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15 **UNITED STATES BANKRUPTCY COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **SANTA BARBARA DIVISION**

18 In re
19 CRUNCHIES FOOD COMPANY, LLC,
20
21 Debtor.

Case No. 9:14-bk-11776-PC

Chapter 11

**DISCLOSURE STATEMENT
DESCRIBING JOINT CHAPTER 11
PLAN OF LIQUIDATION FOR THE
DEBTOR**

Date: May 6, 2015

Time: 10:00 a.m.

Place: Courtroom 201

United States Bankruptcy Court
1415 State Street
Santa Barbara, CA 93101-2511

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I.

PREFATORY STATEMENT AND DEFINITIONS

Crunchies Food Company, LLC (the “*Company*” or the “*Debtor*”) is the Debtor and Debtor-in-possession in the within Chapter 11 bankruptcy case (the “*Bankruptcy Case*”). On August 15, 2014, the Company commenced a bankruptcy case by filing a voluntary Chapter 11 petition under the Bankruptcy Code. On September 30, 2014, an official committee of unsecured creditors (the “*Committee*”) was appointed in the Bankruptcy Case.

The Debtor and the Committee (together, the “*Proponents*”) are providing this Disclosure Statement to each known Holder of a Claim against or Interest in the Estate or the Debtor for the purpose of soliciting acceptances of the Joint Chapter 11 Plan of Liquidation for the Debtor (the “*Plan*”), proposed by the Proponents and filed contemporaneously herewith, and for purposes enabling the Holders of Allowed Claims entitled to vote on the Plan to make an informed decision with regard to voting on the Plan.

Unless the context indicates otherwise, capitalized terms used but not defined in this Disclosure Statement have the meanings set forth in the Plan. Unless the context indicates otherwise, capitalized terms used but not defined in this Disclosure Statement or in the Plan have the meanings assigned to such terms by the Bankruptcy Code or the Bankruptcy Rules or, if none, by common usage. All exhibits to this Disclosure Statement are incorporated as if fully set forth herein and are a part of this Disclosure Statement. A list of defined terms is provided in Section II(A) of the Plan.

II.

INTRODUCTION

The Debtor commenced the Bankruptcy Case by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code on the Petition Date, August 15, 2014. As allowed under Chapter 11, the Proponents are proposing a liquidating plan. In other words, the Debtor seeks to accomplish payments to creditors under the terms of the Plan by liquidating all assets of the Estate and distributing all cash on hand, net income, and net proceeds to creditors entitled to distributions under the Plan.

1 The terms of the Plan will not be binding until the Court confirms the Plan, at which point
2 the Plan will be binding on all Holders of Claims and Interests, and other parties in interest,
3 irrespective of whether any given Holder of a Claim actually voted on the Plan.

4 The purpose of this Disclosure Statement is to provide “adequate information,” as that
5 term is used in Section 1125(a)(1) of the Bankruptcy Code, as far as is reasonably practicable in
6 light of the nature and history of the Debtor, to enable a hypothetical reasonable member of a
7 Class of Creditors or Interest Holders to make an informed judgment about the Plan before
8 exercising any right to vote for acceptance or rejection of the Plan. The Disclosure Statement
9 describes the Plan and contains information concerning, among other things, the history and
10 operations of the Debtor, the assets available for distribution under the Plan, and major events in
11 the Bankruptcy Case.

12 III.

13 DISCLAIMERS

14 THE DEBTOR AND COMMITTEE, AS PROPONENTS OF THE PLAN, STRONGLY
15 URGE THAT EACH RECIPIENT CAREFULLY AND COMPLETELY REVIEW THE
16 CONTENTS OF THIS DISCLOSURE STATEMENT, THE PLAN AND ALL EXHIBITS.
17 PARTICULAR ATTENTION SHOULD BE GIVEN TO THE PROVISIONS OF THE PLAN
18 AFFECTING OR IMPAIRING THE RIGHTS OF EACH HOLDER OF A CLAIM OR
19 INTEREST. ALTHOUGH THE BANKRUPTCY COURT WILL CONSIDER WHETHER THIS
20 DISCLOSURE STATEMENT CONTAINS SUFFICIENT INFORMATION TO ENABLE
21 CLAIM HOLDERS TO MAKE AN INFORMED JUDGMENT IN EXERCISING THEIR
22 RIGHT TO VOTE, SUCH APPROVAL DOES NOT CONSTITUTE A GUARANTEE BY THE
23 BANKRUPTCY COURT THAT THE CONTENTS OF THIS DISCLOSURE STATEMENT
24 ARE ACCURATE.

25 THIS DISCLOSURE STATEMENT CONTAINS THE ONLY AUTHORIZED
26 STATEMENTS OR INFORMATION REGARDING THE DEBTOR’S FINANCIAL
27 CONDITION AND THE PLAN. ALL PREVIOUS STATEMENTS AND REPRESENTATIONS
28 ARE EXPRESSLY SUPERSEDED BY THIS DISCLOSURE STATEMENT.

1 THE PLAN IS SUMMARIZED BELOW UNDER THE HEADING “DESCRIPTION OF
2 THE LIQUIDATING PLAN,” BUT ALL SUMMARIES ARE QUALIFIED BY THE TERMS
3 OF THE PLAN ITSELF, WHICH ARE IN ALL INSTANCES CONTROLLING. YOU MAY
4 NOT RELY UPON THIS DISCLOSURE STATEMENT FOR ANY PURPOSE OTHER THAN
5 TO DETERMINE HOW TO VOTE ON THE PLAN. THE PLAN IS PROPOSED BY THE
6 DEBTOR AND COMMITTEE IN GOOD FAITH, AND IN COMPLIANCE WITH THE
7 APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE. THE BANKRUPTCY COURT
8 HAS NOT YET DETERMINED WHETHER OR NOT THE PLAN IS CONFIRMABLE AND
9 MAKES NO RECOMMENDATION AS TO VOTING ON THE PLAN.

10 NOTHING CONTAINED IN THE PLAN OR DISCLOSURE STATEMENT SHALL
11 CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY THE DEBTOR,
12 COMMITTEE, OR ANY OTHER PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING
13 INVOLVING THE DEBTOR OR ANY OTHER PARTY.

14 THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE
15 MADE AS OF THE DATE HEREOF, UNLESS ANOTHER TIME IS SPECIFIED HEREIN.
16 THE DELIVERY OF THIS DISCLOSURE STATEMENT SHALL NOT CREATE ANY
17 IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE FACTS SET FORTH
18 HEREIN SINCE THE DATE OF THIS DISCLOSURE STATEMENT AND THE MATERIALS
19 RELIED UPON IN PREPARATION OF THIS DISCLOSURE STATEMENT WERE
20 COMPILED.

21 ANY FINANCIAL INFORMATION CONTAINED HEREIN, UNLESS OTHERWISE
22 INDICATED, IS UNAUDITED. MOREOVER, BECAUSE OF THE DEBTOR’S FINANCIAL
23 DIFFICULTIES, AS WELL AS THE COMPLEXITY OF THE DEBTOR’S FINANCIAL
24 MATTERS, THE BOOKS AND RECORDS UPON WHICH THIS DISCLOSURE
25 STATEMENT IN PART IS BASED, MAY BE INCOMPLETE OR INACCURATE.
26 ALTHOUGH REASONABLE, GOOD FAITH EFFORTS HAVE BEEN MADE UNDER THE
27 CIRCUMSTANCES TO BE ACCURATE, THE DEBTOR, THE COMMITTEE, AND THEIR
28 RESPECTIVE PROFESSIONALS ARE UNABLE TO REPRESENT OR WARRANT THAT

1 THE INFORMATION CONTAINED IN THE DISCLOSURE STATEMENT IS ABSOLUTELY
2 WITHOUT ERROR. HOWEVER, THIS DISCLOSURE STATEMENT IS TRUE TO THE
3 PROPONENTS' BEST KNOWLEDGE, INFORMATION AND BELIEF UNDER THE
4 CIRCUMSTANCES.

5 THE CONTENTS OF THIS DISCLOSURE STATEMENT SHOULD NOT BE
6 CONSTRUED AS LEGAL, BUSINESS, OR TAX ADVICE. EACH CLAIM OR INTEREST
7 HOLDER IS URGED TO CONSULT WITH HIS OR HER OWN LEGAL COUNSEL AND/OR
8 TAX ADVISOR AS TO THE LEGAL, TAX AND OTHER CONSEQUENCES TO SUCH
9 HOLDER UNDER THE PLAN. THE PROPONENTS MAKE NO WARRANTIES OR
10 REPRESENTATIONS REGARDING THE TAX IMPACT OF THE PLAN ON ANY CLAIM
11 OR INTEREST HOLDER.

12 IV.

13 OVERVIEW OF PLAN VOTING AND CONFIRMATION DEADLINES

14 A. Deadline for Plan Voting

15 Pursuant to the provisions of the Bankruptcy Code, and as discussed further herein, only
16 Classes of Allowed Claims which receive something under the Plan but are "impaired" as that
17 term is defined under section 1124 of the Bankruptcy Code are entitled to vote to accept or reject
18 the Plan. After approval of this Disclosure Statement by the Bankruptcy Court, if you Hold an
19 Allowed Claim in a Class entitled to vote on the Plan, you will receive a ballot along with this
20 Disclosure Statement which will allow you to vote to accept or reject the Plan. Your acceptance or
21 rejection of the Plan must be made in writing and must be made by completing the ballot sent to
22 you and by following the instructions included with said ballot. In order for your vote to be
23 counted, your signed, completed ballot must be received by no later than the date and time that
24 will be provided for therein.

25 IF YOUR BALLOT IS NOT PROPERLY COMPLETED, SIGNED AND RECEIVED AS
26 DESCRIBED, IT WILL NOT BE COUNTED. IF YOUR BALLOT IS DAMAGED OR LOST,
27 YOU MAY REQUEST A REPLACEMENT BY MAKING A WRITTEN REQUEST TO
28

1 COUNSEL FOR THE DEBTOR AT THE ADDRESS SHOWN IN THE CAPTION OF THIS
2 DISCLOSURE STATEMENT.

3 **B. Deadline for Objecting to Confirmation of the Plan**

4 Any objections to the confirmation of the Plan must be in writing and must be filed with
5 the Bankruptcy Court and served upon the Proponents. The deadline for objecting to confirmation
6 of the Plan is [_____], 2015.

7 **C. Time and Place of the Confirmation Hearing**

8 On [_____], 2015 the Honorable Peter H. Carroll, United States Bankruptcy
9 Judge, will hold a hearing in Courtroom 201 of the United States Bankruptcy Court for the Central
10 District of California located at 1415 State Street, Santa Barbara, California 93101, to determine
11 whether or not to confirm the Plan . The confirmation hearing may be continued from time to time
12 and day to day without further notice. If the Bankruptcy Court confirms the Plan, it will enter the
13 Confirmation Order.

14 **D. Contact for More Information on the Plan**

15 Any party in interest desiring further information about the Plan, or having questions
16 concerning voting procedures, should contact counsel to the Debtor as set forth in the caption of
17 this Disclosure Statement:

18 J.P. Fritz, Esq.

19 Levene, Neale, Bender, Yoo & Brill L.L.P.

20 10250 Constellation Blvd., Suite 1700

21 Los Angeles, California 90067

22 **V.**

23 **HISTORY OF THE DEBTOR AND EVENTS LEADING TO CHAPTER 11 FILING**

24 **A. Background and Description of the Debtor's Business**

25 The Debtor was a packaged healthy snack food company co-founded in Ventura County in
26 2006 by James P. Lacey with its operations located in Westlake Village, California. The Debtor
27 was established in response to the rapid and overwhelming demand for good tasting and truly
28 healthy natural snacks on the market, and it enjoyed incredible growth year over year. The Debtor

1 developed a line of delicious, fun, pure foods without preservatives, added sugars, trans fats, or
2 excessive sodium.

3 The Debtor and its products received favorable coverage in some 40 national magazines
4 and hundreds of regional newspapers. The Debtor almost tripled sales in 2012 and distributed its
5 products through 26,000 stores. In 2013, the Debtor's business was valued at approximately \$15
6 million as a going concern for purposes of raising new capital.

7 To support its growth, the Debtor raised capital contributions from 53 shareholders and
8 reinvested profits generated by the Debtor back into the company. However, the rapid growth of
9 the Debtor's business required more funding than was available from investors and internal
10 operations. As a result, the Debtor had to turn to third party financing to support its expanding
11 operations.

12 **B. The Debtor's Secured Debt Structure**

13 In December 2013, the Debtor received a loan for \$1.5 million from Seung Chung, as
14 Trustee of the Chung Family Trust ("*Chung*"), and then an additional \$500,000 in February 2014,
15 which loan was secured by all of the Debtor's assets (the "*Chung Loan*"). A UCC-1 financing
16 statement for the Chung Loan was filed with the California Secretary of State on December 20,
17 2013. The purpose of the loan was to grow and expand the Debtor's business. Kevin Park ("*Mr.*
18 *Park*") was the key business person on behalf of Chung involved in dealings between the Debtor
19 and Chung prior to and during the Debtor's bankruptcy case.

20 The Debtor received two loans in the amounts of \$300,000 and \$500,000 in 2010 and a
21 third loan in the amount of \$4.2 million in October 2011 for a total loan amount of \$5 million
22 from the Donald Delaski Revocable Trust, Dated December 14, 2000 ("*Delaski*"), which loan was
23 secured by all of the Debtor's assets (the "*Delaski Loan*"). The loan was originally unsecured but
24 was renegotiated for a lower interest rate and made secured in January 2014. A UCC-1 financing
25 statement for the Delaski Loan was filed with the California Secretary of State on March 11, 2014.
26 The purpose of the loan was also to grow and expand the Debtor's business. Delaski is also a
27 member of the Debtor with a \$2 million equity investment. The Chung Loan had priority over the
28

1 Delaski Loan. Edward Grubb (“*Mr. Grubb*”) was the key business person involved in the Debtor’s
2 case for Delaski.

3 **C. Lawsuits Against the Debtor**

4 The Debtor received the raw materials for its products from various vendors, including
5 Chaucer Foods Ltd, a United Kingdom limited company (“*Chaucer*”), which supplied it with
6 freeze dried strawberries. On October 18, 2013, Chaucer filed a lawsuit against the Debtor in
7 Ventura County Superior Court entitled, *Chaucer Foods Ltd. v. Crunchies Food Company, LLC*,
8 Case No. 56-2013-00443644-CU-BC-VTA (the “*Chaucer Lawsuit*”), claiming the Debtor owed it
9 at least \$1,537,828 for unpaid invoices. The Debtor and Chaucer reached a settlement agreement,
10 but the lawsuit greatly damaged the Debtor’s business during October, November, and December
11 of 2013.

12 The settlement agreement set forth a payment schedule requiring the Debtor to make
13 installment payments such that the total debt would be paid in full by July 31, 2014. Over a three-
14 month period, the Debtor paid approximately one-third of the debt to Chaucer, totaling
15 approximately \$500,000. However, the Debtor was unable to make all of the payments in
16 accordance with the schedule in the agreement.

17 The Debtor also received supplies from another supplier, Shandong Searsport Foods, Co.,
18 Ltd. (“*Searsport*”). Separate and apart from the Chaucer litigation, on August 20, 2013, Searsport
19 sued the Debtor for a debt of at least \$1,033,118.14, in a lawsuit entitled *Shandong Searsport*
20 *Foods v. Crunchies Food*, bearing case number 56-2013-00440790-CU-CL-VTA. On August 6,
21 2014, judgment was entered in favor of Searsport and against Debtor in the sum of \$880,192.17.
22 Searsport asserts that the Debtor made no payments to reduce this Judgment. Not having
23 completed review of its books and records, the Debtor reserves all rights to dispute the foregoing.

24 **D. The Debtor’s Decision to File for Bankruptcy**

25 In order to preserve the Debtor’s estate, the value as a going concern, and recovery for all
26 creditors and stakeholders, the Debtor determined in its reasonable business judgment that filing
27 for chapter 11 bankruptcy was in the best interest of the estate and its creditors. The Debtor filed
28 for bankruptcy protection on the Petition Date, August 15, 2014.

1 VI.

2 SIGNIFICANT POST-PETITION PROCEEDINGS

3 A. Use of Cash Collateral

4 On August 18, 2014, the Debtor filed an Emergency Motion for Authority to Use Cash
5 Collateral and to Provide Adequate Protection on an Interim Basis Pending a Final Hearing [Dkt.
6 No. 8] (the “*Cash Collateral Motion*”) requesting the Court’s permission to utilize Chung’s and
7 Delaski’s cash collateral on an interim basis in accordance with a proposed budget. Chung,
8 Delaski, and Chaucer objected to the Cash Collateral Motion. At a hearing held on August 22,
9 2014, the Court granted the Cash Collateral Motion over objections of Chung, Delaski, and
10 Chaucer. Ultimately, The Provident Trust Group, LLC (“Provident”), Chung, and Delaski
11 stipulated for use of their cash collateral, which the Court approved pursuant to an order entered
12 on September 18, 2014.

13 B. Retention of Bankruptcy Counsel

14 On September 12, 2014, the Debtor filed its *Application to Employ Levene, Neale, Bender,*
15 *Yoo & Brill L.L.P. as Bankruptcy Counsel Pursuant to 11 U.S.C. §§ 327, 330, and 331* [Dkt. No.
16 71] (the “*LNBYB Employment Application*”) seeking an order authorizing the Debtor to employ
17 Levene, Neale, Bender, Yoo & Brill L.L.P. (“*LNBYB*”) as general bankruptcy counsel for the
18 Debtor effective as of the Petition Date. On October 14, 2014, the Court entered an order
19 approving the LNBYB Employment Application.

