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

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In re:	:	Chapter 11
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Circuit City Stores, Inc., <u>et</u>	:	Case No. 08-35653 (KRH)
<u>al.</u> ,	:	
	:	(Jointly Administered)
Debtors.	:	
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**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER CONFIRMING  
MODIFIED SECOND AMENDED JOINT PLAN OF LIQUIDATION OF CIRCUIT  
CITY STORES, INC. AND ITS AFFILIATED DEBTORS AND DEBTORS IN  
POSSESSION AND ITS OFFICIAL COMMITTEE OF CREDITORS HOLDING  
GENERAL UNSECURED CLAIMS**

Upon the Motion for Entry of an Order Approving (I)  
the Disclosure Statement (the "Disclosure Statement") with

Created with

respect to the First Amended Joint Plan of Liquidation of Circuit City Stores, Inc. and its Affiliated Debtors and Debtors In Possession and its Official Committee of Creditors Holding General Unsecured Claims, (II) Notice of the Disclosure Statement Hearing, (III) Hearing Date to Consider Confirmation of the Plan, (IV) Procedures for Filing Objections to Plan, (V) Voting Agent and Deadlines Related to Solicitation and Confirmation, (VI) Procedures with Respect to Certain Claims and (VII) Solicitation Procedures for Confirmation of the Plan (the "Solicitation Procedures Motion") (Docket No. 4711) filed by the Debtors and the official committee of creditors holding general unsecured claims (the "Creditors' Committee" and together with the Debtors, the "Plan Proponents"); and upon the order entered on September 24, 2009 granting the Solicitation Procedures Motion (the "Solicitation Procedures Order") (Docket No. 5090); and the Plan Proponents having filed the Modified Second Amended Joint Plan of Liquidation of Circuit City Stores, Inc. and its Affiliated Debtors and Debtors In Possession and its Official Committee of Creditors Holding General Unsecured Claims (as amended and modified, the "Plan")<sup>1</sup>, attached hereto as Exhibit A, and certain exhibits to the Plan; and the Plan Proponents having filed the Supplemental Disclosure With Respect to Second Amended

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Solicitation Procedures Motion or the Plan.

Joint Plan of Liquidation of Circuit City Stores, Inc. and its Affiliated Debtors and Debtors in Possession and its Official Committee of Creditors Holding General Unsecured Claims and Notice of Deadline to Object to Confirmation (the "Supplement") and the Court having considered the Plan Proponents Memorandum of Law in Support of Confirmation of the Plan (the "Confirmation Brief"); and the Court having held a hearing on September 8, 2010 pursuant to section 1129 of the Bankruptcy Code to consider confirmation of the Plan (the "Confirmation Hearing"); and the Court having heard the testimony of [\_\_\_\_]; and the Court having admitted into the record evidence adduced at the Confirmation Hearing; and the Court having taken judicial notice of the contents of the docket of the Chapter 11 Cases maintained by the Clerk of the Court and/or its duly-appointed agent, including all pleadings and other documents filed and orders entered thereon; and after due deliberation thereon and good and sufficient cause appearing therefor, it is hereby

**FOUND AND DETERMINED THAT:<sup>2</sup>**

A. Jurisdiction; Venue; Core Proceeding (28 U.S.C. §§ 157(b)(2) and 1334(a)). This Court has jurisdiction over the Chapter 11 Cases pursuant to 28 U.S.C. §§ 157 and 1334. Venue

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<sup>2</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Fed. R. Bankr. P. 7052.

is proper pursuant to 28 U.S.C. §§ 1408 and 1409. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(L), and this Court has jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

B. Filing of Plan and Plan Exhibits. On September 24, 2009, the Plan Proponents filed the First Amended Joint Plan of Liquidation of Circuit City Stores, Inc. and its Affiliated Debtors and Debtors In Possession and its Official Committee of Creditors Holding General Unsecured Claims (the "First Amended Plan") and the Disclosure Statement. On November 5, 2009, the Plan Proponents filed drafts of the Liquidating Trust Agreement (Exhibit B to the First Amended Plan), the Non-Exclusive List of Insurance Agreements (Exhibit C to the First Amended Plan) and the Non-Exclusive List of Retained Causes of Actions (Exhibit D to the First Amended Plan).<sup>3</sup> On August 9, 2010, the Plan Proponents filed the Second Amended Joint Plan of Liquidation of Circuit City Stores, Inc. and its Affiliated Debtors and Debtors In Possession and its Official Committee of Creditors Holding General Unsecured Claims (the "Second Amended Plan"). In conjunction with filing the Second Amended Plan, the Plan

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<sup>3</sup> To the extent that drafts or summary descriptions of documents have been filed with the Court in connection with the Plan, the draft documents will be finalized pursuant to the Plan for execution and delivery.

Proponents filed revised versions of the Liquidating Trust Agreement (Exhibit B to the Plan), which included the Bylaws for the Liquidating Trust Oversight Committee (the "Oversight Committee Bylaws"), the Non-Exclusive List of Insurance Agreements (Exhibit C to the Plan) and the Non-Exclusive List of Retained Causes of Action (Exhibit D to the Plan).

C. In addition, concurrently with filing the Second Amended Plan, the Plan Proponents filed the Supplement, attached to which were an updated liquidation analysis (the "Liquidation Analysis") and a redline showing modifications to the First Amended Plan.

D. As set forth in the Confirmation Brief and at the Confirmation Hearing, the Plan Proponents have made certain additional modifications to the Second Amended Plan, which changes are incorporated in the Plan, attached hereto as Exhibit A.

E. Modification of First Amended Plan. The Plan revised the First Amended Plan by, among other things, providing that InterTAN, Inc. ("InterTAN") and Ventoux International, Inc. ("Ventoux" and, together with InterTAN, the "Individual Debtors") would not be consolidated with any of the other Debtors (the "Consolidated Debtor") or with each other. The Plan was further modified to provide authorization for, and to make effectiveness of the Plan contingent on, certain transactions designed to

facilitate the transfer of funds from the Debtors' Canadian subsidiaries to the Debtors. The Plan, as modified, also provides for the inclusion of Reserves, for the payment of the Landlord Guaranteed Claim Consolidation Amount to Holders of Landlord Guaranteed Claims, for the addition of certain language to resolve objections to confirmation of the Plan and certain other technical revisions.

