Liq. Proceeds		
	Balance	High	Low	Chapter 11		Chapter 7	
				High	Low	High	Low
Current Assets							
Cash and Equivalents	\$0	n/a	n/a	\$0	\$0 (1)	\$0	\$0 (1)
Accounts Receivable - Net	0	n/a	n/a	0	0 (1)	0	0 (1)
Prepays	0	n/a	n/a	0	0 (1)	0	0 (1)
Other Current Assets	0	n/a	n/a	0	0 (1)	0	0 (1)
Total Current Assets	0			0	0	0	0
Intercompany Receivable	0	n/a	n/a	0	0 (1)	0	0 (1)
Property & Equipment							
Buildings & Improvements	0	n/a	n/a	0	0 (1)	0	0 (1)
Machinery & Equipment	0	n/a	n/a	0	0 (1)	0	0 (1)
Construction in Process	0	n/a	n/a	0	0 (1)	0	0 (1)
Total Property & Equipment	0			0	0	0	0
Other Assets/Proceeds							
Bayside Funding-Wind Down Costs		n/a	n/a	1,230.0	1,230.0 (2)	1,230.0	1,230.0 (2)
Bayside Funding-Professionals		n/a	n/a	4,369.5	4,369.5 (2)	4,369.5	4,369.5 (2)
Bayside Funding of Taxes		n/a	n/a	1,227.8	500.0 (3)	1,227.8	500.0 (3)
Bayside Funding of 503B9		n/a	n/a	0	100.0	0	100.0
Preference Recovery		n/a	n/a	0	0 (4)	0	0 (4)
Total Other Assets	0			6,827.3	6,199.5	6,827.3	6,199.5
Total Assets & Proceeds	0			6,827.3	6,199.5	6,827.3	6,199.5
Less: Costs Associated with Liquidation							
Wind-Down Costs (including Chapter 7 Trustee fees and Professional fees)				1,230.0	1,230.0	1,471.0	1,471.0 (6)
Total Costs Associated with Liquidation				1,230.0	1,230.0	1,471.0	1,471.0
Total Net Proceeds Available for Distribution				5,597.3	4,969.5	5,356.3	4,728.5
Net Proceeds Available for Distribution to Secured Claim Holders				5,597.3	4,969.5	5,356.3	4,728.5
Net Proceeds Available for Distribution to Unsecured Claim Holders				0	0	0	0
Net Proceeds Available for Distribution to Secured Claim Holders				5,597.3	4,969.5	5,356.3	4,728.5
Less: Secured Claims							
Revolving Facility Claim				0	0	0	0
Term Loan				0	0	0	0
Total Secured Lender Claims				0	0	0	0
Secured Lender Claim Deficiency after secured distribution				0	0	0	0
Total Remaining Proceeds Available for Distribution				5,597.3	4,969.5	5,356.3	4,728.5
Less: Administrative and Priority Claims and Chapter 11 Professionals							
Chapter 11 Professionals				4,369.5	4,369.5	4,369.5	4,369.5
Postpetition unpaid amounts				0	0	0	0
503B9 Claims				100.0	0	100.0	0
Priority Tax Claims				1,227.8	500.0	1,227.8	500.0
Total Administrative and Priority Claims and Chapter 11 Professionals				5,697.3	4,869.5	5,697.3	4,869.5
Net Proceeds Available for Distribution to Unsecured Claim Holders (7)				(100.0)	100.0	(341.0)	(141.0)
Net Proceeds Available for Distribution to Equity Claim Holders				\$0	\$0	\$0	\$0

Alexander Gallo Holdings, LLC
Liquidation Analysis - Illustration
(In 000's)

Comments:

(1) Purchased by Bayside

(2) Per sale order

(3) Per sale order (to be paid by Newco directly)

(4) Limited recovery estimated

(5) Adjusted for PPN post petition payments

(6) Wind down under Chapter 7:

Estimated Chapter 7 Legal and Professional fees	1,200.0
Estimated Chapter 7 Trustee fee	55.0
Noticing agent	50.0
Tax return preparation '11 & '12	75.0
Cancel "de-register" licensing fees	20.0
Issue W2s and 1099s	7.0
Destroy Oldco Records	7.0
Transition Costs	32.0
401K termination	25.0

Total	1,471.0
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(7) Amounts available for distribution to general unsecured claim holders is contingent upon any recoveries by the Liquidating Trust, including in connection with Avoidance Actions and Insider Actions