20 C. Formation of Committee

21 On September 23, 2014, the Committee was formed pursuant to Bankruptcy Code section
22 1102. The U.S. Trustee filed its *Appointment and Notice of Appointment of Official Committee of*
23 *Unsecured Creditors* [Dkt. No. 113] on September 30, 2014. The following unsecured creditors
24 were appointed as members of the Committee: Imperial Valley Foods, Inc., DMH Ingredients,
25 Inc., Bella Food Sales, LLC, and Shandong Searsport Foods Co., Ltd. The Committee retained
26 Sheppard, Mullin, Richter & Hampton LLP (“*Sheppard Mullin*”) as its counsel. The Court
27 approved Sheppard Mullin as counsel for the Committee effective as of September 23, 2014
28 pursuant to an order entered on November 26, 2014.

1 **D. Stipulations on Treatment of Warehouse Liens**

2 In the operation of its business, the Debtor stored its products in one warehouse operated
3 by Dependable Distribution Centers (“**DDC**”) in Los Angeles, and two warehouses operated by
4 C.H. Robinson Worldwide, Inc. (“**CH Robinson**”) in Chicago and New Jersey. DDC and CH
5 Robinson held statutory and/or contractual liens on the Debtor’s products stored at the
6 warehouses, which products the Debtor needed to ship to fulfill orders to key customers. CH
7 Robinson claimed that it was owed approximately \$150,000 and asserted its statutory and
8 contractual rights and refused to release the products from its warehouses until adequate protection
9 for its lien was satisfied.

10 After intense negotiations on both sides, on or about September 8, 2014, the Debtor
11 entered into a stipulation with CH Robinson for the release and shipment of product (the “**CH**
12 **Robinson Stipulation**”) [Dkt. No. 48]. The Debtor agreed to prepay CH Robinson \$5,000 per
13 month for each warehouse facility for rent and \$3,500 per week for warehousing services that
14 were trued up at the end of every month. The Debtor further agreed that CHR has a possessory
15 lien that is valid and duly perfected and that the Debtor would pay CH Robinson \$5,000 on a
16 weekly basis as partial adequate protection of CH Robinson’s possessory lien, which would pay
17 down CH Robinson’s prepetition Claim. On September 16, 2014, the Court held an emergency
18 hearing to consider the CH Robinson Stipulation and approved it pursuant to an order entered on
19 September 16, 2014 [Dkt. No. 78].

20 On or about October 16, 2014, the Debtor and DDC entered into a stipulation on similar
21 terms for the treatment of DDC’s prepetition warehouse lien of approximately \$14,984 (the “**DDC**
22 **Stipulation**”) [Dkt. 145]. The Debtor agreed to pay \$2,000 on a weekly basis for partial adequate
23 protection of DDC’s possessory lien, which would be applied to pay down the prepetition Claim.
24 The Debtor further agreed to remain current on post-petition obligations to DDC. On October 16,
25 2014, the Court entered an order approving the stipulation with DDC without the need for a
26 hearing [Dkt. No. 147].

27
28

1 **E. Post-Petition Financing and Sale of the Debtor's Assets**

2 Following the Petition Date, the Debtor needed post-petition financing. On September 10,
3 2014, the Debtor filed a motion to approve post-petition financing (the "**Financing Motion**") from
4 NH Foods, LLC ("**NHF**"), which the Court set for emergency hearing on September 12, 2014.
5 Thereafter, on the morning of the hearing, NHF informed the Debtor that it would not fund the
6 loan.

7 At the hearing on the Financing Motion on Friday, September 12, 2014, and with cash
8 reserves dwindling, Delaski represented to the Court that it would step into the shoes of NHF and
9 fund the post-petition loan on the same terms. As a condition to funding the loan, the Debtor was
10 required to comply with the following:

11 The Debtor would sell its business and substantially all of its assets (the "**Sale**") by
12 October 14, 2014;

13 The Debtor was required to accept Mr. Michael Gallegos, selected by Messrs. Park and
14 Grubb, to act as the Debtor's financial advisor and have authority to approve all checks written by
15 the Debtor in excess of \$500 until the Sale was completed; and

16 The Debtor would accept a stalking horse bid from Chung and Delaski (or their designee)
17 and proceed with the Sale.

18 A continued hearing on the Financing Motion was set for Thursday, September 18, 2014.
19 The Court set October 3, 2014, as the date of the hearing to approve the bid procedures (the "**Bid**
20 **Procedures**") for the Sale of the Debtor's assets to the Delaski/Chung stalking horse bidder, and,
21 on September 26, 2014, the Debtor filed its motion to approve the Bid Procedures.

22 Delaski ultimately funded only \$80,000 of the \$250,000 commitment and then refused to
23 fund anymore. On September 28, 2014, the Delaski/Chung group officially retracted its stalking
24 horse bid. At this point, the Debtor was running out of the funds it needed to keep its business
25 running and to preserve the Debtor's assets to realize any value for the Debtor's creditors at the
26 Sale.

27 At the October 3, 2014 hearing to approve the Bid Procedures, Chaucer made an offer to
28 fund an additional \$250,000 of post-petition financing and serve as the stalking horse bidder on

1 the Sale, which was then scheduled for October 15, 2014. The Court approved the Bid
2 Procedures, subject to the parties finalizing details amongst themselves, as proposed at the
3 hearing. However, in the week that followed, the parties had significant material disagreements on
4 the terms of the sale, reasonableness of due diligence requests, and conditions of financing, such
5 that a resolution was not reached until Friday, October 10, 2014.

6 Due to the delay in arriving at an agreement on the Bid Procedures, and to enable the
7 Debtor to further market its assets in the hopes of attracting an overbidder to bid at the auction, the
8 parties agreed to continue the Sale to October 21, 2014 at 1:30 p.m., with an auction for the
9 Debtor's assets to be held in Court (the "*Auction*").

10 In that time, the Debtor's cash position diminished substantially, and the Debtor required
11 another cash infusion to operate its business. Chaucer agreed to extend further financing to the
12 Debtor in the form of \$100,000 in cash and \$80,000 in freeze dried strawberries to sustain the
13 Debtor's business operations pending the Sale.

14 Ultimately, no overbidders showed up at the Auction, and Chaucer became the winning
15 bidder and purchased substantially all of the Debtor's assets for \$3,630,000, comprised principally
16 of (i) a \$2,950,000 credit bid, as the holder of the Chung Loan and Delaski Loan, (ii) a \$430,000
17 credit bid for the post-petition financing from Chaucer; (iii) an \$80,000 credit bid for the post-
18 petition financing from Delaski; (iv) and \$350,000 in cash (the "*Purchase Price*"). The Sale
19 closed on October 24, 2014. Ultimately, the Debtor received \$300,000 in cash from the Sale
20 proceeds, as \$50,000 of the cash component of the Sale proceeds was set aside for the cure of
21 certain executory contracts.

22 **F. Stipulations for the Rejection or Assumption and Assignment of Executory Contracts**
23 **and Real Property Leases in Connection with the Sale**

24 After the Sale closed, there remained outstanding issues on the assumption and assignment
25 of certain of the Debtor's contracts. The Debtor had a licensing agreement with Warner Bros. for
26 the use of Warner Bros. trademarks and characters in some of the Debtor's products. The Debtor
27 also had a contract with AEG to participate as a sponsor at certain of AEG's athletic events, such
28

1 as cycling tournaments and footraces. The Debtor was also a party to a prepetition settlement
2 agreement with Brien Seay regarding the rights to and use of certain UPC codes.

3 Warner Bros., AEG, and Mr. Seay each filed objections to the Sale in connection with the
4 treatment of contracts between each of them and the Debtor. The Court continued the hearing on
5 the assumption and assignment of contracts to November 5, 2014 for further briefing or resolution
6 amongst the parties. On October 29, 2014, the Debtor, the Buyer, and Warner Bros. entered a
7 stipulation to assume the Warner Bros. contract with a cure amount of \$0.00 and assign it to the
8 Buyer. On October 30, 2014, the Debtor and AEG entered a stipulation to reject the Debtor's
9 contract with AEG, and it was not assigned to the Buyer as part of the Sale.

10 On October 31, 2014, the Debtor filed its reply brief to Mr. Seay's objection, wherein the
11 Debtor contended that the contract with Seay was not "executory" and required no cure; Mr. Seay
12 objected, to the contrary, that the contract was executory and required a cure payment of \$50,000.
13 Pre-petition, on June 13, 2014, the Debtor and Mr. Seay entered into a settlement agreement that
14 required Mr. Seay to irrevocably transfer and assign all rights and interests in certain UPC Codes
15 to the Debtor conditioned on payment of \$250,000 and subject to Mr. Seay's right to transition
16 away from the UPC codes over a six month period. The Debtor argued that that the settlement
17 agreement was not an executory contract because Mr. Seay fully performed his material
18 obligations under the agreement by irrevocably transferring the UPC codes to the Debtor
19 prepetition and had no further obligations. The Debtor argued that, separate and apart from that
20 material obligation, Mr. Seay had a choice (not an obligation), at his complete discretion, to stop
21 using the UPC codes before December 15, 2014, based on an incentive of being paid an additional
22 \$50,000 from the Debtor. However, because the choice was discretionary and not mandatory, the
23 contract was not executory and no cure payment would be required. On November 4, 2014, Mr.
24 Seay filed his supplemental reply. However, by the time of the hearing on November 5, 2014, the
25 Buyer and Mr. Seay reached an agreement that the settlement agreement would be deemed to be
26 an executory contract and would be assumed and assigned to Buyer for a cure amount of \$32,000,
27 conditioned on Mr. Seay transitioning away from using the UPC codes by January 31, 2015. On
28

1 November 5, 2014, the Court entered an order approving the stipulation between the Buyer and
2 Mr. Seay.

3 The Debtor was not a party to the November 5, 2014 stipulation between the Buyer and
4 Mr. Seay or the agreement for a \$32,000 cure. However, on November 7, 2014, the Debtor, the
5 Committee, and the Buyer entered into a stipulation by which the Debtor and its estate gave up its
6 right to a \$50,000 fund of Sale proceeds set aside to cure executory contract and lease defaults in
7 exchange for the Buyer to pay certain post-petition payroll and assume and honor certain paid-
8 time-off (“*PTO*”) liabilities for the Debtor’s employees. The Debtor and Committee
9 acknowledged that the \$50,000 set aside would be insufficient to cover all of the cure costs in
10 connection with the Sale, and the relinquishment of the \$50,000 in exchange for the Buyer’s
11 honoring of PTO liabilities and certain payroll was most beneficial to the estate.

12 On November 4, 2014, the Debtor, the Buyer, and the landlord for the Debtor’s office and
13 plant at Cabrillo Westlake (the “*Landlord*”) entered into a stipulation for cure, assumption, and
14 assignment of the real property lease. The Buyer paid the Landlord \$23,870.36, comprised of (i)
15 \$8,742.34 cure, (ii) \$12,262 for November 2014 rent and \$2,866.02 for November 2014 common
16 area maintenance. On November 5, 2014, the Court entered an order approving the stipulation.

17 **G. The Employment of the Debtor’s Chief Restructuring Officer**

18 As a condition of the post-petition financing provided by Chaucer and the consent to use of
19 cash collateral provided by Chung, the Debtor was required to employ Province, with Peter
20 Kravitz, as its chief restructuring officer (“*CRO*”) for management through the Sale process and
21 closing. Province’s employment began on or about October 6, 2014, and the Debtor filed its
22 application to employ Province on or about October 24, 2014. The employment application is
23 pending while the Debtor and Committee stipulated to continuances with the Office of the United
24 States Trustee to work out an agreement on the employment or file an objection thereto.

25 **H. The Post-Closing Debtor**

26 Following the sale of substantially all of its assets, since October 24, 2014 the Debtor has
27 continued as a shell company with its only employee being its CRO. The Debtor has whittled its
28

1 expenses down to a *de minimis* amount with the goal of preserving as much as possible of
2 remaining cash to fund the Plan.

3 **I. The Bar Date**

4 The deadline for creditors and holders of interest in the Debtor to file proofs of claim or
5 proofs of interest is January 31, 2015. The Debtor filed a motion on October 24, 2014 to establish
6 the bar date for filing proofs of claim. On December 1, 2014, the Court granted the motion setting
7 a bar date, and on December 2, 2014, the Debtor served the notice of bar date on all parties
8 requiring notice.

9 **J. Interim Fee Applications**

10 On February 25, 2015, the Court entered its order granting approval of interim applications
11 for allowance of fees and expenses of the Professionals listed in the table below in such amounts
12 as shown in the table:

13 Professional	Period	Amount Allowed	Unpaid Balance
14 LNBYB	8/15/14 – 12/31/14	\$354,038.30	\$164,961.87
15 Sheppard Mullin	9/24/14 - 12/31/14	\$107,087.42	\$58,448.39
16 Silver Law Group, P.C.	8/15/14 – 12/31/14	\$31,009.61	\$16,925.07

17 **VII.**

18 **SUMMARY OF ASSETS AND LIABILITIES**

19 The Plan proposed by the Proponents is one of liquidation that seeks to monetize and
20 maximize the value of the Debtor's remaining assets in order to distribute Cash to Holders of
21 Allowed Claims pursuant to the terms of the Plan. As discussed above, the Debtor has undertaken
22 a number of actions designed to preserve the value of its assets and ameliorate its financial
23 distress. Now, the Debtor has sold substantially all of its assets and is a shell company with
24 minimal administrative expenses. The most valuable remaining assets of the Debtor consist of
25 potential Claims against the Debtor's former directors and officers and preference actions.

26 The following is a summary of the assets and liabilities of the Debtor as of the date of this
27 Disclosure Statement, or as of a given date otherwise noted. The summary of the Debtor's
28 liabilities is categorized based on the Classes of Claims and Interests provided for under the Plan

1 as well the designations applicable to unclassified Claims under the Plan, discussed in Section
2 VIII below.

3 **A. Assets**

4 **1. Cash on Hand**

5 As of December 8, 2014, the Debtor was in possession of Cash totaling approximately
6 \$295,000. Of this amount, \$200,000 was utilized to pay the interim Professionals Fee Claims
7 described in Article VI(J) above, leaving approximately \$95,000 of Cash that currently remains in
8 the Estate. Such Cash is unencumbered by any liens and will be utilized to fund the Plan,
9 including payment of administrative expenses, distributions to creditors, and funding of reserve
10 amounts.

11 **2. Causes of Action**

12 The Plan expressly reserves all Causes of Action for the Liquidating Trust after the
13 Effective Date. The Debtor and the Estate are in the process of evaluating all Causes of Action that
14 could be pursued to the benefit of the Estate and/or the Liquidating Trust as the case may be
15 including, without limitation:

- 16 • All Claims and Causes of Action against the Debtor's current and former directors,
17 officers, employees and management except as otherwise set forth in the Plan; and
18 • All Claims and Avoidance Actions against any Person identified on the Statement
19 of Financial Affairs of the Debtor as a recipient of a payment made or property
20 transferred by or on behalf of the Debtor prior to the Petition Date.

21 The Debtor has not concluded its investigation into all of the Causes of Action.
22 Accordingly, any and all Causes of Action that may exist against any Person or Entity may be
23 pursued by the Liquidating Trustee, regardless of whether, or the manner in which, such Causes of
24 Action are identified in the Plan or this Disclosure Statement. The failure of the Debtor to identify
25 a Cause of Action in the Plan or this Disclosure Statement shall not constitute a waiver or release
26 by the Debtor or the Estate of any such Cause of Action. Any and all Causes of Action shall
27 survive entry of the Confirmation Order for the benefit of the Debtor and the Estate and, on and
28 after the Effective Date, for the benefit of the Liquidating Trust and its beneficiaries.

1 **B. Liabilities**

2 **1. Administrative Claims (Unclassified)**

3 In addition to the statutory fees payable to the Office of the United States Trustee, the
4 Debtor is aware of the following potential Holders of Administrative Claims, as defined and
5 treated under the Plan, as of the date of this Disclosure Statement:

- 6 • LNBYB, bankruptcy counsel to the Debtor;
- 7 • Silver Law Group, special corporate counsel to the Debtor;
- 8 • Peter S. Kravitz of Province, Inc., CRO to the Debtor; and
- 9 • Sheppard Mullin, counsel to the Committee.

10 **2. Priority Tax Claims (Unclassified)**

11 The Debtor's Schedules do not reflect any Priority Tax Claims. However, the State of
12 California Franchise Tax Board has filed a Claim against the Debtor in the amount of \$6,060.46,
13 asserting a priority status for such amount. The Employment Development Department filed a
14 Claim in the amount of \$40,642.96, of which \$34,390.83 is asserted as a priority amount. The
15 Debtor and/or the Liquidating Trustee, as the case may be, are still evaluating all Claims, and will
16 continue to evaluate Claims as they are filed, and reserve all rights with respect to objecting to or
17 otherwise challenging any Priority Tax Claim.

18 **3. Priority Non-Tax (Class 1)**

19 The Debtor's Schedules reflect three Claims entitled to priority under the Bankruptcy
20 Code, other than those discussed above as Administrative Claims and Priority Tax Claims, as
21 follows:

22

Name	Amount Claimed
Daniel Lacey	\$4,254.48
David Alvarez	\$4,199.70
Dennis Aylward	\$1,350.00
Total:	\$9,804.18¹

23
24
25
26
27 ¹ James Lacey filed Claim #44 in the amount of 381,800, claiming priority status for salary and
28 other employment related benefits, which, even if valid, is well above the statutory maximum of
Section 507(a)(4).