F. Transmittal of Solicitation Package. On or before September 30, 2009, the Debtors caused the Solicitation Packages and other relevant notices to be served and distributed as required by the Solicitation Procedures Order, all as set forth in the Affidavit of Service of Evan Gershbein re: Solicitation Materials for the First Amended Joint Plan of Liquidation of Circuit City Stores, Inc. and Its Affiliated Debtors and Debtors in Possession and Its Official Committee of Creditors Holding General Unsecured Claims, filed on October 21, 2009 (Docket No. 5309) (the "Solicitation Declaration") filed by Kurtzman Carson Consultants, LLC ("KCC" or the "Voting Agent"). In particular, on or before September 30, 2009, the Debtors caused to be mailed (i) the Solicitation Package, including the applicable Ballot, to holders of Claims in Class 3 and Class 4 that were entitled to vote on the Plan, (ii) the Confirmation Hearing Notice and the Unimpaired Creditor Notice to Holders of Unimpaired Claims in Class 1 and Class 2, (iii) the Confirmation

Hearing Notice and the Notice of Non-Voting Status to Holders of Claims and Interests in Classes 5, 6, 7 and 8, as well as holders of Disputed Claims, (iv) the Solicitation Package, without a Ballot, to those parties entitled to notice under this Court's Supplemental Order Pursuant to Bankruptcy Code Sections 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and 9013-1 Establishing Certain Amended Notice, Case Management and Administrative Procedures (Docket No. 6208), and (v) the Confirmation Hearing Notice to over 360,000 parties listed on the Debtors' creditor matrix.

G. Transmittal of Plan, Liquidating Trust Agreement, Bylaws and Supplement. On or about August 9, 2010, the Debtors caused the Second Amended Plan, Liquidating Trust Agreement, Bylaws and Supplement to be served and distributed as in accordance with the Court's Order Approving Motion of the Debtors and the Official Committee of Creditors Holding General Unsecured Claims for Order Approving Limited Notice and Service of Plan Documents (Docket No. 8242). In particular, on or about August 9, 2010, the Debtors caused to be mailed a CD containing the Second Amended Plan, Liquidating Trust Agreement, Bylaws and Supplement on (i) the Core Group (as defined in the Case Management Order), (ii) the 2002 List (as defined in the Case Management Order), (iii) all parties who filed objections to the Disclosure Statement or to confirmation of the First Amended

Plan and (iv) all parties with outstanding Claims against any of Circuit City Stores West Coast Inc., Circuit City Stores PR LLC, InterTAN, Inc. or Ventoux International, or over 17,700 parties.

H. Publication of Confirmation Hearing Notice. The Debtors published the Confirmation Hearing Notice in: (i) The Wall Street Journal (Global Edition) on September 30, 2009, see Affidavit of Publication of Erin Ostenson in the Wall Street Journal (Docket No. 5218); (ii) The New York Times on September 29, 2009, see Affidavit of Publication of Alice Weber in the New York Times (Docket No. 5219); (iii) The Richmond Times-Dispatch on September 29, 2009, see Affidavit of Publication of Raymond W. McDowell in the Richmond Times-Dispatch (Docket No. 5324).

I. Solicitation. Votes for acceptance or rejection of the Plan were solicited in compliance with the Solicitation Procedures Order, sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rules 3017 and 3018, and all other applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other rules, laws, and regulations. To the extent modifications to the Plan make it necessary for one or more of the Debtors to cast votes concerning the Plan, each such Debtor shall be deemed to have cast a vote to accept the Plan.

J. Due, adequate, and sufficient notice of the Disclosure Statement, the Plan, and the Confirmation Hearing, along with deadlines for voting on the Plan, has been given to,



among other parties, all known Holders of Claims entitled to vote on the Plan. No other or further notice is or shall be required.

K. Good Faith Solicitation (11 U.S.C. § 1125(e)).

All persons who solicited votes on the Plan, including any such persons released pursuant to Article X.C. of the Plan, solicited such votes in good faith and in compliance with the applicable provisions of the Bankruptcy Code and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code as well as the exculpation and limitation of liability provisions set forth in Article X.G. of the Plan.

L. Voting Results. On December 22, 2009, the Voting Agent filed the Declaration of Evan Gershbein Regarding Tabulation of Ballots with Respect to Vote on First Amended Joint Plan of Liquidation of Circuit City Stores, Inc. and Its Affiliated Debtors (Docket No. 6188) (the "Voting Declaration"), certifying the method and results of the ballot tabulation for each of the Classes entitled to vote under the Plan (the "Voting Classes"). As evidenced by the Voting Report and paragraph I of this Order, all Voting Classes for which votes were received have accepted the Plan with respect to each of the Debtors in accordance with section 1126 of the Bankruptcy Code.

M. All procedures used to tabulate the Ballots were fair and reasonable and conducted in accordance with the

Solicitation Procedures Order, the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations.

N. Plan Modifications. The Plan (including all modifications thereof) is dated and identifies the entities submitting it, thereby satisfying Bankruptcy Rule 3016(a). The filing of the Disclosure Statement with the clerk of the Bankruptcy Court simultaneously with the First Amended Plan satisfies Bankruptcy Rule 3016(b).

O. The modifications to the First Amended and Second Amended Plans, as reflected in the Plan, are not material adverse modifications and are permissible under Bankruptcy Code section 1127(a) and (c). Specifically, the Plan, including the modifications, complies with Bankruptcy Code sections 1122, 1123 and 1125.

P. The modifications to the First Amended and Second Amended Plans, as reflected in the Plan, do not adversely change the treatment of the Claim of any Creditor and would not cause any Creditor to reconsider its acceptance of the Plan.

Q. The modifications to the First Amended and Second Amended Plans, as reflected in the Plan, comply with Article XII.A. of the Plan

R. Notwithstanding the modifications to the First Amended Plan, the Disclosure Statement contains adequate

information concerning the Plan and allowed a reasonable, hypothetical creditor to make an informed judgment regarding the Plan.

S. Solicitation of the First Amended Plan is sufficient as to the Plan and no re-solicitation of the Plan is required under Bankruptcy Code section 1127 or Bankruptcy Rule 3019(a). The Plan shall be deemed accepted by all Creditors who previously accepted the First Amended Plan and, as set forth herein, shall be deemed accepted by each Debtor to the extent necessary.

T. Burden of Proof. As more fully set forth herein, the Plan Proponents have met their burden of proving each of the elements of sections 1129(a) and 1129(b) of the Bankruptcy Code by a preponderance of the evidence, which is the applicable evidentiary standard for the Confirmation.

U. Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)). The Plan satisfies section 1129(a)(1) of the Bankruptcy Code because it complies with the applicable provisions of the Bankruptcy Code, including, but not limited to: (a) the proper classification of Claims and Interests (11 U.S.C. §§ 1122, 1123(a)(1)); (b) the specification of Unimpaired Classes (11 U.S.C. § 1123(a)(2)); (c) the specification of treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)); (d) provision for the same treatment of each Claim or Interest

within a Class (11 U.S.C. § 1123(a)(4)); (e) provision for adequate and proper means for implementation (11 U.S.C. § 1123(a)(5)); (f) the prohibition against the issuance of non-voting equity securities (11 U.S.C. § 1123(a)(6)); (g) adequate disclosure of the procedures for determining the identities and affiliations of the Liquidating Trustee, the members of the Liquidating Trust Oversight Committee, and the sole officer and director of Ventoux (11 U.S.C. § 1123(a)(7)); and (h) additional Plan provisions permitted to effectuate the liquidation of the Chapter 11 Cases (11 U.S.C. § 1123(b)).

V. The Plan Proponents have provided adequate support for substantive consolidation of the Estates of the Consolidated Debtors pursuant to the Global Plan Settlement (as defined herein), including payment of the Landlord Guaranteed Claim Consolidation Amount, and substantive consolidation is in the best interests of the Debtors' Estates and Creditors.

W. Plan Proponents' Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)). The Plan Proponents have complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Solicitation Procedures Order, and other orders of this Court, thereby satisfying section 1129(a)(2) of the Bankruptcy Code.

X. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). The Plan Proponents have proposed the Plan in

good faith and not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Court has examined the totality of the circumstances surrounding the filing of the Chapter 11 Cases, the formulation of the Plan and all modifications thereto, including (without limitation) the non-consolidation of InterTAN and Ventoux. The Chapter 11 Cases were filed, and the Plan and all modifications thereto were proposed, with the legitimate and honest purpose of maximizing the value of the Debtors and the recovery to Claimholders. Therefore, the Plan Proponents have proposed the Plan in good faith and not by any means forbidden by law, and section 1129(a)(3) of the Bankruptcy Code is satisfied with respect to the Plan.

Y. Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). Any payment made or to be made by the Debtors (or the Liquidating Trustee) for services or for costs and expenses in connection with the Chapter 11 Cases, including Administrative Claims and Substantial Contribution Claims under sections 503 and 507 of the Bankruptcy Code, or in connection with the Plan and incident to the Chapter 11 Cases, either has been approved by or is subject to the approval of the Court as reasonable, thereby satisfying section 1129(a)(4) of the Bankruptcy Code.

Z. Board of Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)). The initial Liquidating Trustee shall be Alfred H. Siegel. The Confirmation Brief adequately discloses the compensation to be provided to Mr. Siegel.

AA. The initial members of the Liquidating Trust Oversight Committee shall be Hewlett Packard Company, Simon Property Group, Inc., Weidler Settlement Class, Paramount Home Entertainment, Developers Diversified Realty Corp., Peter Kravitz and Michelle O. Mosier. The Liquidating Trust Agreement and the Oversight Committee Bylaws adequately disclose the compensation to be received by the members of the Liquidating Trust Oversight Committee.

BB. The sole director and officer of Ventoux shall be Alan M. Jacobs. The Confirmation Brief adequately discloses the compensation to be provided to Mr. Jacobs.

CC. The appointment to such office of each individual or entity is consistent with the interests of Holders of Claims against and Interests in the Debtors, and with public policy. Therefore, section 1129(a)(5) of the Bankruptcy Code is satisfied with respect to the Plan.

DD. No Rate Changes (11 U.S.C. § 1129(a)(6)). Section 1129(a)(6) of the Bankruptcy Code is satisfied because the Plan does not provide for any change in rates over which a governmental regulatory commission has jurisdiction.

EE. Best Interests Test (11 U.S.C. § 1129(a)(7)).

The Liquidation Analysis attached as Appendix D to the Supplement and Exhibit C to the Confirmation Brief and other evidence proffered or adduced at the Confirmation Hearing (1) are persuasive and credible, (2) are based upon reasonable and sound assumptions, (3) provide a reasonable estimate of the liquidation values of the Debtors upon hypothetical conversion to cases under Chapter 7 of the Bankruptcy Code, and (4) establish that each holder of a Claim or Interest in an Impaired Class that has not accepted the Plan will receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that such holder would receive if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code on such date. Therefore, the Plan satisfies section 1129(a)(7) of the Bankruptcy Code.

FF. Acceptance By Certain Classes (11 U.S.C. § 1129(a)(8)). Classes 1, 2 8B and 8C are Unimpaired by the Plan and therefore, under section 1126(f) of the Bankruptcy Code, such Classes are conclusively presumed to have accepted the Plan. Further, each of Class 3A, and Classes 4A through 4C voted as a Class to accept the Plan. Accordingly, section 1129(a)(8) of the Bankruptcy Code has been satisfied with respect to Classes 1 through 4, 8B and 8C. Classes 5A, 6A, 7A and 8A are deemed to

reject the Plan and, therefore, section 1129(a)(8) of the Bankruptcy Code has not been satisfied with respect to these Classes.

GG. Treatment of Administrative and Priority Tax Claims and Non-Tax Priority Claims (11 U.S.C. § 1129(a)(9)).

The treatment of Administrative Claims and Non-Tax Priority Claims under the Plan satisfies the requirements of section 1129(a)(9)(A) and (B) of the Bankruptcy Code, and the treatment of Priority Tax Claims under the Plan satisfies the requirements of section 1129(a)(9)(C) of the Bankruptcy Code.

HH. Acceptance By Impaired Class (11 U.S.C. § 1129(a)(10)). At least one Impaired Class of Claims voted to accept the Plan determined without including any acceptance of the Plan by any "insiders." Therefore, section 1129(a)(10) of the Bankruptcy Code is satisfied with respect to the Plan.

II. Feasibility (11 U.S.C. § 1129(a)(11)). The Plan provides for the liquidation of all or substantially all of the property of the Debtors. The Disclosure Statement, the Supplement, the Confirmation Brief, the Liquidation Analysis and the evidence proffered or adduced at the Confirmation Hearing (i) are persuasive and credible, (ii) have not been controverted by other credible evidence or sufficiently challenged in any of the objections to the Plan, and (iii) establish that the Plan is feasible and that confirmation of the Plan is not likely to be



followed by the liquidation of the Debtors except as provided by the Plan or the need for further financial reorganization of the Debtors. Therefore, the Plan satisfies section 1129(a)(11) of the Bankruptcy Code.