1 Such Claims included in Class 1 under the Plan were not scheduled as contingent,
2 unliquidated or disputed and so, in the absence of an objection, constitute an Allowed Claim for
3 purposes of the Plan. The Debtor and/or the Liquidating Trustee, as the case may be, are still
4 evaluating all Claims, and will continue to evaluate Claims as they are filed, and reserve all rights
5 with respect to objecting to or otherwise challenging any Class 1 Claim.

6 **4. Miscellaneous Secured Claims (Classes 2 to 6)**

7 The Debtor’s Schedules reflect secured Claims totaling \$7,352,333.99, as follows:

8	Class	Name	Amount Claimed
9	2	C.H. Robinson Worldwide Inc.	\$104,764.58
10	3	Dependable Dist. Center	\$15,126.29
11	4	Donald DeLaski Trust	\$5,220,446.12
12	5	Provident Trust Group LLC	\$50,000.00
13	5	Provident Trust Group LLC	\$519,000.00
	5	Provident Trust Group LLC	\$431,000.00
	5	The Chung Family Trust	\$1,000,000.00
	6	Wells Fargo Bank, N.A. ²	\$12,000.00
		Total:	\$7,352,333.99

14 As part of the Sale of substantially all of the Debtor’s assets, the largest secured Claims,
15 consisting of the Claims of Provident Trust Group LLC, The Chung Family Trust and Donald
16 DeLaski Trust, were fully satisfied and resolved as these secured Claims were credit bid by the
17 winning bidder at the Auction. The other remaining secured Claims—the Claims of C.H.
18 Robinson Worldwide, Inc., Dependable Dist. Center, and Wells Fargo Bank, N.A.—were fully
19 satisfied and resolved pursuant to a stipulation and/or cures associated with the assumption and
20 assignment of the Debtor’s contracts with such parties. Therefore, the Debtor believes that all
21 secured Claims have been satisfied or otherwise resolved. Nonetheless, the Debtor and/or the
22 Liquidating Trustee, as the case may be, are still evaluating all Claims, and will continue to
23 evaluate Claims as they are filed, and reserve all rights with respect to objecting to or otherwise
24 challenging any Claim in Classes 2 through 6.

25 **5. General Unsecured Claims (Class 7)**

26 The majority of the unsecured Claims against the Debtor are unsecured Claims not entitled
27 to priority under the Bankruptcy Code and generally relating to trade credit and the provision of

28 ² Wells Fargo filed Proof of Claim No. 3-1, asserting a secured Claim in the amount of \$7,223.49.

1 pre-petition services to the Debtor. The Debtor believes that there is approximately \$5.5 million in
2 Claims against the Debtor in this Class 7. The Debtor and/or the Liquidating Trustee, as the case
3 may be, are still evaluating all Claims, and will continue to evaluate Claims as they are filed, and
4 reserve all rights with respect to objecting to or otherwise challenging any Class 7 Claim. A list of
5 the holders of general unsecured claims against the Debtor’s Estate is attached as Exhibit “A”
6 hereto.

7 **6. Interests in the Debtor (Class 8)**

8 The Debtor is owned by a number of individuals, Trusts, and investment groups, all of
9 whose respective Interests in the Debtor will be cancelled pursuant to the terms of the Plan. A list
10 of the holders of interests in the Debtor is attached as Exhibit “B” hereto.

11 **VIII.**

12 **DESCRIPTION OF THE LIQUIDATING PLAN**

13 **A. Summary of Treatment of Claims and Interests Under the Plan**

14 As required by the Bankruptcy Code, the Plan classifies Claims and Interests in various
15 Classes and states whether each Class of Claims or Interests is impaired or unimpaired, as those
16 terms are defined by section 1124 of the Bankruptcy Code. The Plan further provides the treatment
17 each Class will receive. Only Allowed Claims are eligible to receive any distribution under the
18 Plan. Further, pursuant to Bankruptcy Code section 1123, certain types of Claims are not placed
19 into Classes and instead are unclassified. These unclassified Claims are not considered impaired
20 and are not entitled to vote on the Plan because their treatment is specified under the Bankruptcy
21 Code. The following chart summarizes the structure of the Plan, which is described in further
22 detail in the Sections of this Disclosure Statement that follow.

23

Class	Description	Treatment of Allowed Claims / Interests	Voting
N/A	Administrative Claims	Paid in full (with the exception of Professional Fee Claims, as described below)	Unclassified, Not Entitled to Vote (and, in the case of the Professional Fee Claims, such Claimants have agreed to such treatment)

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1	N/A	Priority Tax Claims	Paid in full or such other treatment as Claimant agrees	Unclassified, Not Entitled to Vote
2	1	Priority Non-Tax Claims	Paid in full or such other treatment as Claimant agrees	Unimpaired, Not Entitled to Vote
3	2	CH Robinson Worldwide Inc. Secured Claim	In accordance with the CH Robinson Stipulation	Unimpaired, Not Entitled to Vote
4	3	Dependable Distribution Center Secured Claim	In accordance with the DDC Stipulation	Unimpaired, Not Entitled to Vote
5	4	Donald Delaski Trust Secured Claim	Fully satisfied through Sale	Unimpaired, Not Entitled to Vote
6	5	Provident Trust Group LLC & The Chung Family Trust Secured Claim	Fully satisfied through Sale	Unimpaired, Not Entitled to Vote
7	6	Wells Fargo Bank, N.A.	Abandonment or surrender through Sale	Unimpaired. Not Entitled to Vote
8	7	General Unsecured Claims	Pro Rata distributions	Impaired, Entitled to Vote
9	8	Interests in the Debtor	No Distribution, Interests cancelled	Impaired, Deemed to Reject Plan

B. Treatment of Unclassified Claims

1. Administrative Claims

As provided under Bankruptcy Code section 1123(a)(1), Administrative Claims are not classified for purposes of voting on, or receiving distributions under, the Plan. Accordingly, holders of Administrative Claims are not entitled to vote on the Plan.

a. Pre-Confirmation Date Administrative Claims

Except for Professional Fee Claims and fees payable to the United States Trustee pursuant to 28 U.S.C. § 1930, all requests for payment of Administrative Claims incurred during the Bankruptcy Case shall be filed and served on the Liquidating Trustee no later than thirty (30) days after the Effective Date. To the extent that Allowed Administrative Claims have not already been paid, satisfied or otherwise released prior to the Effective Date, and except to the extent that a Holder of an Allowed Administrative Claim, agrees to a different treatment, each Holder of an Allowed Administrative Claim (except with respect to the Professional Fee Claims, which shall be treated as set forth in Section III.A.2 of the Plan) shall receive Cash in an amount equal to such Allowed Claim, in full and final satisfaction, settlement and release and in exchange for such Claim, on the later of the Effective Date or the date such Administrative Claim becomes an Allowed Administrative Claim pursuant to a Final Order of the Bankruptcy Court, or as soon

1 thereafter as reasonably practicable. The payments of the Allowed Administrative Claims shall be
2 made from the Initial Administrative Reserve Amount.

3 b. **Professional Fees**

4 All Professionals seeking an award by the Bankruptcy Court of compensation for services
5 rendered or reimbursement for expenses incurred through and including the Effective Date in
6 accordance with section 503(b) of the Bankruptcy Code shall file their respective final
7 applications for allowance of compensation for services rendered and reimbursement of expenses
8 incurred through the Effective Date by no later than sixty (60) calendar days after the Effective
9 Date or such other date as may be fixed by the Bankruptcy Court. If the Bankruptcy Court grants
10 such an award, each such Professional will be paid as follows: (a) as an initial payment to each
11 such Professional (collectively, the “*Initial Fee Payment Amount*”), made as soon as practicable
12 following entry of the Final Order approving such award, to the extent not previously paid by the
13 Debtor (inclusive of any retainers), and consisting of a Pro Rata share of the Professional Fee
14 Claims Reserve (calculated by dividing each such Professional’s unpaid Allowed Professional Fee
15 Claims by the aggregate unpaid Allowed Professional Fee Claims of all Professionals), in each
16 case on account of such Professional’s Allowed Professional Fee Claims, which payment shall be
17 made from the Professional Fee Claims Reserve; and (b) thereafter, if and when additional funds
18 are available after no more than \$25,000 in the aggregate is reserved or utilized for the expenses of
19 the Liquidating Trust in excess of the Initial Administrative Reserve Amount, a Pro Rata share of
20 such additional funds calculated by dividing each such Professional’s remaining unpaid Allowed
21 Professional Fee Claims by the aggregate remaining unpaid Allowed Professional Fee Claims of
22 all Professionals. To the extent the amount ultimately Allowed to any Professional on account of
23 its Professional Fee Claim is less than the amount allocated to such Professional in the
24 Professional Fee Claims Reserve, the difference between the amount allocated and the amount
25 Allowed for such Professional shall be distributed Pro Rata to the other Professionals on account
26 of such Professionals’ Allowed Professional Fee Claims. All the Professionals have agreed to the
27 foregoing treatment and shall be bound by such agreement under the Plan. In the event that any
28

1 objection is filed to the foregoing-described treatment, the Proponents reserve the right to either
2 withdraw the Plan or to alter the treatment set forth herein.

3 The following chart lists all the Professionals, their estimated Professional Fee
4 Claims and their treatment under the Plan:

Name	Amount Owed	Treatment
Levene, Neale, Bender, Yoo & Brill L.L.P., the Debtor's bankruptcy counsel	\$[_____] (estimated amount owed in excess of retainer on the Effective Date)	Pro Rata share of the Professional Fee Claims Reserve paid upon entry of a final order approving fees and expenses; remainder is paid, after utilizing \$25,000 for Liquidating Trust in excess of the Initial Administrative Reserve Amount, from available funds Pro Rata with other Professional Fee Claims.
Silver Law Group, the Debtor's special corporate counsel	\$[_____] (estimated)	Pro Rata share of the Professional Fee Claims Reserve paid upon entry of a final order approving fees and expenses; remainder is paid, after utilizing \$25,000 for the Liquidating Trust in excess of the Initial Administrative Reserve Amount, from available funds Pro Rata with other Professional Fee Claims.
Province, Inc., the Debtor's Chief Restructuring Officer	\$[_____] (estimated)	Pro Rata share of the Professional Fee Claims Reserve paid upon entry of a final order approving fees and expenses; remainder is paid, after utilizing \$25,000 for Liquidating Trust in excess of the Initial Administrative Reserve Amount, from available funds Pro Rata with other Professional Fee Claims.
Sheppard, Mullin, Richter & Hampton LLP, the Committee's counsel	\$[_____] (estimated)	Pro Rata share of the Professional Fee Claims Reserve paid upon entry of a final order approving fees and expenses; remainder is paid, after utilizing \$25,000 for Liquidating Trust in excess of the Initial Administrative Reserve Amount, from available funds Pro Rata with other Professional Fee Claims.
TOTAL	\$[_____] (estimated) (the "Professional Fee Claims")	

1
2 **c. Statutory U.S. Trustee Fees and Fees Owed to the Clerk of the Court**

3 All United States Trustee fees payable pursuant to 28 U.S.C. § 1930 shall be paid in full in
4 accordance with the Plan without the need for the Office of the United States Trustee to file any
5 request for payment.

6 The following chart lists all of the Debtor's non-professional 11 U.S.C. § 507(a)(1)
7 administrative claims and their treatment under the Plan:

<u>Name</u>	<u>Amount Owed</u>	<u>Treatment</u>
Clerk's Office Fees	\$0 (estimated)	The Debtor is not aware of any fees presently owed to the Clerk's Office. To the extent such fees will exist on the Effective Date, they shall be paid in full on the Effective Date.
Office of the U.S. Trustee Fees	\$4,875 (estimated)	To the extent such fees will exist on the Effective Date, they shall be paid in full on the Effective Date.
TOTAL	\$4,875 (estimated)	

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16 **2. Priority Tax Claims**

17 As provided under Bankruptcy Code section 1123(a)(1), Priority Tax Claims are not
18 classified for purposes of voting on, or receiving distributions under, the Plan. Accordingly,
19 holders of Priority Tax Claims are not entitled to vote on the Plan.

20 To the extent that Allowed Priority Claims have not already been paid, satisfied or
21 otherwise released prior to the Effective Date, and except to the extent that a Holder of an Allowed
22 Priority Tax Claim agrees to a different treatment, on the later of the Effective Date or the date
23 such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon thereafter as is
24 reasonably practicable, the Liquidating Trustee shall pay to each Holder of an Allowed Priority
25 Tax Claim, in full and final satisfaction, settlement and release and in exchange for such Claim, an
26 amount in Cash equal to the unpaid amount of such Allowed Priority Tax Claim. The payment of
27 the Allowed Priority Tax Claims shall be made from the Initial Administrative Reserve Amount.
28 The Priority Tax Claims are described in Article VII(B)(2) above.

1 **C. Classified Claims**

2 The Plan is intended to address all Claims and Interests against the Debtor and any
3 property or assets of the Debtor or the Estate, of whatever character. Claims and Interests, other
4 than Administrative Claims and Priority Tax Claims, are classified for all purposes including
5 voting (unless otherwise specified), confirmation and distribution pursuant to the Plan as set forth
6 below.

7 A Claim or Interest is placed in a particular Class only to the extent that the Claim or
8 interest falls within the description of that Class, and is classified in other Classes to the extent that
9 any portion of the Claim or Interest falls within the description of such other Classes. A Claim or
10 Interest is placed in a particular Class for the purpose of receiving distributions pursuant to the
11 Plan only to the extent that such Claim or Interest is an Allowed Claim in that Class and such
12 Claim or Interest has not been paid, released or otherwise satisfied prior to the Effective Date.
13 Multiple Proofs of Claim filed by a Claim Holder which qualify for inclusion within the same
14 Class shall be aggregated, and if Allowed, shall constitute a single Allowed Claim.

15 **1. Designation of Classes of Claims and Interests**

16 **a. Class 1: Priority Non-Tax Claims**

17 Class 1 consists of unsecured Claims entitled to priority under Bankruptcy Code sections
18 507(a)(1), (4), (5), (6), (7), (9) and (10). A chart of all known Class 1 Claims is included *supra*, in
19 Section VII.B.3 of this Disclosure Statement.

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
1	Priority Unsecured Non-Tax Claims of : Daniel Lacey - \$4,254.48 David Alvarez - \$4,199.70 Dennis Aylward - \$1,350.00 Total claims:	Y	N	To the extent Class 1 Claims have not already been paid, released or otherwise satisfied prior to the Effective Date, and except to the extent the Holder of a Class 1 Claim agrees to a different treatment, the Holders of Allowed Class 1 Claims each shall receive payment in an amount equal to the amount of the Allowed Claim on the later of the Effective Date or the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon thereafter as is reasonably practicable, in full and final

1		\$9,804.18		satisfaction, settlement and release and in exchange for such Claim. The payment of the Allowed Priority Tax Claims shall be made from the Initial Administrative Reserve Amount.
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b. **Classes 2 through 6: Secured Claims**

Classes 2 through 6 consist of all miscellaneous secured Claims against the Debtor and the Estate. As noted *supra*, in Section VII.B.4 of this Disclosure Statement, the Debtor believes that all Secured Claims have already been satisfied in full and/or the underlying contracts have been cured, assumed and assigned.

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
2	<u>Secured claim of C.H. Robinson Worldwide Inc.</u> <u>Collateral description:</u> Formerly Debtor's interest in goods stored at C.H. Robinson's warehouse <u>Claim and Lien Priority:</u> first priority warehouse lien <u>Collateral value:</u> N/A – all collateral was sold as part of the Sale <u>Amount of Claim</u> \$0	N	N	The treatment of the Class 2 allowed Claim described herein shall be in full settlement and satisfaction of the Class 2 allowed Claim. The Class 2 Claim was fully satisfied pursuant to the CH Robinson Stipulation and through the Sale. Any lien held by the claimant holding a Class 2 Claim shall be terminated on the Effective Date

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
3	<u>Secured claim of Dependable Distribution Center</u> Collateral	N	N	The treatment of the Class 3 allowed Claim described herein shall be in full settlement and

1	<p><u>description:</u> Formerly Debtor's interest in goods stored at Dependable Distribution Center's warehouse</p> <p><u>Claim and Lien Priority:</u> first priority warehouse lien</p> <p><u>Collateral value:</u> N/A – all collateral was sold as part of the Sale</p> <p><u>Amount of Claim</u> \$0</p>			<p>satisfaction of the Class 3 allowed Claim. The Class 3 Claim was fully satisfied pursuant to the DDC Stipulation and through the Sale.</p> <p>Any lien held by the claimant holding a Class 3 Claim shall be terminated on the Effective Date</p>
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<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
13 14 15 16 17 18 19 20 21 22	<p>4 Secured claim of Donald DeLaski Trust</p> <p><u>Collateral description:</u> Substantially all of Debtor's assets</p> <p><u>Claim and Lien Priority:</u> Junior to Class 5 Claim holders</p> <p><u>Collateral value:</u> N/A</p> <p><u>Amount of Claim</u> \$0</p>	Y	N	<p>The treatment of the Class 4 allowed claim described herein shall be in full settlement and satisfaction of the Class 4 allowed claim. The Class 4 claim was fully satisfied through the Sale, wherein the entire amount of the Class 4 claim was used in a credit bid for the Sale.</p> <p>Any lien held by the claimant holding a Class 4 Claim shall be terminated on the Effective Date</p>

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
26 27 28	<p>5 Secured claims of Provident Trust Group LLC and The Chung Family Trust</p>	N	N	<p>The treatment of the Class 5 allowed Claims described herein shall be in full settlement and</p>

1		<u>Collateral description:</u>			satisfaction of the Class 5 allowed claims. The Class 5 claims was fully satisfied through the Sale wherein the Class 5 claims were used in a credit bid for the Sale.
2		Substantially all of the Debtor's assets			
3		<u>Claim and Lien</u>			
4		<u>Priority:</u> senior lien, subject to warehouse liens held by Class 2 and 3 claim holders			Any lien held by the claimants holding a Class 5 Claim shall be terminated on the Effective Date
5					
6		<u>Collateral value:</u>			
7		N/A			
8					
9		<u>Amount of Claim</u>			
10		\$0			
11					

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
13	6	N	N	
14	<u>Secured claim of Wells Fargo Bank, N.A.</u>			
15	<u>Collateral description:</u> Formerly Debtor's interest in one (1) forklift			The treatment of the Class 6 allowed claim described herein shall be in full settlement and satisfaction of the Class 6 allowed Claim. The Class 6 Claim was fully satisfied in the Sale wherein the Buyer treated it as a lease and assumed and took assignment of the payments for Class 6.
16	<u>Claim and Lien</u>			
17	<u>Priority:</u> first priority			
18	<u>Collateral value:</u>			
19	N/A – the Debtor no longer owns the collateral			Any lien held by the claimant holding a Class 6 Claim shall be terminated on the Effective Date
20	<u>Amount of Claim</u>			
21	\$7,223.49			
22				
23				

c. **Class 7: General Unsecured Claims**

Class 7 consists of all General Unsecured Claims against the Debtor and the Estate. If the Holder of an Allowed Class 7 Claim timely filed a Proof of Claim, such Proof of Claim will be deemed to supersede any listing of the same Claim in the Schedules. A list of all Class 7 Claim holders is attached as Exhibit "A" hereto.