JJ. Payment of Fees (11 U.S.C. § 1129(a)(12)). The Debtors have paid or, pursuant to the Plan, the Liquidating Trustee will pay by the Effective Date, fees payable under 28 U.S.C. § 1930, thereby satisfying section 1129(a)(12) of the Bankruptcy Code.

KK. Continuation of Retiree Benefits (11 U.S.C. § 1129(a)(13)). The Debtors are not obligated to provide retiree benefits to any person. Accordingly, the requirements of section 1129(a)(13) of the Bankruptcy Code are satisfied.

LL. Section 1129(b); Confirmation of The Plan Over Nonacceptance of Impaired Classes. Holders of Claims against or Interests in the Consolidated Debtors in Classes 5A, 6A, 7A and 8A are deemed to have rejected the Plan pursuant to 11 U.S.C. § 1126(g). All of the requirements of section 1129(a) of the Bankruptcy Code, other than section 1129(a)(8) with respect to such Classes, have been met. With respect to such Classes, no Holders of Claims against or Interests in the Consolidated Debtors junior to the Holders of such Classes will receive or retain any property under the Plan on account of such Claims or Interests. Finally, no Class of Claims or Interests senior to

Classes 5A, 6A, 7A or 8A is receiving property under the Plan having a value more than the Allowed amount of such Claim or Interest. Accordingly, the Plan is fair and equitable and does not discriminate unfairly, as required by section 1129(b) of the Bankruptcy Code and may be confirmed under Bankruptcy Code section 1129(b) notwithstanding such Classes' deemed rejection of the Plan.

MM. No Classes are deemed to reject the Plan with respect to InterTAN and Ventoux and, accordingly, Bankruptcy Code section 1129(b) is inapplicable to such Debtors.

NN. Principal Purpose of Plan (11 U.S.C. § 1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933 (15 U.S.C. § 77e). Accordingly, the Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code.

OO. Plan Settlements. In accordance with Bankruptcy Rule 9019, the Plan is dependent upon and incorporates the terms of a global plan settlement with respect to substantive consolidation of the Estates of the Consolidated Debtors and payment of the Landlord Guaranteed Claim Consolidation Amount with respect to Allowed Landlord Guaranteed Claims (the "Global Plan Settlement"). The Global Plan Settlement is fair and

reasonable and is in the best interests of the Consolidated Debtors and their Estates and Creditors.

PP. Executory Contracts. The Debtors have exercised reasonable business judgment in determining whether to assume or reject their executory contracts and unexpired leases pursuant to Article VII of the Plan. Each rejection of an executory contract or unexpired lease (including licenses) pursuant to Article VII of the Plan, or determination not to reject pursuant to Exhibit C to the Plan shall be legal, valid and binding upon the Debtors and their assignees or successors and all non-Debtor parties (and their assignees or successors) to such executory contract or unexpired lease, all to the same extent as if such rejection had been effectuated pursuant to an order of the Court entered before the Confirmation Date under section 365 of the Bankruptcy Code.

QQ. Releases and Exculpation. The Debtors have exercised reasonable business judgment in releasing Claims and Causes of Action set forth in Article X.C. of the Plan and providing for the exculpation set forth in Article X.G. of the Plan. The releases of Claims and Causes of Action and exculpation described in Article X of the Plan constitute good faith compromises and settlements of the matters covered thereby, are otherwise approved by the Court as appropriate pursuant to applicable law and/or are consensual. Such compromises and

settlements are (i) made in exchange for adequate consideration, (ii) in the best interests of the Debtors' Estates, Claimholders and other parties in interest, (iii) fair, equitable and reasonable, (iv) integral elements of the liquidation and resolution of the Chapter 11 Cases in accordance with the Plan, (v) supported by the Creditors' Committee and (vi) are otherwise approved by the Court as appropriate pursuant to applicable law.

RR. Each of the release, injunction, indemnification and exculpation provisions set forth in the Plan: (a) is within the jurisdiction of the Court under 28 U.S.C. §§ 1334(a), (b), and (d); (b) is an essential means of implementing the Plan pursuant to section 1123(a)(5) of the Bankruptcy Code; (c) is an integral element of the transactions incorporated into the Plan; (d) confers a material benefit on, and is in the best interests of, the Debtors, their Estates and their Creditors; (e) is important to the overall objectives of the Plan to finally resolve all Claims among or against the parties in interest in the Chapter 11 Cases with respect to the Debtors; and (f) is consistent with sections 105, 1123, 1129, and other applicable provisions of the Bankruptcy Code.

SS. Plan Conditions to Confirmation. The conditions to Confirmation set forth in Article VIII.A. of the Plan have been satisfied or waived in accordance with the terms of the Plan.

TT. Plan Conditions to Effectiveness. Each of the conditions to the Effective Date, as set forth in Article VIII.B. of the Plan, is reasonably likely to be satisfied or waived in accordance with the terms of the Plan.

UU. Retention of Jurisdiction. The Court properly may retain jurisdiction over the matters set forth in Article XI of the Plan.

VV. Based on the foregoing findings of fact and conclusions of law,<sup>4</sup> it is hereby

**ORDERED, ADJUDGED AND DECREED THAT:**

**Confirmation of Plan**

1. Confirmation. The Plan, attached hereto as Exhibit A, including all Exhibits attached thereto, is approved and confirmed under section 1129 of the Bankruptcy Code. The terms of the Plan are incorporated by reference into and are an integral part of this Confirmation Order.

2. Notice. Notice of the Plan, the Exhibits, and all amendments and modifications thereto, the Disclosure Statement and the Solicitation Packages was proper and adequate.

3. Objections. All Objections and all reservations of rights that have not been withdrawn, waived or settled,

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<sup>4</sup> Statements made by the Court from the bench at the Confirmation Hearing shall constitute additional conclusions of law and findings of fact as appropriate.

pertaining to the Confirmation of the Plan are overruled on the merits.

4. Effectiveness of All Actions. All actions contemplated by the Plan are hereby authorized and approved in all respects (subject to the provisions of the Plan). The approvals and authorizations specifically set forth in this Confirmation Order are nonexclusive and are not intended to limit the authority of any Debtor, the Liquidating Trust, the Liquidating Trustee or any officer or director thereof to take any and all actions necessary or appropriate to implement, effectuate and consummate any and all documents or transactions contemplated by the Plan or this Confirmation Order. Pursuant to this Order and applicable law, the Debtors, without action of their respective stockholders or members or boards of directors or managers and the Liquidating Trust are authorized and empowered to take any and all such actions as any of their executive officers, the Plan Proponents or the Liquidating Trustee may determine are necessary or appropriate to implement, effectuate and consummate any and all documents or transactions contemplated by the Plan or this Confirmation Order.

5. Exemption from Stamp Taxes. Pursuant to Bankruptcy Code section 1146(c), any transfers from any of the Consolidated Debtors to the Liquidating Trust or by the Debtors to any other Entity pursuant to the Plan in the United States

shall not be subject to any stamp tax or similar tax. State or local governmental officials or agents are hereby directed to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation any applicable instruments or documents without the payment of any such tax or governmental assessment.

6. Vesting of Assets and Operation as of the Effective Date. Except as otherwise explicitly provided in the Plan, on the Effective Date, all property comprising the Estates of the Consolidated Debtors (including all retained Causes of Action and Interests in Ventoux) shall vest in the Liquidating Trust, free and clear of all Liens, Claims, encumbrances, and other interests. As of the Effective Date, the Liquidating Trust may manage, distribute, use, acquire, and dispose of property vested in the Liquidating Trust and settle and compromise Claims against the Consolidated Debtors without supervision of the Bankruptcy Court, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions imposed by the Plan, this Confirmation Order or the Liquidating Trust Agreement.

7. Except as otherwise explicitly provided in the Plan, on the Effective Date, the property of Ventoux's Estate, including Ventoux's Assets and Causes of Action, shall revert in Ventoux, free and clear of all Liens, Claims, encumbrances, and

other interests. As of the Effective Date, Ventoux may manage, distribute, use, acquire, and dispose of property vested in Ventoux and settle and compromise Claims against Ventoux without supervision of the Bankruptcy Court, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions imposed by the Plan, this Confirmation Order or the Liquidating Trust Agreement.

8. Except as otherwise explicitly provided in the Plan, on the Effective Date, the property of the InterTAN, including InterTAN's Assets and Causes of Action, shall vest in Tourmalet, free and clear of all Liens, Claims, encumbrances, and other interests.

**Assumption and Rejection of Executory Contracts and Unexpired Leases**

9. Executory Contracts and Unexpired Leases. On the Effective Date, all executory contracts or unexpired leases of the Debtors,<sup>5</sup> other than those listed on Exhibit C to the Plan or those which have been previously assumed and rejected or are subject to a motion to assume or reject pending as of the date hereof, shall be deemed automatically rejected as of the date of the entry of this Confirmation Order (the "Confirmation Date") (but subject to the occurrence of the Effective Date), and

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<sup>5</sup> For the avoidance of doubt, such executory contracts and unexpired leases do not include any post-petition contracts or leases entered into by the Debtors as debtors in possession.



subject to the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code.

### **Bar Dates and Other Deadlines**

10. The bar dates and deadlines set forth in the Plan are hereby approved, including but not limited to the following:

(a) Final Administrative Claims Bar Date and Administrative Claims Objection Deadline. Except as otherwise provided in Article IX of the Plan, requests for payment of an Administrative Claim that arises from and after January 1, 2010 up to and through the Effective Date must be filed with the Bankruptcy Court and served on counsel for the Liquidating Trust no later than sixty (60) days after the Effective Date (the "Final Administrative Claims Bar Date"). All objections to Administrative Claims must be filed and served on the Holders of such Administrative Claims by the date that is one hundred twenty (120) days after the Effective Date (the "Administrative Claims Objection Deadline"), as the same may be extended by the Bankruptcy Court pursuant to the Plan.

(b) Claims Objection Deadline. Except as set forth in the Plan with respect to Administrative Claims, all objections to Claims must be filed and served on the Holders of such Claims by the date that is one hundred eighty (180) days after the Effective Date (the "Claims Objection Deadline"), as the same may be extended by the Bankruptcy Court.

(c) Professional Claims and Final Fee Applications. The Final Fee Applications must be filed no later than forty-five (45) days after the Effective Date. Objections, if any, to Final Fee Applications of Professionals must be filed and served on the Liquidating Trustee and its respective counsel, the requesting Professional and the Office of the U.S. Trustee no later than forty-five (45) days from the date on which each such Final Fee Application is served and filed. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior orders of the Bankruptcy Court, the allowed amounts of such Professional Fee Claims shall be determined by the Court.

(d) Rejection Damages Bar Date. Except as otherwise provided in the Plan, if the rejection of an executory contract or unexpired lease pursuant to the Plan gives rise to a

Claim against the Debtors by the other party or parties to such contract or lease, such Claim shall be forever barred and shall not be enforceable against the applicable Debtor or its Estate, the Liquidating Trust, or their respective successors or properties unless a Proof of Claim is filed with the Claims Agent within thirty (30) days after service of a notice of the Effective Date.

### **Liquidating Trust**

11. Formation of and Provisions Regarding The Liquidating Trust. The formation, rights, powers, duties, structure, obligations, and related matters pertaining to the Liquidating Trust shall be governed by Article V of the Plan and the Liquidating Trust Agreement. The Liquidating Trust Agreement (which such agreement shall be substantially in the form of filed with the Court on August 9, 2010) is hereby approved.

12. Transfer of Trust Assets. On the Effective Date, the Liquidating Trust Assets shall be transferred to the Liquidating Trust in accordance with the Plan and the Liquidating Trust Agreement for the benefit of the Trust Beneficiaries (as defined in the Liquidating Trust Agreement).

13. Approval of Liquidating Trustee. The appointment of Alfred H. Siegel of Crowe Horwath LLP as the Liquidating Trustee under the Liquidating Trust Agreement and the Plan is hereby approved, and the Liquidating Trustee is hereby authorized to carry out all duties as set forth in the Plan, the Liquidating Trust Agreement, and this Confirmation Order.

14. Liquidating Trust Oversight Committee. The Court approves the appointment of Hewlett Packard Company, Simon Property Group, Inc., Weidler Settlement Class, Paramount Home Entertainment, Developers Diversified Realty Corp., Peter Kravitz and Michelle O. Mosier as members of the Liquidating Trust Oversight Committee. The Liquidating Trust Oversight Committee is hereby authorized to carry out all duties as set forth in the Plan, the Liquidating Trust Agreement, the Oversight Committee Bylaws and this Confirmation Order. The Liquidating Trust Oversight Committee shall be governed by the Plan, the Liquidating Trust Agreement and the Oversight Committee Bylaws.