<u>CLASS #</u>	<u>DESCRIPTION</u>	<u>INSIDER (Y/N)</u>	<u>IMPAIRED (Y/N)</u>	<u>TREATMENT</u>
7	<p><u>Claims</u></p> <p>All General Unsecured Claims</p> <p><u>Amount of Claims</u></p> <p>Approximately \$5.5 million</p>	N	Y	<p>To the extent Class 7 Claims have not already been paid, released or otherwise satisfied prior to the Effective Date, and except to the extent the Holder of a Class 7 Claim agrees to a different treatment, on or as soon as practicable following the Effective Date, each such Holder of an Allowed General Unsecured Claim in Class 7 shall receive a Pro Rata share of the Liquidating Trust Interests to be distributed to all Holders of Allowed Claims in Class 7. Such distribution shall be the sole and exclusive dividend to holders of Allowed General Unsecured Claims. After funding the Initial Administrative Reserve Amount on the Effective Date, the Liquidating Trust may utilizing up to \$25,000 for the benefit of holders of Allowed General Unsecured Claims on account of their Liquidating Trust Interests before Professional Fees are paid in full, consistent with Section III.A.2 of the Plan. Additional funds may become available for the benefit of holders of General Unsecured Claims after Professional Fees are paid in full.</p>

d. Class 8: Interest Holders

Class 8 consists of all Interests in the Debtor. Attached as Exhibit "B" hereto is a list of the Class 8 equity holders.

<u>CLAS S #</u>	<u>DESCRIPTION</u>	<u>IMPAIRE D (Y/N)</u>	<u>TREATMENT</u>
8	All Equity Interests in Debtor	Y	All equity interests in the Debtor will be cancelled. Class 8 interest holders will receive nothing under the Plan. However, in the event Allowed General Unsecured Claims are paid in full, each holder of an Interest shall thereafter receive a Pro Rata share of the Liquidating Trust Interests to be distributed to all Holders of Interests

1 **2. Treatment of Nonvoting Unimpaired Classes (Classes 1 through 6)**

2 a. **Class 1: Priority Non-Tax Claims**

3 Class 1 is not impaired. The legal, equitable and contractual rights of the Holders of
4 Allowed Class 1 Claims are unaltered by the Plan. To the extent Class 1 Claims have not already
5 been paid, released or otherwise satisfied prior to the Effective Date, and except to the extent the
6 Holder of a Class 1 Claim agrees to a different treatment, the Holders of Allowed Class 1 Claims
7 each shall receive payment in an amount equal to the amount of the Allowed Claim on the later of
8 the Effective Date or the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or
9 as soon thereafter as is reasonably practicable, in full and final satisfaction, settlement and release
10 and in exchange for such Claim. The payment of the Allowed Priority Tax Claims shall be made
11 from the Initial Administrative Reserve Amount.

12 Class 1 will be deemed to have accepted the Plan pursuant to Bankruptcy Code section
13 1126(f) and is not entitled to vote on the Plan.

14 b. **Classes 2 through 6: Secured Claims**

15 Classes 2 through 6 are not impaired. Holders of Miscellaneous Secured Claims are
16 deemed to have accepted the Plan pursuant to Bankruptcy Code Section 1126(f) and are not
17 entitled to vote on the Plan.

18 All claims in Classes 2 through 6 have been fully satisfied pursuant to stipulation, sale, or
19 the surrender of property, as set forth in the tables above.

20 Classes 2 through 6 will be deemed to have accepted the Plan pursuant to Bankruptcy
21 Code section 1126(f) and are not entitled to vote on the Plan.

22 **3. Treatment of Nonvoting Impaired Class (Class 8)**

23 Class 8 is impaired. Upon the Effective Date, Holders of Interests in the Debtor shall not
24 receive or retain any property on account of such Interests and such Interests shall be extinguished
25 as of the Effective Date, provided, however, that in the event Allowed General Unsecured Claims
26 are paid in full, each holder of an Interest shall thereafter receive a Pro Rata share of the
27 Liquidating Trust Interests to be distributed to all Holders of Interests.

1 Class 8 will be deemed to have rejected the Plan pursuant to Bankruptcy Code section
2 1126(g) and is not entitled to vote on the Plan.

3 **4. Treatment of Voting Impaired Class (Class 7)**

4 Class 7 is impaired. To the extent Class 7 Claims have not already been paid, released or
5 otherwise satisfied prior to the Effective Date, and except to the extent the Holder of a Class 7
6 Claim agrees to a different treatment, on or as soon as practicable following the Effective Date,
7 each such Holder of an Allowed General Unsecured Claim in Class 7 shall receive a Pro Rata
8 share of the Liquidating Trust Interests to be distributed to all Holders of Allowed Claims in
9 Class 7. Such distribution shall be the sole and exclusive dividend to holders of Allowed General
10 Unsecured Claims. After funding the Initial Administrative Reserve Amount on the Effective
11 Date, the Liquidating Trust may utilize up to \$25,000 for the benefit of the holders of Allowed
12 General Unsecured Claims on account of their Liquidating Trust Interests before Professional Fees
13 are paid in full, consistent with Section III.A.2 of the Plan. Additional funds may become
14 available for to the Liquidating Trust for the benefit of holders of General Unsecured Claims after
15 Professional Fees are paid in full.

16 Class 7 is impaired and is entitled to vote on the Plan.

17 **D. Executory Contracts and Unexpired Leases**

18 **1. Assumption or Rejection**

19 Subject to Bankruptcy Code section 365, unless expressly assumed under the Plan, all
20 unexpired leases and executory contracts (i) not previously assumed, assigned or rejected pursuant
21 to Final Order of the Bankruptcy Court entered prior to the Effective Date, or (ii) not subject to a
22 pending motion to assume, assign or reject filed with the Bankruptcy Court prior to the Effective
23 Date, or (iii) are not contracts of insurance in favor of, or that benefit, the Debtor or the Estate,
24 shall be deemed rejected as of the Effective Date.

25 **2. Claims Arising Out of Rejection**

26 Any Claims arising out of the rejection of an executory contract or unexpired lease
27 pursuant to the Plan must be filed with the Bankruptcy Court by no later than thirty (30) calendar
28 days after the Effective Date. If no Proof of Claim is filed within such time period, it shall be

1 conclusively presumed that no such Claim exists and will be forever barred from receiving a
2 distribution from the Liquidating Trust.

3 **3. Effect of Confirmation Order**

4 The Confirmation Order shall constitute an order of the Bankruptcy Court: (i)
5 approving, as of the Effective Date, the assumption or rejection pursuant to sections 365(a) and
6 1123(b)(2) of the Bankruptcy Code, of all executory contracts and unexpired leases identified
7 under Article VI of the Plan. The contracts and leases identified under the Plan will be assumed or
8 rejected, as applicable, only to the extent that such contracts or leases constitute pre-petition
9 executory contracts or unexpired leases of the Debtor, and the identification of such agreements
10 under the Plan does not constitute an admission with respect to the characterization of such
11 agreements or the existence of any unperformed obligations, defaults, or damages thereunder.

12 **E. Means for Implementation and Execution of Plan**

13 **1. Funding the Plan**

14 The Plan is a liquidating plan and shall be funded with the Cash on hand in the Estate as of
15 the Effective Date and the liquidation and monetization of all other assets, including the Causes of
16 Action, and proceeds thereof that become part of the Liquidating Trust Assets as well as any other
17 remaining assets that may be liquidated or otherwise monetized and/or Claims that may be
18 recovered for the benefit of the Estate and/or the Liquidating Trust.

19 **2. Liquidating Trust**

20 **a. Establishment of Liquidating Trust**

21 The Liquidating Trust shall be established and shall become effective on the Effective
22 Date. As of the Effective Date, the Debtor shall transfer the Liquidating Trust Assets to the
23 Liquidating Trust. All of the Debtor's right, title and interest in and to the Liquidating Trust Assets
24 shall be automatically vested in the Liquidating Trust on the Effective Date, free and clear of liens,
25 claims, encumbrances and other interests, and such transfer is on behalf of the Holders of Allowed
26 Class 7 Claims, as and to the extent provided for hereunder (the "*Beneficiaries*" under the
27 Liquidating Trust Agreement). In the event Allowed General Unsecured Claims (and Allowed
28

1 Professional Fee Claims) are paid in full, Holders of Interests in Class 8 under the Plan shall
2 become the beneficiaries of the Liquidating Trust.

3 **b. Execution of Liquidating Trust Agreement**

4 After the Confirmation Date and prior to the Effective Date, the Liquidating Trust
5 Agreement shall be executed, and all other necessary or desirable steps shall be taken to establish
6 the Liquidating Trust and the beneficial interests therein.

7 **c. Purpose of Liquidating Trust**

8 The Liquidating Trust shall be established for the purpose of liquidating and distributing its
9 assets and for prosecuting the Causes of Action, in accordance with 26 C.F.R. § 301.7701-4(d),
10 with no objective to continue or engage in the conduct of a trade or business.

11 **d. Liquidating Trust Assets**

12 The Liquidating Trust shall consist of the Liquidating Trust Assets, which shall be
13 automatically vested in the Liquidating Trust on the Effective Date. All bank accounts held by the
14 Debtor as of the Effective Date shall be held by the Liquidating Trustee in the name of the
15 Liquidating Trust, subject to the provisions of the Plan. The Debtor shall transfer and deliver to
16 the Liquidating Trustee all books, records, insurance policies, contracts, and other documents,
17 including computer files and other electronic media, necessary or desirable for the Liquidating
18 Trustee's administration of the Liquidating Trust. To the full extent permitted by law, on the
19 Effective Date, the Debtor will be deemed to transfer to the Liquidating Trustee, all rights of the
20 Debtor and the Estate to exercise or waive any attorney-client privilege, work-product privilege or
21 other privilege or immunity. All such privileges shall automatically vest in the Liquidating Trust
22 and its representatives, to the full extent permitted by law; provided, however, that the Debtor and
23 the Liquidating Trustee are authorized to take all necessary actions to effectuate the transfer of
24 such privileges.

25 **e. Duration of Liquidating Trust**

26 The Liquidating Trust shall have an initial term of five (5) years; provided, however, that,
27 if warranted by the facts and circumstances, and subject to the consent of the Trust Advisory
28 Board or the approval of the Bankruptcy Court with jurisdiction over the Bankruptcy Case, upon a

1 finding that an extension of the term of the Liquidating Trust is necessary to accomplish the
2 liquidating purpose of the Liquidating Trust, the Liquidating Trust's term may be extended for a
3 finite term.

4 The Liquidating Trust may be terminated earlier than its initial term or other scheduled
5 termination if (a) the Bankruptcy Court has entered a Final Order closing the Bankruptcy Case
6 pursuant to section 350 of the Bankruptcy Code and (b) the Liquidating Trustee has administered
7 all of the Liquidating Trust Assets and performed all other duties required by the Plan and the
8 Liquidating Trust Agreement.

9 As soon as practicable after Substantial Consummation, the Liquidating Trustee shall seek
10 entry of a Final Order closing the Bankruptcy Case pursuant to section 350 of the Bankruptcy
11 Code. If at any time the Liquidating Trustee determines, in reliance upon such professionals as the
12 Liquidating Trustee may retain, that the expense of administering the Liquidating Trust so as to
13 make a final distribution to its Beneficiaries is likely to exceed the value of the remaining
14 Liquidating Trust Assets, the Liquidating Trustee shall apply to the Bankruptcy Court for entry of
15 a Final Order closing the Bankruptcy Case and terminating the Liquidating Trust. Upon entry of
16 such Final Order, the Liquidating Trustee shall be authorized, without further order or any
17 approval, to disburse any funds remaining in the Liquidating Trust in accordance with the
18 Bankruptcy Code's priority scheme.

19 **3. Liquidating Trustee**

20 **a. Appointment, Resignation and Removal**

21 The appointment of the Liquidating Trustee shall be effective as of the Effective Date. On
22 the Effective Date, Peter Kravitz shall be appointed as the Liquidating Trustee. Any successor
23 Liquidating Trustee shall be appointed by the Trust Advisory Board subject to the approval of the
24 Bankruptcy Court.

25 The Liquidating Trustee shall be deemed to have been appointed as the representative of
26 the Estate of the Debtor by the Bankruptcy Court pursuant to section 1123(b)(3)(B) as of the
27 Effective Date. On the Effective Date, the Liquidating Trustee shall be the sole authorized
28 representative and signatory of the Liquidating Trust. The Liquidating Trustee shall have authority

1 to render any and all services necessary or desirable to effectuate the terms of the Plan, as
2 provided for herein. The powers, authority, responsibilities and duties of the Liquidating Trustee
3 shall be governed by the Plan, the Confirmation Order, and the Liquidating Trust Agreement.

4 The Liquidating Trustee may resign upon not less than thirty (30) calendar days' prior
5 written notice to the Trust Advisory Board, provided that no such resignation shall be effective
6 until the earlier of (i) the expiration of the thirty (30) calendar day notice period of the resignation,
7 or (ii) the date the Liquidating Trustee receives the Trust Advisory Board's written
8 acknowledgment of the resignation.

9 Any person serving as Liquidating Trustee may be removed and replaced by an order of
10 the Bankruptcy Court on a showing of good cause. The removal shall become effective on the date
11 specified in the order.

12 **b. Term**

13 Unless the Liquidating Trustee resigns, is removed, or otherwise is unable to continue, the
14 Liquidating Trustee's term shall expire upon termination of the Liquidating Trust pursuant to the
15 Plan and Liquidating Trust Agreement.

16 **c. Powers and Duties**

17 The Liquidating Trustee shall have the rights and powers set forth in the Liquidating Trust
18 Agreement including, but not limited to, the powers and duties of a debtor in possession under
19 Bankruptcy Code sections 1106(a), 1107 and/or 1108. Pursuant to Bankruptcy Code section 1123,
20 the Liquidating Trustee shall be the successor to and representative of the Debtor, the debtor in
21 possession, and the Estate for all purposes consistent with the Plan and Liquidating Trust
22 Agreement. The Liquidating Trustee shall administer the Liquidating Trust, and the Liquidating
23 Trust Assets, and make distributions from the proceeds of the Liquidating Trust in accordance
24 with the Plan and Liquidating Trust Agreement. In addition, the Liquidating Trustee shall take all
25 actions necessary and appropriate to wind down the affairs of the Debtor consistent with the Plan
26 and any applicable non-bankruptcy law. Without limitation, to the extent applicable, the
27 Liquidating Trustee shall file final federal, state, foreign and local tax returns for the Debtor.
28 Subject to the terms of the Liquidating Trust Agreement, the Liquidating Trustee shall be

- 1 authorized, empowered and directed to take all actions necessary or desirable to comply with the
2 Plan and fulfill the duties and obligations arising hereunder including, without limitation, to:
- 3 a) Object to the allowance of Claims;
 - 4 b) Open, maintain and administer bank accounts;
 - 5 c) Engage employees and professional persons as necessary or desirable to assist in
6 carrying out the provisions of and purposes underlying the Plan and Liquidating Trust
7 Agreement;
 - 8 d) Incur and pay reasonable fees, costs, and expenses in connection with administering
9 the Liquidating Trust and implementing the terms of the Plan and Liquidating Trust
10 Agreement, including the reasonable fees, costs and expenses of retained professionals,
11 in accordance with the provisions of the Plan and the Liquidating Trust Agreement;
 - 12 e) Expend the Liquidating Trust Assets as necessary to maintain the value of the assets of
13 the Liquidating Trust during liquidation;
 - 14 f) Pay the reasonable and necessary expenses incurred by the Trust Advisory Board, in
15 accordance with the provisions of Section VII.D.5 of the Plan and the Liquidating
16 Trust Agreement;
 - 17 g) Investigate, analyze, commence, prosecute, litigate, compromise and otherwise
18 administer the Causes of Action, and take all other necessary and appropriate steps to
19 collect, recover, settle, liquidate or otherwise reduce the Liquidating Trust Assets to
20 Cash;
 - 21 h) Approve compromises of the Causes of Action and all Claims, and execute all
22 necessary and appropriate documents to effectuate such settlements;
 - 23 i) Administer, sell, liquidate, or otherwise dispose of the Liquidating Trust Assets in
24 accordance with the terms of the Plan and the Liquidating Trust Agreement;
 - 25 j) Represent the Liquidating Trust before the Bankruptcy Court and other courts of
26 competent jurisdiction, if necessary, with respect to matters regarding the
27 administration of the Liquidating Trust;
 - 28

- 1 k) Comply with any applicable orders of the Bankruptcy Court and any other court of
- 2 competent jurisdiction, and all applicable laws and regulations, concerning the matters
- 3 set forth herein;
- 4 l) Hold legal title to any and all rights of the Debtor, the Estate and the Beneficiaries
- 5 under the Liquidating Trust Agreement in or arising from the Liquidating Trust Assets;
- 6 m) In reliance upon the Schedules and the claims register maintained in the Bankruptcy
- 7 Case, maintain on the Liquidating Trustee's books and records a register evidencing
- 8 the beneficial interest held by each Beneficiary under the Liquidating Trust Agreement;
- 9 n) Make all distributions to the Holders of Allowed Claims provided for, or contemplated
- 10 by, the Plan and Liquidating Trust Agreement;
- 11 o) Establish the Disputed Claims Reserve
- 12 p) Maintain the Administrative Reserve;
- 13 q) Make all tax withholdings, file tax information returns, make tax elections by and on
- 14 behalf of the Liquidating Trust and file tax returns for the Liquidating Trust as a
- 15 grantor trust in accordance with 26 C.F.R. § 1.671-4(a);
- 16 r) Pay any taxes imposed on the Liquidating Trust;
- 17 s) As soon as reasonably practicable after the Effective Date, make a good faith valuation
- 18 of the Liquidating Trust Assets which shall be made available from time to time, to the
- 19 extent relevant, and used consistently by all parties for all income tax purposes;
- 20 t) Carry insurance coverage if the Liquidating Trustee deems such insurance necessary
- 21 and appropriate in his sole and absolute discretion;
- 22 u) Exercise such other powers as may be vested in the Liquidating Trustee pursuant to the
- 23 Plan, the Liquidating Trust Agreement, the Confirmation Order, or other Final Orders
- 24 of the Bankruptcy Court;
- 25 v) Execute any documents, instruments, contracts or agreements necessary or desirable to
- 26 carry out the powers and duties of the Liquidating Trustee;
- 27 w) Provide to the Trust Advisory Board such reports on the progress of the Plan as the
- 28 Liquidating Trustee may deem reasonable; and

1 x) Stand in the shoes of the Debtor, the debtor in possession, and the Estate for all
2 purposes consistent with the Plan and Liquidating Trust Agreement.

3 d. **Fees and Expenses**

4 Subject to and in accordance with the provisions of the Plan, the Confirmation Order, the
5 Liquidating Trust Agreement and any other Final Order of the Bankruptcy Court, the Liquidating
6 Trustee shall be entitled to receive reasonable compensation for services rendered on behalf of the
7 Liquidating Trust and reimbursement of reasonable and necessary expenses. The compensation of
8 the Liquidating Trustee shall be set forth in the Liquidating Trust Agreement or otherwise
9 disclosed in a filing with the Bankruptcy Court. Compensation of the Liquidating Trustee and
10 other costs and expenses of administration of the Liquidating Trust, including, without limitation,
11 the fees and expenses of retained counsel, accountants or other professionals, shall be paid out of
12 the Liquidating Trust Assets, specifically from available funds in the Administrative Reserve.

13 The Liquidating Trustee shall not be required to file a fee application or otherwise seek
14 approval of the Bankruptcy Court to receive compensation.

15 e. **Retention of Professionals**

16 On or after the Effective Date, the Liquidating Trustee may retain such professionals
17 (including, without limitation, attorneys and accountants) as may be deemed necessary or
18 desirable by the Liquidating Trustee to assist in carrying out the provisions of and purposes
19 underlying the Plan and Liquidating Trust Agreement. The Liquidating Trustee may retain
20 Professionals who represented parties in interest the Bankruptcy Case. Any professionals retained
21 by the Liquidating Trustee shall not be required to file a fee application to receive compensation.

22 f. **Investment**

23 The powers of the Liquidating Trustee to invest any Cash that is an asset of the Liquidating
24 Trust, other than those powers reasonably necessary to maintain the value of the Liquidating Trust
25 Assets and to further the liquidating purpose of the Liquidating Trust, shall be limited to powers to
26 invest in demand and time deposits, such as short-term certificates of deposits, in banks or other
27 savings institutions, or other temporary liquid investments, such as treasury bills.

28

1 g. **No Recourse to Estate Representatives**

2 Notwithstanding that the Allowed amount of any particular Claim is reconsidered under
3 the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is Allowed in an
4 amount for which there is insufficient Cash in the relevant fund or reserve to provide a recovery
5 equal to that received by other Holders of Allowed Claims in the relevant Class, no Claim Holder
6 shall have recourse to the Debtor, the Estate, the Liquidating Trust or the Liquidating Trustee, or
7 any of their respective professionals, or their agents (including employees, officers and the like),
8 successors or assigns, or the Holder of any other Claim, or any of their respective property.
9 However, nothing in the Plan shall modify any right of a Holder of a Claim under section 502(c)
10 of the Bankruptcy Code. Thus, the Bankruptcy Court's entry of an estimation order under
11 Bankruptcy Code section 502(c) may limit the distribution to be made on Disputed Claims,
12 regardless of the amount finally Allowed on account of such Disputed Claims.

13 h. **Indemnification of Liquidating Trustee**

14 The Liquidating Trustee and his agents shall not be liable for actions taken or omitted in
15 his or their capacity as the Liquidating Trustee, or on behalf of, the Liquidating Trustee, except
16 those acts arising out of his or their own willful misconduct, gross negligence, bad faith, self-
17 dealing, breach of fiduciary duty, or ultra vires acts, and each shall be entitled to indemnification
18 and reimbursement for fees and expenses in defending any and all of his or their actions or
19 inactions in his or their capacity as Liquidating Trustee, or on behalf of, the Liquidating Trust,
20 except for any actions or inactions involving willful misconduct, gross negligence, bad faith, self-
21 dealing, breach of fiduciary duty, or ultra vires acts. Any indemnification claim under this section
22 shall be satisfied from the Liquidating Trust Assets and any insurance coverages procured by the
23 Liquidating Trustee on behalf of the Liquidating Trust. The Liquidating Trustee shall be entitled to
24 rely, in good faith, on the advice of his retained professionals.

25 i. **Reporting Requirements**

26 Following the Effective Date, the Liquidating Trustee shall report to the Trust Advisory
27 Board on the progress of the implementation of the Plan, including such matters as the amount
28 distributed to Holders of Allowed Claims, a good faith valuation of the remaining Liquidating

1 Trust Assets, the status of prosecution of the Causes of Action, and any amounts remaining in
2 reserves established under the Plan. Such reports shall be provided to the Trust Advisory Board in
3 a manner and as frequently as the Liquidating Trustee may reasonably determine.

4 j. **Limitation of Powers**

5 Other than as provided in the Plan, the Liquidating Trust Agreement, the Confirmation
6 Order or other Final Order of the Bankruptcy Court, the Liquidating Trustee is not empowered to
7 incur indebtedness.

8 The Liquidating Trustee is prohibited from continuing or engaging in the conduct of a
9 trade or business, except to the extent reasonably necessary to and consistent with the liquidating
10 purpose of the Plan.

11 The Liquidating Trustee may (but shall not be required to) obtain an order of the
12 Bankruptcy Court concerning any matter involving any sale, settlement, or other disposition of an
13 asset or litigation of the Liquidating Trust, or any release, modification or waiver of existing rights
14 as to an asset or litigation of the Liquidating Trust.

15 The Liquidating Trustee shall not reserve or utilize more than \$25,000 in the aggregate for
16 the expenses of the Liquidating Trust until all Professional Fee Claims allowed by the Bankruptcy
17 Court have been paid in full.

18 The Liquidating Trustee shall hold, collect, conserve, protect and administer the
19 Liquidating Trust in accordance with the provisions of the Plan and the Liquidating Trust
20 Agreement, and pay and distribute amounts as set forth herein for the purposes set forth in the
21 Plan and the Liquidating Trust Agreement. Any determination by the Liquidating Trustee as to
22 what actions are in the best interests of the Liquidating Trust shall be determinative.

23 **4. Trust Advisory Board**

24 a. **Establishment of the Trust Advisory Board.**

25 On the Effective Date, the Trust Advisory Board shall be established and staffed by one or
26 more Holders of Allowed Class 7 Claims. The Trust Advisory Board may adopt such bylaws as it
27 may deem appropriate; provided, however, that no provision of any adopted bylaws shall
28 supersede any express provision of the Plan. The Trust Advisory Board shall initially consist of

1 the current members of the Committee who elect to become members of the Trust Advisory
2 Board. The identity of the Board's members will be disclosed in a filing with the Bankruptcy
3 Court on or before the Confirmation Hearing.

4 **b. Role of the Trust Advisory Board.**

5 The Trust Advisory Board shall be appointed to consult with and advise the Liquidating
6 Trustee from time to time regarding the administration of the Liquidating Trust in accordance with
7 the provisions of the Plan and the Liquidating Trust Agreement. The Trust Advisory Board shall
8 have an advisory role and, without prior Bankruptcy Court Approval, may not override an action
9 taken or proposed to be taken by the Liquidating Trustee. The members of the Trust Advisory
10 Board shall act in the best interests of the Beneficiaries of the Liquidating Trust.

11 Subject to and in accordance with the provisions of the Plan, the Confirmation Order, the
12 Liquidating Trust Agreement and any other Final Order of the Bankruptcy Court, the Trust
13 Advisory Board shall have right to seek relief from the Bankruptcy Court regarding any specific
14 action taken or proposed to be taken by the Liquidating Trustee with respect to the Plan, the
15 Liquidating Trust Agreement, the Liquidating Trust, or the Liquidating Trust Assets.

16 **c. Termination.**

17 The Trust Advisory Board will remain in existence until the earlier of the termination of
18 the Liquidating Trust or completion of distributions to Holders of Allowed Class 7 Claims.

19 **d. Limitation on Liability and Exculpation**

20 Neither the members of the Trust Advisory Board nor the representatives or agents of such
21 members shall be liable for actions taken or omitted in their capacity as, or on behalf of, the Trust
22 Advisory Board, except those acts arising out of its or their own willful misconduct, gross
23 negligence, bad faith, self-dealing, breach of fiduciary duty, or ultra vires acts, and each shall be
24 entitled to indemnification and reimbursement for fees and expenses in defending any and all of its
25 actions or inactions in its capacity as, or on behalf of, the Trust Advisory Board, except for any
26 actions or inactions involving willful misconduct, gross negligence, bad faith, self-dealing, breach
27 of fiduciary duty, or ultra vires acts. Any indemnification claim under this section shall be
28 satisfied from the Liquidating Trust Assets and any insurance coverages procured by the

1 Liquidating Trustee on behalf of the Liquidating Trust. The Trust Advisory Board shall be entitled
2 to rely, in good faith, on the advice of its retained professionals.

3 e. **Fees and Expenses of Members**

4 Members of the Trust Advisory Board shall be entitled to reimbursement of reasonable and
5 necessary expenses incurred in carrying out their duties as members of the Trust Advisory Board,
6 all of which shall be paid from the Liquidating Trust without the need to file an application with
7 the Bankruptcy Court. Such expenses shall be paid from available funds in the Administrative
8 Reserve. Members of the Trust Advisory Board shall not be entitled to compensation for time
9 spent on the Trust Advisory Board.

10 f. **Retention and Payment of Professionals**

11 On or after the Effective Date, the Trust Advisory Board may retain such professionals
12 (including, without limitation, attorneys and accountants) as may be deemed necessary or
13 desirable by the Trust Advisory Board to assist and advise the Trust Advisory Board for purposes
14 of carrying out the Trust Advisory Board's functions as specified under the Plan, subject to the
15 Liquidating Trustee's prior written approval of such retention only to the extent the fees and costs
16 of any such professional proposed to be retained by the Trust Advisory Board are to be paid from
17 the Liquidating Trust Assets. The Trust Advisory Board may retain Professionals who represented
18 parties in interest the Bankruptcy Case. Any professionals retained by the Trust Advisory Board
19 shall not be required to file a fee application to receive compensation.

20 **5. Tax Treatment**

21 The Liquidating Trust is intended to be treated as a grantor trust for federal income tax
22 purposes within the meaning of applicable sections of the Internal Revenue Code. The Debtor, the
23 Liquidating Trustee, the Liquidating Trust and the Beneficiaries under the Liquidating Trust are
24 required to treat for all federal income tax purposes, the transfer of the Liquidating Trust Assets to
25 the Liquidating Trust as a transfer of the Liquidating Trust Assets by the Debtor to the
26 Beneficiaries under the Liquidating Trust in satisfaction of their Allowed Claims, followed by a
27 transfer of the Liquidating Trust Assets by the Beneficiaries to the Liquidating Trust in exchange
28 for the beneficial interests therein, and to treat the Beneficiaries of the Liquidating Trust as the

1 grantors and owners of the Liquidating Trust for federal income tax purposes. For all federal
2 income tax purposes, the Debtor, the Liquidating Trustee, the Liquidating Trust and the
3 Beneficiaries thereunder shall treat the Liquidating Trust as a liquidating trust within the meaning
4 of 26 C.F.R. § 301.7701-4(d) and Internal Revenue Service Revenue Procedure 94-45, 1994-2
5 C.B. 124. However, the Liquidating Trustee is authorized to, among other things, make any and all
6 tax elections available by law, including without limitation, electing to treat any reserve, escrow
7 account or other fund provided for under the Plan as a disputed ownership fund within the
8 meaning of 26 C.F.R. § 1.468B-9.

9 **6. Avoidance Actions and Other Causes of Action**

10 Notwithstanding any other term or provision of the Plan, the Liquidating Trustee shall
11 have, on and after the Effective Date, sole authority and responsibility for investigating, analyzing,
12 commencing, prosecuting, litigating, compromising, settling, collecting or otherwise administering
13 the Causes of Action. Any Claims arising out of the recovery of an avoidable transfer under
14 chapter 5 of the Bankruptcy Code after the Bar Date must be filed on or before thirty (30) calendar
15 days after entry of an order of judgment avoiding the transfer.

16 Pursuant to section 1123(b) of the Bankruptcy Code, on and after the Effective Date, the
17 Liquidating Trustee may maintain and enforce any claims or rights held by the Debtor, the Estate
18 or the Liquidating Trust, and may continue to pursue any pending Causes of Action brought by the
19 Debtor, including without limitation, those discussed expressly in the Disclosure Statement. In
20 accordance with Bankruptcy Code section 1123(b)(3) or any corresponding provision of similar
21 non-bankruptcy law, on and after the Effective Date, (a) the Liquidating Trustee shall have
22 standing and be deemed to be the representative of the Debtor and the Estate in the Bankruptcy
23 Case and any adversary proceeding in the Bankruptcy Case, under the Plan, and in any judicial
24 proceeding or appeal as to which the Debtor is a party, and (b) the Liquidating Trustee shall retain
25 all Causes of Action of the Debtor and the Estate, including, without limitation, Avoidance
26 Actions, objections to Claim, and prosecution of the Causes of Action. The Liquidating Trustee
27 may sue on, settle, or compromise (or decline to do any of the foregoing) any and all Causes of
28 Action.

1 The Proponents have not concluded their investigation into all of the Causes of Action.
2 Accordingly, any and all Causes of Action that may exist against any Person or Entity may be
3 pursued by the Liquidating Trustee, regardless of whether, or the manner in which, such Causes of
4 Action are identified in the Plan or the Disclosure Statement. The failure of the Proponents to
5 identify a Cause of Action in the Plan or Disclosure Statement shall not constitute a waiver or
6 release by the Proponents or the Estate of any such Cause of Action. Any and all Causes of Action
7 shall survive entry of the Confirmation Order for the benefit of the Debtor and the Estate and, on
8 and after the Effective Date, for the benefit of the Liquidating Trust and its Beneficiaries.

9 **7. Claim Objections and Estimation of Claims**

10 On and after the Effective Date, the Liquidating Trustee may file objections to Claims at
11 any time; provided, however, that as to Administrative Claims, the Liquidating Trustee, the Trust
12 Advisory Board and other parties in interest may object within thirty (30) calendar days of their
13 filing pursuant Section III.A of the Plan. As to any Claims arising from the rejection of an
14 executory contract or unexpired lease pursuant to Section VI of the Plan, the Liquidating Trustee
15 may object within thirty (30) calendar days of the filing of any such Claims. As to Claims arising
16 from the recovery of an avoidable transfer under chapter 5 of the Bankruptcy Code, the
17 Liquidating Trustee may object within thirty (30) calendar days of the filing of any such Claims.
18 No distribution shall be made under the Plan with respect to all or any portion of a Disputed Claim
19 until (a) that Claim becomes an Allowed Claim by agreement of the parties to any Claim dispute
20 or by Final Order of the Bankruptcy Court; and (b) the Holder of the Allowed Claim delivers
21 applicable tax information, including a FEIN, to the Liquidating Trustee. As soon as reasonably
22 practicable after the Allowed Claim is established by agreement or Final Order and the
23 Liquidating Trustee is in possession of all required tax information of the Holder of the Allowed
24 Claim, the Liquidating Trustee shall pay to the Holder of such Allowed Claim in the manner and
25 amount provided in the Plan pursuant to Section III or Section V, as the case may be, including
26 any catch-up on prior distributions. Such distribution is to be paid from the Administrative
27 Reserve or Disputed Claims Reserve, as applicable. Pending resolution, the Holder of a Disputed
28 Claim will not receive interest on its Claim.