15. The Liquidating Trustee, as Disbursing Agent, shall be required to post a bond in an initial amount mutually agreed to by the Consolidated Debtors and the Creditors' Committee.

16. Notwithstanding anything contained in the Plan or herein to the contrary, subject to any subsequent order of this Court, the transfer and conveyance of all Assets of each of the Debtors and its Estates to the Liquidating Trust on the Effective Date shall be without prejudice to the rights of Ryan, Inc. f/k/a Ryan & Company, Inc. to seek a determination that it owns or possesses an interest, or portion thereof, in certain contingent Assets, only if and after they become Assets, and the

right for such a determination shall be and hereby is preserved in its entirety and jurisdiction of such a determination is specifically retained by this Court.

**Approval of Sole Director and Officer of Ventoux**

17. The appointment of Alan M. Jacobs of AJM Advisors LLC as the sole director and officer of Ventoux, as of the Effective Date, under the Plan is hereby approved, and Mr. Jacobs is hereby authorized to carry out all duties as set forth in the Plan and this Confirmation Order, including (without limitation) amending and restating Ventoux's charter and bylaws to be consistent with the Plan, the Confirmation Order and the Liquidating Trust Agreement.

**Global Plan Settlement and Substantive Consolidation**

18. The Global Plan Settlement and the terms thereof, including substantive consolidation of the Consolidated Debtors and payment of the Landlord Guaranteed Claim Consolidation Amount, as set forth in the Plan, are hereby approved pursuant to Bankruptcy Rule 9019 as fair, equitable, and prudent, are in the best interests of the Consolidated Debtors and their Estates and Creditors, are binding upon all Entities affected thereby, and shall be effectuated in accordance with the terms thereof.

19. The Estates of the Consolidated Debtors shall be substantively consolidated as set forth in the Plan. On the Effective Date, pursuant to the Global Plan Settlement, (i) all

Intercompany Claims by, between and among the Consolidated Debtors shall be eliminated, (ii) all assets and liabilities of the Consolidated Debtors shall be merged or treated as if they were merged with the assets and liabilities of Circuit City, (iii) any obligation of a Consolidated Debtor and all guarantees thereof by one or more of the other Consolidated Debtors, including the Landlord Guaranty Claims, shall be deemed to be one obligation of Circuit City, (iv) the Interests in the Consolidated Debtors shall be cancelled, and (v) each Claim filed or to be filed against any Consolidated Debtor shall be deemed filed only against Circuit City and shall be deemed a single Claim against and a single obligation of Circuit City.

20. On the Effective Date, in accordance with the terms of the Plan, including the Global Plan Settlement, and the consolidation of the assets and liabilities of the Consolidated Debtors, all Claims based upon guarantees of collection, payment, or performance made by any Consolidated Debtor as to the obligations of another Consolidated Debtor, including the Landlord Guaranty Claims, shall be released and of no further force and effect; provided, however, that on the Effective Date, an Allowed Landlord Guaranteed Claim shall be deemed to have a value equal to the Landlord Guaranteed Claim Consolidation Amount.

21. The foregoing (x) shall not affect the rights of any Holder of a Miscellaneous Secured Claim with respect to the Collateral securing its Claim, or the terms and implementation of any settlement, and the rights and obligations of the parties thereto, entered into in connection with the confirmation of the Plan and (y) shall not, and shall not be deemed to, prejudice the Causes of Action and the Avoidance Actions (subject to the releases set forth in Article X of the Plan), which shall survive entry of this Order for the benefit of the Debtors and their Estates, as if there had been no substantive consolidation.

#### **Discharge, Releases and Injunctions**

22. No Discharge of Debtors. Pursuant to Bankruptcy Code section 1141(d)(3), Confirmation will not discharge Claims against the Debtors; provided, however, that no Claimholder or Interest Holder may, on account of such Claim or Interest, seek or receive any payment or other distribution from, or seek recourse against, any of the Debtors' Estates, the Liquidating Trust, the Liquidating Trustee and/or their respective successors, assigns and/or property, except as expressly provided in the Plan.

23. Releases, Limitations of Liability and Indemnification. The release set forth in Article X.C. of the Plan, the exculpation and limitation of liability provisions set forth in Article X.G. and the indemnification obligation

provision set forth in Article X.H of the Plan are incorporated in this Confirmation Order as if set forth in full herein and are hereby approved and shall be, and hereby are, effective and binding, subject to the respective terms thereof, on all persons and entities to the extent set forth therein, and no person or entity shall possess such standing to assert released Claims or Causes of Action after the Effective Date.

24. In particular, as of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors (in their individual capacities and as debtors and debtors in possession) will be deemed to release forever, waive, and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, and liabilities (other than the rights of the Debtors to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered hereunder, and liabilities arising after the Effective Date in the ordinary course of business) whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise that are based in whole or part on any act omission, transaction, event, or other occurrences, except where resulting from willful misconduct or gross negligence as determined by a Final Order of a court of competent jurisdiction, (i) taking

place on or after the Petition Date through and including the Effective Date in connection with, relating to, or arising out of the Debtors, the Chapter 11 Cases, the negotiation and filing of the Plan, the Disclosure Statement or any prior plans of reorganization, the filing of the Chapter 11 Cases, the pursuit of confirmation of the Plan or any prior plans of reorganization, the consummation of the Plan, the administration of the Plan, or the property to be liquidated and/or distributed under the Plan, (ii) in connection with, relating to, or arising out of the Initial Store Closings and/or the negotiation of the DIP Agreements or the DIP Facility or (iii) taking place on or after the Petition Date through and including the Effective Date, in connection with, relating to, or arising out of (a) Canadian taxes owed by the Canadian Debtors or the Debtors that became due or arose on or after the Petition Date or (b) the Canada Revenue Agency Ruling and the transactions contemplated thereby, and that could have been asserted by or on behalf of the Debtors or their Estates, including pursuant to principles of substantive consolidation, piercing the corporate veil, alter ego, domination, constructive trust and similar principles of state or federal creditors' rights laws, in any such case, against the Released Parties; provided, however, that, notwithstanding the foregoing, nothing in this paragraph shall be deemed to release, waive or discharge claims, obligations,



suits, judgments, damages, demands, debts, rights, causes of action, or liabilities against the directors and officers of the Individual Debtors in connection with, relating to, or arising out of any tax liability under French law relating to InterTAN Canada, the French permanent establishment of InterTAN Canada, or InterTAN France, or any aspect thereof.

25. Notwithstanding the foregoing, nothing in the Plan or in the Confirmation Order is intended to or shall be deemed in any way to affect any releases, waivers, or discharges provided by the Final DIP Order.

26. In addition, except as otherwise specifically provided in the Plan, the Debtors, the Liquidating Trustee, the Liquidating Trust, the Creditors' Committee, the members of the Creditors' Committee solely in their capacity as such, the Oversight Committee, the member of the Oversight Committee solely in their capacity as such, and any of the foregoing parties' respective present or former members, officers, directors, employees, advisors, attorneys, representatives, financial advisors, investment bankers, agents or other Professionals and any of such parties' successors and assigns, solely in their capacities as such, shall not have or incur any liability for any claim, action, proceeding, cause of action, Avoidance Action, suit, account, controversy, agreement, promise, right to legal remedies, right to equitable remedies, right to

payment, or Claim (as defined in Bankruptcy Code Section 101(5)), whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured and whether asserted or assertable directly or derivatively, in law, equity, or otherwise to one another or to any Claimholder or Interest Holder, or any other party in interest, or any of their respective agents, employees, representatives, advisors, attorneys, or affiliates, or any of their successors or assigns, for any act or omission originating or occurring (i) on or after the Petition Date through and including the Effective Date in connection with, relating to, or arising out of the Debtors, the Chapter 11 Cases, the negotiation and filing of the Plan, the Disclosure Statement or any prior plans of reorganization, the filing of the Chapter 11 Cases, the pursuit of confirmation of the Plan or any prior plans of reorganization, the consummation of the Plan, the administration of the Plan, or the property to be liquidated and/or distributed under the Plan, (ii) in connection with, relating to, or arising out of the Initial Store Closings and/or the negotiation of the DIP Agreements or the DIP Facility or (iii) taking place on or after the Petition Date through and including the Effective Date, in connection with, relating to, or arising out of (a) Canadian taxes owed by the Canadian Debtors or the Debtors that became due or arose on

or after the Petition Date or (b) the Canada Revenue Agency Ruling and the transactions contemplated thereby, except for their willful misconduct or gross negligence as determined by a Final Order of a court of competent jurisdiction, and in all respects shall be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under the Plan; provided, however, that, notwithstanding the foregoing, nothing in this paragraph shall be deemed to exculpate, release, waive or discharge any claim, action, proceeding, cause of action, Avoidance Action, suit, account, controversy, agreement, promise, right to legal remedies, right to equitable remedies, right to payment, or Claim (as defined in Bankruptcy Code Section 101(5)) against the directors and officers of the Individual Debtors in connection with, relating to, or arising out of any tax liability under French law relating to InterTAN Canada, the French permanent establishment of InterTAN Canada, or InterTAN France, or any aspect thereof.

27. Except as otherwise provided in the Plan or any contract, instrument, release, or other agreement or document entered into in connection with the Plan, any and all indemnification obligations that the Debtors have pursuant to a contract, instrument, agreement, certificate of incorporation, by-law, comparable organizational document or any other document, or applicable law, including the Indemnification Obligations,

shall be rejected as of the Effective Date, to the extent executory. Nothing in the Plan shall be deemed to release the Debtors' insurers from any claims that might be asserted by counter-parties to contracts or agreements providing the indemnification by and of the Debtors, to the extent of available coverage.

28. Injunctions. Except as otherwise specifically provided in the Plan and except as may be necessary to enforce or remedy a breach of the Plan, from and after the Effective Date all Entities who have held, hold or may hold Claims against or Interests in the Debtors are permanently enjoined from taking any of the following actions against the Estate(s), the Liquidating Trust, the Liquidating Trustee, or any of their property on account of any such Claims or Interests: (A) commencing or continuing, in any manner or in any place, any action or other proceeding; (B) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree or order; (C) creating, perfecting, or enforcing any lien or encumbrance; (D) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors, except as set forth in Article VI.H.2. of the Plan; and (E) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan, all to the fullest extent permissible

under applicable law, including to the extent provided for or authorized by Article X.D. of the Plan and sections 524 and 1141 of the Bankruptcy Code.

### **Plan Modifications**

29. Modifications to Plan. The modifications to the First Amended Plan incorporated in the Plan, including (without limitation) the non-consolidation of InterTAN and Ventoux, the addition of certain provisions with respect to the transactions contemplated by the Canada Revenue Ruling, the inclusion of Reserves and the Landlord Guaranteed Claim Consolidation Amount, were made in a manner consistent with Article XII.A. of the Plan and constitute changes that do not materially adversely modify the treatment of any Claims or Interests. The Plan Proponents have complied with the requisite consent provisions of the Plan in connection with such modifications. Accordingly, pursuant to Bankruptcy Rule 3019, these modifications do not require additional disclosure under section 1125 of the Bankruptcy Code or re-solicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that Holders of Claims be afforded an opportunity to change previously cast acceptances or rejections of the Plan.

30. Additional Plan Modifications: The following modifications to the Plan have been made in a manner consistent with Article XII.A. of the Plan and constitute technical changes

that do not materially adversely modify the treatment of any Claims or Interests. The Debtors have complied with the requisite consent provisions of the Plan in connection with such modifications. Accordingly, pursuant to Bankruptcy Rule 3019, these modifications do not require additional disclosure under section 1125 of the Bankruptcy Code or re-solicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that holders of Claims be afforded an opportunity to change previously cast acceptances or rejections of the Plan. At the request of the Plan Proponents, the Plan is hereby modified pursuant to section 1127(a) of the Bankruptcy Code as set forth below:

(i) Article V.B.8 is revised as follows:

From and after the Effective Date, notwithstanding anything to the contrary in the Plan, ~~the Debtors shall be deemed to have suspended and terminated their further reporting obligations with the Securities and Exchange Commission and their statutory or regulatory obligations as a publicly traded company and shall be deemed to have deregistered the Debtors' public securities and consented to revocation of the registration of the Debtors' securities pursuant to Section 12(j) of the Exchange Act.~~ To the extent required by the Securities and Exchange Commission or other regulatory agency, the Liquidating Trustee shall take any and all actions necessary to evidence the suspension of the Debtors' further reporting obligations with the Securities and Exchange Commission or their statutory or regulatory obligations as a publicly traded company, including, but not limited to, seeking to deregister the Debtors' public securities or consenting to an action or proceeding to revoke the registration of the Debtors' securities pursuant to Section 12(j) of the Exchange

Act.