1 From and after the Effective Date, the Liquidating Trustee shall have the exclusive
2 authority to file, settle, compromise, withdraw, or litigate to judgment any objections to Claims,
3 including without limitation, any objections to Claims filed by the Debtor prior to the Effective
4 Date. The Liquidating Trustee expressly reserves the right to resolve any Disputed Claim outside
5 the Bankruptcy Court under applicable governing law.

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

20 Notwithstanding the contents of the Schedules, Claims listed therein as undisputed,
21 liquidated and not contingent shall be reduced by the amount, if any, that was paid by the Debtor
22 prior to the Effective Date including pursuant to orders of the Bankruptcy Court. To the extent
23 such payments are not reflected in the Schedules, such Schedules will be deemed amended and
24 reduced to reflect that such payments were made.

25 **8. Reserves**

26 a. **Administrative Reserve**

27 The Administrative Reserve shall be used for the payment of Allowed Administrative
28 Claims, the Initial Fee Payment Amount, the Allowed Tax Priority Claims, the Allowed Non-Tax

1 Priority Claims and for the administration of the Liquidating Trust on and after the Effective Date,
2 including, without limitation, for payment of fees and costs of professionals retained by the
3 Liquidating Trustee and by Trustee Advisory Board, if applicable, compensation of the
4 Liquidating Trustee, and other fees and expenses incurred in the pursuit of the Causes of Action.
5 Any amount of the Administrative Reserve that is not used for such purposes shall, as determined
6 by the Liquidating Trustee, be distributed to Holders of Allowed Class 7 Claims on a Pro Rata
7 basis as provided for under the Plan. The Liquidating Trustee may determine that the
8 Administrative Reserve is not adequate for continued administration of the Liquidating Trust after
9 the Effective Date and may reserve additional reasonable amounts.

10 **b. Disputed Claims Reserve**

11 The Liquidating Trust shall maintain the Disputed Claims Reserve, as defined herein, be
12 used for the payment of all or part of a Disputed Claim that becomes an Allowed Claim entitled to
13 distribution under the Plan pursuant to Section V of the Plan. If any Disputed Claims are not
14 Allowed in whole or in part or if any Disputed Claims are determined to be Class 8 Interests, the
15 Liquidating Trustee may distribute all or a portion of the Disputed Claims Reserve to the Holders
16 of Allowed Class 7 Claims on a Pro Rata basis as provided for under the Plan.

17 Notwithstanding any other provision of the Plan or Liquidating Trust Agreement to the
18 contrary, and for the sake of clarity, no distribution shall be made on account of any Claim or
19 portion thereof that (a) has been satisfied prior to the Effective Date, or (b) is listed in the
20 Schedules as contingent, unliquidated, disputed or in a zero amount, and for which a Proof of
21 Claim has not been timely filed.

22 **9. Method of Liquidating Trust Distributions**

23 **a. Disbursing Agent**

24 The Liquidating Trustee, or such other Disbursing Agent as the Liquidating Trustee may
25 appoint shall make all distributions in accordance with the terms of the Plan. If any distribution or
26 act under the Plan is required to be made or performed on a date that is not a Business Day, then
27 the making of such distribution or performance of such act may be completed on the next Business
28 Day, without interest, and shall be deemed to have been completed as of the required date.

1 b. **Best Efforts to Make Distributions**

2 Notwithstanding anything to the contrary in the Plan or the Liquidating Trustee
3 Agreement, under no circumstances shall the Liquidating Trust receive or retain Cash in excess of
4 a reasonable amount to meet Claims and contingent liabilities or to maintain the value of the
5 Liquidating Trust Assets during liquidation. The Liquidating Trustee shall be required to distribute
6 at least annually to Holders of Allowed Claims qualifying for distribution under the Plan, all Cash
7 held by the Liquidating Trust; provided, however, that the Liquidating Trustee may retain such
8 amounts reasonably necessary to maintain the value of the Liquidating Trust Assets or meet
9 Claims and contingent liabilities including to fund the Administrative Reserve and the Disputed
10 Claims Reserve; and provided, further, however, that the Liquidating Trustee shall not be
11 obligated to make a distribution if it is reasonably expected that the cost of such distribution would
12 exceed the amount of Cash on hand. The Liquidating Trustee shall make continuing efforts to
13 administer the Liquidating Trust Assets, make timely distributions, and shall not unduly prolong
14 the duration of the Liquidating Trust.

15 If, in the Liquidating Trustee's reasonable judgment, any Liquidating Trust Assets cannot
16 be sold or distributed in a commercially reasonable manner or the Liquidating Trustee believes in
17 good faith that such property has inconsequential value to the Liquidating Trust or its
18 Beneficiaries or determines to be too impractical to distribute to Beneficiaries, the Liquidating
19 Trustee shall have the right to cause the Liquidating Trust to abandon or otherwise dispose of such
20 property, including by donation of such property to a charity.

21 c. **Minimum Distributions**

22 If a distribution to be made to a given Holder of an Allowed Claim would be \$25.00 or less
23 in the aggregate, notwithstanding any contrary provision of the Plan or Liquidating Trust
24 Agreement, no such distribution will be made to such Holder unless a request therefore is made in
25 writing to the Liquidating Trustee no later than thirty (30) calendar days after such distribution
26 date.

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1 d. **No Distribution in Excess of Allowed Amount of Claim**

2 Notwithstanding anything to the contrary in the Plan or Liquidating Trust Agreement, no
3 Holder of an Allowed Claim shall receive in respect of such Claim any distribution (in the
4 aggregate) in excess of the Allowed amount of such Claim.

5 e. **Delivery of Distributions**

6 Any distributions or notices which a Claim Holder, Interest Holder or other Person or
7 Entity is or becomes entitled to receive pursuant to the Plan and Liquidating Trust Agreement may
8 be delivered by first class mail, postage prepaid, in an envelope addressed to that Claim Holder,
9 Interest Holder or other Person or Entity, as the case may be, or an authorized agent of any of the
10 foregoing at the address indicated on the latest notice of appearance or the latest Proof of Claim or
11 other paper filed by any of the foregoing in the Bankruptcy Court. Absent any such filing, the
12 address set forth in the relevant Schedules may be used. Distributions made in accordance with
13 this provision shall be deemed delivered to such Claim Holder, Interest Holder or other Person or
14 Entity regardless of whether such is actually received by that Claim Holder, Interest Holder or
15 other Person or Entity.

16 f. **Record Date**

17 On the Record Date, the claims register and other various transfer registers shall be closed,
18 and there shall be no further changes in the record holders of any Claim or Interest. The
19 Liquidating Trustee, or such other Disbursing Agent as may be appointed under the applicable
20 terms of the Plan, shall have no obligation to recognize any transfer of any Claim or Interest
21 occurring after the Record Date. The Liquidating Trustee shall be entitled to recognize and deal
22 for all purposes hereunder only with those Holders stated on the claims register or any other
23 transfer register as of the close of business on the Record Date.

24 g. **Disputed Distributions**

25 If any dispute arises as to the identity of a Holder of an Allowed Claim who is to receive
26 any distribution, the Liquidating Trustee may, in lieu of making such distribution to such Holder,
27 make such distribution into a segregated fund until the disposition thereof shall be determined by
28 Bankruptcy Court order or by written agreement among the interested parties to such dispute.

1 h. **Distributions of Cash**

2 Any payment of Cash made by the Liquidating Trustee, or other Disbursing Agent,
3 pursuant to the Plan may be made either by check drawn on a domestic bank or by wire transfer, at
4 the discretion of the Liquidating Trustee or other Disbursing Agent.

5 i. **Fractional Cents**

6 Any other provision of the Plan to the contrary notwithstanding, no payments of fractions
7 of cents will be made. Whenever any payment of a fraction of a cent would otherwise be called
8 for, the actual payment will reflect rounding of such fraction to the nearest whole cent (.5 will be
9 rounded up).

10 j. **Withholding and Reporting Requirements**

11 Any foreign, federal, state or local withholding taxes or other amounts required to be
12 withheld under applicable law shall be deducted from any distributions hereunder. As more fully
13 set forth in the Plan, the Liquidating Trustee may require any Beneficiary to furnish its taxpayer
14 identification number as assigned by the Internal Revenue Service and may condition any
15 distribution to any Beneficiary upon receipt of such identification number. If a Beneficiary does
16 not timely provide the Liquidating Trustee with its taxpayer identification number in the manner
17 and by the deadline established by the Liquidating Trustee, then the distribution to such
18 Beneficiary shall be administered as an Unclaimed Distribution in accordance with the Plan. All
19 distributions under the Plan and Liquidating Trust Agreement shall be net of the actual and
20 reasonable costs of making such distributions and of any allocable fees or other charges relating
21 thereto.

22 k. **Setoff**

23 Except as otherwise provided in the Plan, the Liquidating Trust Agreement, the
24 Confirmation Order or in agreements previously approved by Final Order of the Bankruptcy
25 Court, the Liquidating Trustee may, pursuant to applicable law, set off against any Claim (for
26 purposes of determining the Allowed amount of such Claim on which distribution shall be made
27 and before any distribution is made on account of such Claim), any and all of the Claims, rights
28 and other Causes of Action of any nature that the Debtor, the Estate or the Liquidating Trustee

1 may hold against the Holder of such Claim. Any and all rights of setoff shall be enforceable by the
2 Liquidating Trustee in the same manner and to the same extent that the Debtor could have
3 exercised such rights of setoff.

4 Neither the failure to effect such a setoff, the Allowance of any Claim hereunder, any other
5 action or omission of the Debtor or the Liquidating Trustee, nor any provision of the Plan or
6 Liquidating Trust Agreement shall constitute a waiver or release by the Debtor or the Liquidating
7 Trustee of any such Claims, rights and other Causes of Action that the Debtor, the Estate, or the
8 Liquidating Trustee may possess against such Holder. To the extent the Liquidating Trustee fails
9 to setoff against a Claim Holder and seeks to collect on a Claim from such Holder after a
10 distribution to such Holder pursuant to the Plan, the Liquidating Trustee, if successful in asserting
11 such Claim, shall be entitled to full recovery against such Holder. The Liquidating Trustee may
12 seek periodic Bankruptcy Court approval for any such setoff or setoffs.

13 **10. Unclaimed Distributions**

14 If any distribution remains unclaimed for a period of ninety (90) calendar days after the
15 relevant distribution date, or any distribution check remains uncashed for ninety (90) calendar
16 days after its issuance, by the Holder of an Allowed Claim entitled thereto, the distribution shall
17 constitute an Unclaimed Distribution, any such uncashed check shall be void, and the Holder shall
18 no longer be entitled to that distribution or any later distributions. All right, title and interest in and
19 to Unclaimed Distributions shall immediately vest in the Liquidating Trust, and such property
20 shall be retained by the Liquidating Trust for distribution pursuant to the terms of the Plan and
21 Liquidating Trust Agreement, subject, however, to the Liquidating Trustee's determination to
22 distribute Unclaimed Distributions to Holders entitled thereto if such Holders are subsequently
23 located.

24 **11. Dissolution of Creditors Committee**

25 On the Effective Date, the Committee shall be dissolved and the members thereof shall be
26 released and discharged of and from all further authority, duties, responsibilities and obligations
27 related to, arising from and in connection with the Bankruptcy Case, and the retention or
28 employment of its Professionals shall terminate. The Committee shall continue to exist after the

1 Effective Date solely with respect to (i) all applications filed pursuant to Bankruptcy Code
2 sections 330 and 331 seeking payment of fees and expenses incurred by any Professional and
3 (ii) after the Confirmation Date, any modifications to, or motions or other actions seeking the
4 enforcement or implementation of the provisions of the Plan or the Confirmation Order.

5 **12. Dissolution of the Debtor**

6 As of the Effective Date, or as soon thereafter as reasonably practicable, the Liquidating
7 Trustee shall file a certificate of dissolution and/or other applicable document in the applicable
8 state(s) of incorporation for the Debtor, which may be executed by the Liquidating Trustee
9 without need for approval by the Debtor's officers, directors or Interest Holders or need for
10 compliance with non-bankruptcy law, and the Debtor shall thereby dissolve and cease to exist.

11 **13. Resignation of Officers and Directors**

12 Upon the Effective Date, the members of the Debtor's board of directors and the officers of
13 Debtor shall be deemed to have resigned, without further action.

14 **F. Effect of Confirmation of Plan**

15 **1. Discharge**

16 Pursuant to Bankruptcy Code section 1141(d)(3), the Plan shall not provide a discharge of
17 the Debtor's obligations, in that, (a) the Plan provides for the liquidation of all or substantially all
18 of the property of the Estate; (b) the Debtor will not engage in any business after confirmation of
19 the Plan; and (c) the Debtor would be denied a discharge under section 727(a)(1) of the
20 Bankruptcy Code, if this were a case filed under chapter 7 of the Bankruptcy Code, because in this
21 case the Debtor is not an individual.

22 **2. Binding Effect**

23 Except as otherwise expressly provided in the Plan, as of the Effective Date, the provisions
24 of the Plan, the Liquidating Trust Agreement, the Confirmation Order, and any associated findings
25 of fact or conclusions of law shall bind the Liquidating Trust, the Debtor, the Committee, and all
26 Holders of Claims and Interests against the Debtor, regardless of whether such Holders are
27 Impaired under the Plan or voted to accept the Plan.

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1 The rights, benefits and obligations of any Person or Entity named or referred to in the
2 Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator,
3 successor or assign of such Person or Entity.

4 **3. Post-Consummation Effectiveness of Evidence of Claims and Interests**

5 As of the Effective Date, the Liquidating Trust Assets shall be free and clear from any and
6 all Claims, liens or other interests, except as specifically provided otherwise in the Plan or the
7 Confirmation Order. Evidence of Claims shall, upon the Effective Date, represent only the right of
8 the Claim Holder to participate in and receive the treatment contemplated by the Plan and
9 Liquidating Trust Agreement, and otherwise shall have no further force or effect. Evidence of
10 Interests in the Debtor shall be void, annulled and cancelled as provided herein, and any
11 obligations of the Debtor, the Estate, or the Liquidating Trust shall be extinguished.

12 **4. Exculpation**

13 To the fullest extent permissible under 11 U.S.C. §§524(e), 1103(c), 1125(e), and where
14 not in conflict with *Resorts International, Inc. v. Lowenschuss (In re Lowenschuss)*, 67 F.3d 1394
15 (9th Cir. 1995), on and after the Confirmation Date, the Debtor, the CRO, the Committee, the
16 members of the Committee (solely in their capacity as such), and their agents (together, the
17 “*Exculpated Parties*”) shall not have or incur any liability for, and are expressly exculpated and
18 released from, any claims (including without limitation, any claims whether known or unknown,
19 foreseen or unforeseen, then existing or thereafter existing in law, equity or otherwise), by any
20 Person or Entity for any act or omission occurring on or prior to the Confirmation Date in
21 connection with or arising out of action or inaction taken or omitted to be taken in connection with
22 or related to the Bankruptcy Case; the formulation, preparation, dissemination, implementation,
23 confirmation or Substantial Consummation of the Plan or any other document created or entered
24 into in connection with the Plan; or any other act taken or omitted to be taken in connection with
25 or in contemplation of the filing of the Bankruptcy Cases, except those acts arising out of its or
26 their own willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty, or
27 ultra vires acts. Any Exculpated Party shall be entitled to reasonably rely upon the advice of
28 counsel with respect to its duties and responsibilities (if any) under the Plan or related to the

1 Bankruptcy Case. Without limiting the generality of the foregoing, each Exculpated Party shall be
2 entitled to and granted the protections of section 1125(e) of the Bankruptcy Code and principles of
3 judicial immunity, where applicable. No provision of the Plan shall be deemed to act to or release
4 any Claims, Causes of Action, or liabilities that the Liquidating Trustee or Estate may have against
5 any Entity or Person for any act, omission, or failure to act that occurred prior to the Petition Date,
6 nor shall any provision of the Plan be deemed to act to release any Cause of Action.

7 To the extent of any conflict between this section and sections VII(C)(8) and VII(D)(4),
8 these section VII(C)(8) and VII(D)(4) shall control.

9 **5. Term of Injunctions or Stays**

10 Unless otherwise provided herein or by Final Order of the Bankruptcy Court, all
11 injunctions or stays provided for in sections 105 and 362 of the Bankruptcy Code or otherwise in
12 effect on the Confirmation Date shall remain in full force and effect until entry of a Final Order
13 closing the Bankruptcy Case pursuant to section 350 of the Bankruptcy Code.

14 **6. Events of Default**

15 Any material failure by the Liquidating Trustee to comply with the obligations under the
16 Plan and Liquidating Trust Agreement, which is not cured within forty five (45) calendar days
17 following the Liquidating Trustee's receipt of written notice of default, shall constitute a default of
18 the Plan. In the event of default that is not cured within such forty five (45) day period, Holders of
19 Allowed Claims shall be entitled to enforce their Claims in accordance with applicable non-
20 bankruptcy law and without further order of the Bankruptcy Court.

21 **G. Effectiveness of the Plan**

22 The following are conditions precedent to the Effective Date of the Plan:

23 a) The Bankruptcy Court shall have entered the Confirmation Order which shall be in
24 a form and substance satisfactory to the Proponents;

25 b) No stay of the Confirmation Order shall then be effect at the time the other
26 conditions set forth in this section are satisfied or waived;

27 c) All documents, instruments and agreements, in form and substance satisfactory to
28 the Proponents, provided for under or necessary to implement the Plan, including the Liquidating

1 Trust Agreement, shall have been executed and delivered by the parties thereto, unless such
2 execution or delivery has been waived by the parties benefited thereby.

3 The foregoing conditions may be waived, in whole or in part, by agreement of the
4 Proponents, in writing, at any time without notice, an order of the Bankruptcy Court, or any
5 further action other than proceeding to confirmation and consummation of the Plan.

6 **H. Retention of Jurisdiction**

7 The Bankruptcy Court shall retain jurisdiction over the Bankruptcy Case subsequent to the
8 Confirmation Date to the fullest extent permitted by law, including, without limitation, for the
9 following purposes:

10 a) To determine any and all proceedings related to allowance of Claims or objections
11 to the allowance of Claims, including objections to the classification of any Claim and including,
12 on an appropriate motion pursuant to Bankruptcy Rule 3008, reconsidering Claims that have been
13 Allowed or not Allowed prior to the Confirmation Date;

14 b) To determine any and all fee applications of Professionals and any other fees and
15 expenses authorized to be paid or reimbursed in accordance with the Bankruptcy Code or the Plan;

16 c) To determine any and all Causes of Action, whether pending before the Bankruptcy
17 Court on the Confirmation Date or filed or instituted after the Confirmation Date, including,
18 without limitation, proceedings under the Bankruptcy Code or other applicable law seeking to
19 avoid and recover any transfer of an interest of the Debtor in property or of obligations incurred by
20 the Debtor, or to exercise any rights pursuant to Bankruptcy Code sections 544-550, or to seek to
21 recharacterize or subordinate Disputed Claims or otherwise recover from the defendant parties on
22 account of Causes of Action;

23 d) To modify the Plan or the Disclosure Statement, or to remedy any defect or
24 omission or reconcile any inconsistency in any order of the Bankruptcy Court (including the
25 Confirmation Order), the Plan, or the Disclosure Statement in such manner as may be necessary to
26 carry out the purposes and effects of the Plan;

27 e) To determine disputes regarding title of the property claimed to be property of the
28 Debtor;

- 1 f) To ensure that the Distributions to Holders of Allowed Claims are accomplished in
2 accordance with the provisions of the Plan;
- 3 g) To enter such orders as may be necessary to consummate and effectuate the
4 operative provisions of the Plan, including actions to enjoin enforcement of Claims inconsistent
5 with the terms of the Plan;
- 6 h) To hear and determine disputes concerning any event of default or alleged event of
7 default under the Plan, as well as disputes concerning remedies upon any event of default under
8 the Plan;
- 9 i) To hear any other matter not inconsistent with Chapter 11 of the Bankruptcy Code;
- 10 j) To enter a final decree closing the Debtor's Bankruptcy Case;
- 11 k) To enter and implement such orders as may be appropriate in the event the
12 Confirmation Order is for any reason stayed, reversed, revoked or vacated;
- 13 l) To hear and determine such other matters as may arise in connection with the Plan,
14 the Liquidating Trust Agreement, the Disclosure Statement, or the Confirmation Order; and
- 15 m) To hear and determine any dispute between the Liquidating Trustee and Trust
16 Advisory Board.

17 **I. Miscellaneous Provisions**

18 **1. Effectuating Documents and Further Transactions**

19 Upon entry of the Confirmation Order, the Debtor, the Liquidating Trustee, the Committee
20 and the Trust Advisory Board shall be authorized to execute, deliver, file or record such contracts,
21 instruments, releases and other agreements or documents and to take such actions as may be
22 reasonably necessary or appropriate to effectuate and further evidence the terms and conditions of
23 the Plan.

24 Each of the matters provided for under the Plan involving the corporate structure of the
25 Debtor or corporate action to be taken by or required of the Debtor shall, as of the Effective Date,
26 be deemed to have occurred and be effective as provided herein, and shall be authorized and
27 approved in all respects without any requirement of further action by the Liquidating Trustee, the
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1 Trust Advisory Board, Holders of Claims or Interests, directors or officers of the Debtor or any
2 other Persons or Entities.

3 **2. Modification of Plan**

4 The Proponents reserve the right, in accordance with the Bankruptcy Code and Bankruptcy
5 Rules, to amend or modify the Plan at any time prior to entry of the Confirmation Order. After
6 entry of the Confirmation Order but prior to the Effective Date, the Proponents may seek an order
7 of the Bankruptcy Court to amend or modify the Plan in accordance with section 1127(b) of the
8 Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in
9 such manner as may be necessary to carry out the purpose and intent of the Plan. On and after the
10 Effective Date, the Liquidating Trustee may seek an order of the Bankruptcy Court to amend or
11 modify the Plan in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect
12 or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to
13 carry out the purpose and intent of the Plan. The Holder of an Allowed Claim that has accepted the
14 Plan shall be deemed to have accepted the Plan as modified if the modification does not materially
15 and adversely change the treatment of the Claim of such Holder.

16 **3. Withdrawal or Revocation of Plan.**

17 The Proponents may withdraw or revoke the Plan at any time prior to the Confirmation
18 Date. If the Proponents revoke or withdraw the Plan prior to the Confirmation Date, or if the
19 Confirmation Date does not occur, then the Plan shall be deemed null and void. In such event,
20 nothing contained herein shall be deemed to constitute a waiver or release of any Claim by or
21 against the Debtor or any other Person or Entity or to prejudice in any manner the rights of the
22 Debtor or any other Person or Entity in any further proceedings involving the Debtor.

23 **4. Failure of Effective Date.**

24 In the event the Effective Date does not occur, nothing in the Plan, shall be binding on the
25 Debtor, the Estate, the Committee or any other Person or Entity, or otherwise be of any force or
26 effect.

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1 **5. Severability.**

2 Should any provision in the Plan be determined to be unenforceable, such determination
3 shall in no way limit or affect the enforceability and operative effect of any other provision(s) of
4 the Plan.

5 **6. Section 1146(c) Exemption.**

6 Pursuant to section 1146(c) of the Bankruptcy Code, any transfers from the Debtor or the
7 Liquidating Trustee to any Person or Entity pursuant to the Plan, or the issuance, transfer of
8 exchange of a security under the Plan, or the execution, delivery or recording of an instrument of
9 transfer under the Plan, shall not be subject to any law imposing a stamp tax, recording tax,
10 transfer tax, or similar tax.

11 **7. Exemption from Securities Laws.**

12 The rights of the Beneficiaries under the Liquidating Trust Agreement are not, and are not
13 intended to be, securities subject to any federal, state or local securities law. Even if the rights of
14 the Beneficiaries arising under the Liquidating Trust Agreement were deemed to be securities, the
15 Liquidating Trust satisfies the requirements of Bankruptcy Code section 1145 and, therefore, any
16 such issuance is exempt from registration.

17 **8. Preservation of Causes of Action.**

18 For avoidance of any doubt, any and all claims and other Causes of Action accruing to the
19 Debtor or the Estate, including, without limitation, all Causes of Action relating to the D&O
20 Claims, shall be preserved and retained by the Liquidating Trust and the Liquidating Trustee, who
21 shall have the exclusive right and standing to enforce any such Causes of Action.

22 **9. Nonconsensual (“Cramdown”) Confirmation.**

23 The Proponents request that the Bankruptcy Court confirm the Plan in accordance with
24 section 1129(b) of the Bankruptcy Code with respect to any Class that is deemed to reject the Plan
25 and any Class the fails to accept the Plan.

26 **10. Notices.**

27 Except as otherwise provided in the Plan, any notice or other communication required or
28 permitted under the Plan will be in writing and deemed to have been validly served, given,

1 delivered, and received upon the earlier of: (a) the first Business Day after transmission by
2 facsimile or hand delivery or deposit with an overnight express service or overnight mail delivery
3 service or by electronic means with consent of the recipient; or (b) the third calendar day after
4 deposit in the United States mail, with proper first class postage prepaid. Contact information
5 relevant to providing notice to the Liquidating Trustee or the Trust Advisory Board will be
6 disclosed in the Liquidating Trust Agreement.

7 **11. Post-Effective Date Notices.**

8 Except as otherwise provided in the Plan, upon and after the Effective Date, notices will be
9 served only on the Office of the United States Trustee, the Liquidating Trustee, the Trust Advisory
10 Board, and those Persons who file with the Bankruptcy Court and serve upon the Liquidating
11 Trustee a request, which includes the Person's name, contact individual, address, telephone
12 number and facsimile number, that such Person receive notice of post-Effective Date matters.
13 Persons who had previously filed with the Bankruptcy Court requests for special notice of the
14 proceedings and other filings in the Bankruptcy Cases will not receive notice of post-Effective
15 Date matters unless such Persons file a new request in accordance with this Section.

16 **12. Plan Controls**

17 To the extent the terms of the Plan are inconsistent with the Disclosure Statement or the
18 Liquidating Trust Agreement, the terms of the Plan shall be controlling.

19 **13. Applicable Law**

20 The Plan is to be governed by and construed under the Bankruptcy Code and the laws of
21 the State of California as they may be applicable.

22 **14. Implementation Orders**

23 The Bankruptcy Court may, at any time, make such orders and give such directions as
24 appropriate for consummation of the Plan pursuant to Bankruptcy Code section 1142.

25 **IX.**

26 **CONFIRMATION REQUIREMENTS AND PROCEDURES**

27 "Confirmation" is a technical term for the Bankruptcy Court's approval of a proposed
28 plan. Many requirements must be met before the Bankruptcy Court can confirm the Plan, only

1 some of which are addressed in this Disclosure Statement. Persons or Entities concerned with
2 confirmation of the proposed Plan should consult their own legal counsel due to the complexity of
3 the law in this area. The following discussion is not a complete summary of law on this topic and
4 cannot be relied upon as such.

5 **A. Who is Entitled to Vote**

6 Only impaired Classes of Claims or Interests who receive anything under the Plan are
7 entitled to vote on the Plan. "Impaired" is a term art, defined by the Bankruptcy Code pursuant to
8 section 1124, and generally means those classes of claimants or equity interest holders whose
9 legal, equitable or contractual rights are altered under the terms of the Plan. As a general rule,
10 impaired classes entitled to vote are those that include creditors who will receive payment, other
11 than payment in full, of their Claims under the Plan.

12 Unclassified Claims are not eligible to vote, as the holders of such Claims have either
13 consented to their treatment or will be paid in full under the terms of the Plan. Thus, under the
14 Plan, Holders of Administrative Claims and Priority Tax Claims cannot vote on the Plan. Further,
15 under the Plan, Classes 1 through 6 are not impaired as Holders of such Claims will receive
16 payment in full of their Allowed Claims or other treatment that renders such Holders not impaired.
17 As such, they are deemed to accept the Plan and are not entitled to vote.

18 Class 7 is impaired because the Holders of Allowed Claims in this Class will not be paid
19 in full under the terms of the Plan but will receive payments over time, to the extent the Estate has
20 funds to pay such Claims. Class 7 is therefore entitled to vote on the Plan.

21 Class 8 is impaired and will receive nothing under the Plan. Class 8 is therefore deemed to
22 reject the Plan and is not entitled to vote.

23 Pursuant to section 1126 of the Bankruptcy Code, an impaired Class of Claims will be
24 deemed to have accepted the Plan upon a favorable vote of at least two-thirds (2/3) in dollar
25 amount and more than one-half (1/2) in number of the Allowed Claims of the Class members
26 voting on the Plan. Further, unless there is unanimous acceptance of the Plan by an impaired
27 Class, the Court must also determine that Class members will receive at least as much as they
28 would if the Debtor were liquidated under chapter 7 of the Bankruptcy Code. The Debtor believes

1 that the Plan will meet all applicable confirmation requirements, and further believe that the Plan
2 will gain approval by Holders of Allowed Class 7 Claims.

3 **B. Non-Consensual (“Cramdown”) Confirmation**

4 The Plan may be confirmed even if it is not accepted by one or more of the impaired
5 Classes, if the Court finds that the Plan does not discriminate unfairly against and is “fair and
6 equitable” as to each dissenting Class. This provision is generally set forth in section 1129(b) of
7 the Bankruptcy Code. In broad terms, that section requires a showing that the Claims in such Class
8 either will receive the full value of the Claim or, if they receive less, no Class with junior
9 liquidation priority may receive anything. Section 1129(b) is a relatively flexible, yet very
10 complex provision, and this summary is not intended to be a complete statement of the law as
11 stated above. You should consult your own legal counsel for a full understanding of your rights
12 and the Debtor’s powers under that section. Please take notice that the Proponents presently intend
13 to request confirmation of the Plan pursuant to the provisions of Bankruptcy Code section
14 1129(b).

15 **C. Objections to Confirmation**

16 Whether or not you are the Holder of a Claim or Interest that is entitled to vote on the Plan,
17 you may still qualify as a party in interest who may object to confirmation of the Plan. As set forth
18 above, the deadline to file and serve objections to confirmation of the Plan will be set by further
19 action of the Bankruptcy Court and notice will be provided as required by the Bankruptcy Court.

20 **D. Feasibility**

21 In order for the Plan to be confirmed, the Bankruptcy Code requires that the Debtor, as
22 proponents of the Plan, demonstrate that consummation of the Plan is not likely to be followed by
23 the liquidation or the need for further financial reorganization of the Debtor, unless such
24 liquidation or reorganization is proposed in the Plan. The Plan is one of liquidation that provides
25 for the creation of the Liquidating Trust to carry out that purpose and make distributions to
26 Holders of Allowed Claims pursuant to the terms of the Plan. The Debtor believes that the
27 Liquidating Trust Assets will be sufficient to pay all Administrative Expense Claims (except for,
28 possibly, the Professional Fee Claims, who have agreed to different treatment), Priority Tax

1 Claims, Class 1 Priority Non-Tax Claims, Classes 2 through 6 claims, and the costs and expenses
2 of administration of the Liquidating Trust after the Effective Date. The Debtor also believes that
3 there will be funds available for distribution to Holders of Allowed Class 7 Claims, the amounts of
4 which distributions will be contingent on the Liquidating Trustee's successful pursuit of the
5 Causes of Action. Accordingly, the Debtor believes the Plan is feasible.

6 **E. Liquidation Analysis**

7 Pursuant to Bankruptcy Code section 1129(a)(7), unless there is unanimous acceptance of
8 the Plan by an impaired Class, the Proponents must demonstrate, and the Bankruptcy Court must
9 determine that with respect to such Class, that each Holder of a Claim will receive property of a
10 value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would
11 receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code on the Effective
12 Date of the Plan. This requirement is commonly referred to as the "Best Interests of Creditors
13 Test." The Plan satisfies this test.

14 The Plan provides the possibility for a greater recovery to the Holders of Allowed Class 7
15 Claims than such Holders would receive under a liquidation pursuant to chapter 7. The
16 Liquidating Trustee will be able to pursue the Causes of Action in a cost-effective manner, while
17 in a chapter 7 the Debtor's estate would be burdened with an additional layer of administrative
18 expense associated with the appointment of a chapter 7 trustee, and retention of professionals
19 attendant thereto. The Plan, in essence, increases the efficiency of administering the Debtor's
20 assets for the benefit of its Creditors.

21 Additionally, Holders of Class 7 Claims likely would not receive any distribution in a
22 chapter 7 liquidation based on the Cash held by the Debtor as of the date of this Disclosure
23 Statement, as it is insufficient to pay creditors of a higher liquidation priority. To the extent
24 additional recoveries are made to the Estate and/or the Liquidating Trust in excess of the amount
25 required to pay or provide for all Allowed Claims in the Classes with higher priority, such would
26 be paid to Allowed Class 7 Claims.

27 Moreover, in chapter 7 cases, the chapter 7 trustee would also be entitled to seek a sliding
28 scale commission based upon the funds distributed by such trustee, even though the Debtor, due to

1 the Sale of substantially all of its assets, has already liquidated most of its assets, has collected of
2 the proceeds thereof including the Cash used to fund the Plan and has already incurred many of
3 the expenses associated with the foregoing. Accordingly, the Debtor believes that there is a
4 reasonable likelihood in a chapter 7 scenario that Holders of Allowed Claims would have to pay
5 doubly for the funds accumulated by the Debtor, since the chapter 7 trustee would be entitled to
6 receive a commission in some amount for all funds distributed. It is also anticipated that a chapter
7 7 liquidation would result in delay in the distributions to Holders of Allowed Claims. Among
8 other things, a chapter 7 case would trigger a new bar date for filing Claims that would be more
9 than ninety (90) days following conversion of the case to chapter 7. Thus, a chapter 7 liquidation
10 would not only delay distributions, but raise the prospect of additional Claims that were not
11 asserted in the Bankruptcy Case. Based on the foregoing, the Plan provides an opportunity to bring
12 the greatest return to creditors.