- (ii) Article XII.E. is revised as follows:

Notwithstanding anything to the contrary in the Plan, the Plan shall not be construed to preclude the Securities and Exchange Commission from taking any action in any forum against any Entity that is required for the Securities and Exchange Commission to fulfill its statutory duties.

- (iii) Article III.B.1 is revised as follows:

If an Allowed Miscellaneous Secured Claim is secured by property the value of which is greater than the amount of such Allowed Miscellaneous Secured Claim, the Holder of such Allowed Miscellaneous Secured Claim shall be paid interest on the Allowed Miscellaneous Secured Claim to the extent provided by Bankruptcy Code section 506(b) at the rate of interest determined under applicable nonbankruptcy law as of the calendar month in which Confirmation occurs and, to the extent provided by Bankruptcy Code section 506(b), such reasonable fees, costs or charges as are provided for under the agreement or State statute under which such Allowed Miscellaneous Secured Claim arose.

- (iv) Article V.B.3 is revised as follows:

Except as expressly provided in Article XI of the Liquidating Trust Agreement, Ventoux shall continue to exist for all purposes to the same extent as it existed prior to the Effective Date. ~~{\_\_\_\_\_}~~ Alan M. Jacobs shall be the sole director and officer of Ventoux from and after the Effective Date.

- (v) Article V.B.4 is revised to include the following:

From and after the Ventoux Effective Date, Ventoux shall not issue any non-voting securities and the prohibition on issuance of non-voting securities shall be deemed to be included in the charter of Ventoux.

- (vi) Article V.E.4 is revised as follows:

On the Effective Date, the Liquidating Trustee shall fund the Liquidating Trust Operating Reserve in ~~the an~~ amount ~~of \$[\_\_\_\_\_]~~, which the Plan Proponents reasonably

Created with

believe to be sufficient to pay the fees and expenses of the Liquidating Trustee and the Liquidating Trustee Professionals, in light of any anticipated recovery from the sale of assets of the Estates and/or Causes of Action.

### **Resolution of Objections**

31. All objections to confirmation of the Plan (including to confirmation of the First Amended or Second Amended Plan) not previously resolved or withdrawn are hereby overruled in their entirety.

### **Notice and Other Provisions**

32. Notice of Confirmation Order and Occurrence of Effective Date. On or before the fourteenth (14<sup>th</sup>) day following the occurrence of the Effective Date, the Plan Proponents shall serve notice of entry of this Confirmation Order and occurrence of the Effective Date pursuant to Bankruptcy Rules 2002(f)(7), 2002(k), and 3020(c), on (a) the U.S. Trustee; (b) the Internal Revenue Service; (c) the Securities and Exchange Commission; (d) counsel to the Creditors' Committee and its members; (e) all Holders of Claims against and Interests in the Debtors; and (f) other parties in interest, by causing a notice of this Confirmation Order and the occurrence of the Effective Date in substantially the form of the notice annexed hereto as Exhibit B (the "Notice of Effective Date"), which form is hereby approved, to be delivered to such parties by first class mail, postage prepaid.



33. The Notice of Effective Date shall also be published in (i) The Wall Street Journal (Global Edition), (ii) The New York Times, and (iii) The Richmond Times-Dispatch.

34. Notice need not be given or served under the Bankruptcy Code, the Bankruptcy Rules, or this Confirmation Order to any Person to whom the Plan Proponents mailed a Confirmation Hearing Notice or other notice, but received such notice returned marked "undeliverable as addressed," "moved - left no forwarding address," "forwarding order expired," or similar reason, unless the Debtors have been informed in writing by such Person of that Person's new address. The notice described herein is adequate and appropriate under the particular circumstances of the Chapter 11 Cases, and no other or further notice is necessary.

35. Failure to Consummate Plan and Substantial Consummation. If the Effective Date does not occur, then the Plan, any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), the assumption or rejection of executory contracts or unexpired leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be null and void. In such event, nothing contained in the Plan or this Confirmation Order, and no acts taken in preparation for consummation of the Plan, shall, or shall be deemed to, (a)

constitute a waiver or release of any Claims by or against or Interests in the Debtors or any other Person, (b) prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors, (c) constitute an admission of any sort by the Debtors or any other Person, or (d) be construed as a finding of fact or conclusion of law with respect thereto.

36. References to Plan Provisions. The failure to include or specifically reference any particular provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Plan be confirmed in its entirety.

37. Exhibits. Each reference to a document, agreement or summary description in this Confirmation Order, in the Findings of Fact and Conclusions of Law, or in the Plan that is in the form attached as an Exhibit to the Plan shall be deemed to be a reference to such document, agreement or summary description in substantially the form of the latest version of such document, agreement or summary description filed with the Court (whether filed as an attachment to the Plan or filed separately).

38. Plan and Confirmation Order Mutually Dependent. The provisions of this Confirmation Order and the provisions of the Plan are hereby deemed nonseverable and mutually dependent.

39. Confirmation Order Supersedes. It is hereby ordered that this Confirmation Order shall supersede any orders of this Court issued prior to the Confirmation Date that may be inconsistent with this Confirmation Order.

40. Conflicts Between Confirmation Order and Plan. The provisions of the Plan and of this Confirmation Order shall be construed in a manner consistent with each other so as to effect the purposes of each; provided, however, that if there is determined to be any inconsistency between any Plan provision and any provision of this Confirmation Order that cannot be so reconciled, then, solely to the extent of such inconsistency, the provisions of this Confirmation Order shall govern and any such provision of this Confirmation Order shall be deemed a modification of the Plan and shall control and take precedence.

41. Retention of Jurisdiction. Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding the entry of this Confirmation Order or the occurrence of the Effective Date, this Court, except as otherwise provided in the Plan or herein, shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, but not limited to, the matters set forth in Article XI of the Plan.

42. Final Order. This Confirmation Order is a final order and the period in which an appeal must be filed shall commence upon the entry hereof.

43. Waiver of Stay of Confirmation Order. The provisions of Federal Rule of Civil Procedure 62(a) and Bankruptcy Rules 7062 and 3020(e) shall not apply to this Confirmation Order on or after 12:01 a.m. on [\_\_\_\_], 2010, and the Plan Proponents are authorized to consummate the Plan at any time thereafter.

Dated: Richmond, Virginia  
\_\_\_\_\_, 2010

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UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

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#### **CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)**

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

[DRAFT]