13 **F. Risk Factors**

14 Both the confirmation and consummation of the Plan are subject to a number of risks.
15 Specifically, if certain standards set forth in the Bankruptcy Code are not met, the Bankruptcy
16 Court will not confirm the Plan even if Holders of Claims accept the Plan. Although the
17 Proponents believe that the Plan meets all confirmation standards, there can be no assurance that
18 the Bankruptcy Court will reach the same conclusion. Further, the Proponents can provide no
19 assurance that modifications of the Plan will not be required to obtain confirmation of the Plan, or
20 that such modifications will not require additional solicitation of acceptances. Further, as provided
21 in the Plan, the Proponents of the Plan reserve the right to revoke and withdraw the Plan prior to
22 the commencement of the hearing to confirm the Plan. If the Proponents revoke or withdraw the
23 Plan, or if confirmation of the Plan does not occur, then the Plan shall be deemed null and void
24 and nothing contained in it shall be deemed to constitute a waiver or release of any Claims by or
25 against the Debtor or any other Person or Entity or to prejudice in any manner the rights of the
26 Debtor or any Person or Entity in any further proceedings involving the Debtor.

27 In addition, distributions under the Plan are subject to the success of the Liquidating Trust
28 in pursuing the Causes of Action and implementing the Plan effectively and efficiently.

1 Notwithstanding the Debtor's good faith efforts to provide reasonable estimates of the expected
2 returns to Holders of Allowed Claims based on the best of their knowledge, information and belief
3 as of the date of this Disclosure Statement, it is always possible such distributions will be less than
4 projected. The actual recoveries under the Plan will be dependent upon a variety of factors
5 including, but not limited to, whether the Disputed Claims, if any, are resolved in favor of the
6 Liquidating Trustee, the extent of litigation relating to resolution of and/or objections to Claims, if
7 any, the extent of litigation brought by the Liquidating Trust relating to other Causes of Action
8 and the success thereof, and the extent of ongoing administrative expenses, including Professional
9 fees and costs.

10 **G. Tax Consequences of Plan**

11 The implementation of the Plan may have federal, state, local, foreign and other tax
12 consequences to the Debtor, the Estate, the Liquidating Trust, Holders of Claims and Interests, and
13 other Persons or Entities. This Disclosure Statement does not constitute and is not intended to
14 constitute either a tax opinion or tax advice to any Person or Entity, and the summary contained
15 herein is provided for informational purposes only.

16 The following discussion is a summary of certain U.S. federal income tax consequences of
17 implementation of the Plan. This discussion is based on the Internal Revenue Code ("IRC"),
18 Treasury Regulations promulgated and proposed thereunder, judicial decisions and published
19 administrative rules and pronouncements of the Internal Revenue Service ("IRS") as in effect on
20 the date hereof. Due to the complexity of certain aspects of the Plan, the lack of applicable legal
21 precedent, the rapidly changing nature of tax law, the differences in the nature of individual
22 Claims and Interests, a given Holder's status and method of accounting (including Holders within
23 the same Class) and the potential for disputes as to legal and factual matters with the IRS, the tax
24 consequences described herein are subject to significant uncertainties. No tax opinion has been
25 sought or will be obtained with respect to any tax consequences of the Plan and no rulings have
26 been or will be requested from the IRS. Furthermore, legislative, judicial or administrative
27 changes may occur, perhaps with retroactive effect, which could affect the accuracy of the
28 statements set forth herein as well as the tax consequences hereof. This Disclosure Statement does

1 not attempt to consider various facts or limitations applicable to any particular Person or Entity,
2 including any particular Holder of a Claim or Interest, which may modify or alter the tax
3 consequences described herein.

4 This discussion does not purport to address all aspects of U.S. federal income taxation that
5 may be relevant to the Debtor, the Estate, the Liquidating Trust, the Holders of Claims or
6 Interests, or any other Persons or Entities, in light of their individual circumstances, nor does the
7 discussion deal with tax issues with respect to taxpayers subject to special treatment under the
8 U.S. federal income tax laws (including, for example, banks, governmental authorities or agencies,
9 or foreign taxpayers). No aspect of foreign, state, local or any federal tax other than federal
10 income tax, including estate or gift taxation, is addressed.

11 THE FOLLOWING SUMMARY IS NOT A SUBSTITUTE FOR CAREFUL TAX
12 PLANNING AND ADVICE BASED UPON THE PERSONAL CIRCUMSTANCES OF EACH
13 HOLDER OF A CLAIM OR INTEREST. EACH HOLDER OF A CLAIM OR INTEREST IS
14 URGED TO CONSULT WITH SUCH HOLDER'S TAX ADVISORS CONCERNING THE U.S.
15 FEDERAL, STATE, LOCAL, FOREIGN AND OTHER TAX CONSEQUENCES APPLICABLE
16 TO THE PLAN.

17 **H. Consequences to the Debtor**

18 Under the Plan, the Debtor is transferring all assets of the Estate remaining as of the
19 Effective Date, as defined under the Plan as the Liquidating Trust Assets, to the Liquidating Trust.
20 As described herein and in the Plan, it is the intention of the Debtor and the Liquidating Trustee
21 that the transfer of assets by the Debtor will be treated for federal income tax purposes as (i) a
22 deemed transfer of assets by the Debtor to the Beneficiaries under the Liquidating Trust,
23 immediately followed by (ii) a transfer of such assets by the Beneficiaries to the Liquidating Trust.
24 For federal income tax purposes, the transfer of assets to the Liquidating Trust in satisfaction of
25 the Claims of Beneficiaries may result in the recognition of a taxable gain or loss by the Debtor.
26 Based on the facts and circumstances of the Bankruptcy Case, the Debtor expresses no view as to
27 whether they will incur a net gain or net loss for federal income tax purposes, and if a net gain,
28 whether a material net tax liability will result. To the extent that any federal income tax liability to

1 the Debtor results from the transfer of the Liquidating Trust Assets to the Liquidating Trust, the
2 Liquidating Trust will pay the resulting tax.

3 The Plan also provides that the Debtor will be dissolved. It is possible that as a result there
4 will be no net operating loss or capital loss carry-forwards or other tax attributes available to the
5 Debtor following the Effective Date. Because the federal income tax consequences in this respect
6 would depend on the particular facts and circumstances at such time and the application of
7 complex legislation and regulations, the Debtor expresses no view as to the effect of any
8 transactions outside the scope of the Plan or the survival of any net operating losses or loss carry-
9 forwards or other tax attributes. Parties in interest are cautioned against assuming the Debtor's net
10 operating losses or loss carry-forwards will be available to shelter any income or gain that may be
11 recognized as a result of implementation of the Plan or the Debtor's operations prior to the
12 Effective Date.

13 **I. Federal Income Tax Treatment of the Liquidating Trust**

14 **1. Classification of Liquidating Trust**

15 As described above and in the Plan, the Plan is being implemented through establishment
16 of a Liquidating Trust, which will become obligated to make distributions in accordance with the
17 Plan and the related Liquidating Trust Agreement. As set forth in the Plan, for federal income tax
18 purposes, the Debtor and the Liquidating Trustee intend and believe that the Liquidating Trust will
19 be treated for federal income tax purposes as a "liquidating trust" as defined in Treasury
20 Regulation (26 C.F.R.) § 301.7701-4(d), and will therefore be taxed as a grantor trust, of which
21 the holders of beneficial interests under the Liquidating Trust Agreement will be treated as the
22 owners and grantors thereof. Accordingly, because a grantor trust is treated as a pass-through
23 entity for federal income tax purposes, no tax should be imposed on the Liquidating Trust itself or
24 on the income earned or gain recognized by the Liquidating Trust. Instead, the Beneficiaries will
25 be taxed on their allocable shares of such net income or gain in each taxable year, whether or not
26 they received any distributions from the Liquidating Trust in such taxable year.

27 Although the Liquidating Trust has been structured with the intention of complying with
28 guidelines established by the IRS in Rev. Proc. 94-45, 1994-2 C.B. 684, for the formation of

1 creditor grantor trusts pursuant to a bankruptcy plan, it is possible that the IRS could require a
2 different characterization of the Liquidating Trust, which could result in different and possibly
3 greater tax liability to the Liquidating Trust and/or the Holders of Claims or Interests or other
4 Persons or Entities. No ruling has been or will be requested from the IRS concerning the tax status
5 of the Liquidating Trust, and there can be no assurance the IRS will not require an alternative
6 characterization of the Liquidating Trust. If the Liquidating Trust were determined by the IRS to
7 be taxable as other than a liquidating trust (as described in Treasury Regulation (26 C.F.R.) §
8 301.7701-4(d)) the taxation of the Liquidating Trust and the transfer of assets by the Debtor to the
9 Liquidating Trust could be materially different than is described herein and could have a material
10 adverse effect on the parties in interest. Further, the Liquidating Trustee is authorized to, among
11 other things, make any and all tax elections available by law.

12 Under the Plan, the Liquidating Trust is allowed, for federal income tax purposes, to treat
13 an account, trust, fund or reserve that holds assets to subject to disputed ownership as either
14 (a) part of the liquidating grantor trust assets owned by the beneficiaries of the Liquidating Trust,
15 or (b) a disputed ownership fund taxable as a separate entity pursuant to Treasury Regulation (26
16 C.F.R.) §1.468B-9. If the Liquidating Trust does not file a disputed ownership fund tax election,
17 the tax consequences with respect to the transfer of assets used to fund the Disputed Claims
18 Reserve, or any assets held in an account due to dispute as to the proper recipient of a distribution
19 under Section VII.H.2 of the Plan, may be the same as described above for the other Liquidating
20 Trust Assets transferred by the Debtor to the Liquidating Trust. If the Liquidating Trust files a tax
21 election to treat the Disputed Claims Reserve, or any segregated fund, as a disputed ownership
22 fund, then the disputed ownership fund may be treated as a separate taxable entity for federal
23 income tax purposes (rather than a pass-through tax entity) that is required to file tax returns and
24 pay any tax due. Any such payment will be made from the Liquidating Trust Assets.

25 **2. Tax Reporting**

26 As provided by the Plan, it is the intention that all Persons and Entities, including the
27 Debtor, the Estate, the Liquidating Trust and Holders of Claims or Interests, treat the Liquidating
28 Trust as a liquidating trust in accordance with Treasury Regulation (26 C.F.R.) § 301.7701-4(d).

1 Thus, the Beneficiaries under the Liquidating Trust, that is the Holders of Allowed Claims entitled
2 to distribution under the Plan, shall be treated as the direct owners of beneficial interests in the
3 assets and liabilities of the Liquidating Trust for federal income tax purposes. The Liquidating
4 Trustee will determine the fair market value of the Liquidating Trust Assets, and all parties in
5 interest, including the Holders of Allowed Claims, must consistently use such valuation for federal
6 income tax purposes. The Liquidating Trustee shall be responsible for filing all tax returns for the
7 Liquidating Trust and will also send to each Beneficiary a separate statement setting forth the
8 beneficiary's allocable share of items of income, gain, loss, deduction or credit and will instruct
9 the beneficiary to report such items on such beneficiary's federal income tax return.

10 **J. Consequence to Holders of Claims**

11 As discussed above and provided in the Plan, the formation and funding of the Liquidating
12 Trust is intended to be treated for federal income tax purposes as a (1) a deemed direct transfer of
13 the Liquidating Trust Assets by the Debtor to the Beneficiaries of the Liquidating Trust in
14 satisfaction of their Allowed Claims, immediately followed by (2) a deemed direct transfer of the
15 assets by the Beneficiaries to the Liquidating Trust, as grantors of the Liquidating Trust. The
16 establishment and funding of the Liquidating Trust, as a grantor trust, in which the Beneficiaries
17 are treated as the trust grantors for federal income tax purposes is an immediate taxable event to
18 both the Debtor and to the creditor Beneficiaries. The Beneficiaries may recognize an immediate
19 gain or loss for federal income tax purposes generally measured by the difference between the fair
20 market value of their share of the Liquidating Trust Assets and the Holder's tax basis in its Claim.

21 However, the federal income tax consequences of the Plan to any given Holder of a Claim
22 will depend upon several factors, including but not limited to: (i) the origin of the Holder's Claim,
23 (ii) whether the Holder is a resident of the United States for tax purposes (or falls into any special
24 class of taxpayer), (iii) whether the Holder reports income on an accrual or cash basis method, (iv)
25 whether the Holder has taken a bad debt deduction or worthless security deduction with respect to
26 this Claim and (v) whether the Holder receives distributions under the Plan in more than one
27 taxable year. **HOLDERS ARE STRONGLY ADVISED TO CONSULT THEIR OWN TAX**

1 ADVISORS WITH RESPECT TO THE TAX TREATMENT UNDER THE PLAN OF THEIR
2 PARTICULAR CLAIMS.

3 **K. Consequences to Holders of Interests**

4 Pursuant to the Plan, all Interests in the Debtor are being extinguished. A Holder of such
5 an Interest will generally recognize a loss in an amount equal to such Holder's adjusted tax basis
6 in the Interest at the time it becomes worthless. This may not be the case as to any particular
7 Interest Holder, however, as among other things, the tax consequences of the Plan will depend
8 upon several factors including but not limited to: (i) the status of the Holder, (ii) the nature of the
9 Interest, (iii) the Holder's holding period, and (iv) the extent to which a Holder had previously
10 claimed a deduction for the worthlessness of all or a portion of the Interest. HOLDERS ARE
11 STRONGLY ADVISED TO CONSULT THEIR OWN TAX ADVISORS WITH RESPECT TO
12 THE TAX TREATMENT UNDER THE PLAN OF THEIR PARTICULAR INTERESTS.

13 **L. Withholding**

14 All distributions to Holders of Allowed Claims under the Plan are subject to any applicable
15 withholding required by law which will be made by the Liquidating Trust. In addition, as set forth
16 in the Plan, Claim Holders may be required to provide general tax information to the Debtor
17 and/or Liquidating Trustee, as the case may be, in order to receive distributions pursuant to the
18 Plan.

19 AS INDICATED ABOVE, THE FOREGOING IS INTENDED TO BE A SUMMARY
20 ONLY AND NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX
21 PROFESSIONAL. THE FEDERAL, STATE, LOCAL, FOREIGN AND OTHER TAX
22 CONSEQUENCES OF THE PLAN ARE COMPLEX AND, IN SOME CASES, UNCERTAIN.
23 ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT
24 SUCH HOLDER'S TAX ADVISORS CONCERNING THE FEDERAL, STATE, LOCAL,
25 FOREIGN AND OTHER TAX CONSEQUENCES APPLICABLE UNDER THE PLAN.

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FURTHER ACCESS TO INFORMATION

Additional sources of information available to the public include the various Schedules, pleadings and reports which were filed by the Debtor or other parties in interest in this Bankruptcy Case. Such filings can be accessed electronically through the Public Access to Court Electronic Records web based system.

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XI.

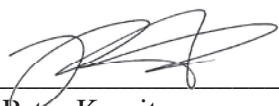
RECOMMENDATION AND CONCLUSION

The Proponents believe that confirmation of the Plan is in the best interests of the Estate and its creditors and in particular, believe that recoveries to Holders of Allowed Claims will be maximized under the circumstances by confirmation of the Plan. The Proponents urge all creditors entitled to vote on the Plan to vote in favor of the Plan.

Respectfully submitted,

Dated: March 31, 2015

CRUNCHIES FOOD COMPANY, LLC

By: 
Name: Peter Kravitz
Title: Chief Restructuring Officer

Dated: March 31, 2015

OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By: _____
Name: _____
Title: _____

Dated: March 31, 2015

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

By: _____
DAVID L. NEALE
JOHN-PATRICK M. FRITZ
Counsel for the Debtor

Dated: March 31, 2015

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By: /s/ Ori Katz
ORI KATZ
ROBERT K. SAHYAN
Counsel for the Official Committee of Unsecured Creditors

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XI.

RECOMMENDATION AND CONCLUSION

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CRUNCHIES FOOD COMPANY, LLC

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Dated: March 31, 2015

OFFICIAL COMMITTEE OF UNSECURED CREDITORS

By: _____
Name: _____
Title: _____

Dated: March 31, 2015

LEVENE, NEALE, BENDER, YOO & BRILL L.L.P.

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DAVID L. NEALE
JOHN-PATRICK M. FRITZ
Counsel for the Debtor

Dated: March 31, 2015

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By: */s/ Ori Katz* _____
ORI KATZ
ROBERT K. SAHYAN
Counsel for the Official Committee of Unsecured Creditors

**List of Exhibits To
Disclosure Statement**

Exhibit A: List of Class 7 General Unsecured Claims

Exhibit B: List of Class 8 Interest Holders

EXHIBIT A

Creditor	Claim No.	General Unsecured	Schedule "F" Unsecured	C U D	Desc NOTES
<i>ABF Multimodal</i>	2	4,500.00	4,500.00		Withdrawn on 09/23/2014
Anschutz Entertainment Group			276,750.00		
Balance Your Books			66,831.50		
Bella Food Sales, LLC			347,040.00		
Better Business Bureau			720.00		
Blue Ocean Innovative Solutions Inc			64,364.74		
Bridgeton Holdings Inc.			10,000.00		
Brien Seay			50,000.00		
Buffalo Brothers West			21,672.00		
Buffalo Brothers West			8,328.00		
Cabrillo Westlake	6	30,156.00	15,128.02		
California Grocers Association			4,000.00		
Chaucer Foods c/o Evan Smiley			1,009,428.80		
Chaucer Foods c/o Evan Smiley			170.71		
Chien & Smith-Fricke, LLP			4,950.00		
Circle Up, attn: Rory Eakin			0.00		
Classic Bicycle Racing, LLC			6,000.00		
Consumer Connection, Inc.	27	58,000.00	30,500.00		
Consumer Packaging Group, Inc.			5,781.00		
Custom Leasing Sales			2,500.00		
CyberCopy, Inc.			2,093.42		
Dan Rivero			360,000.00		
Daylight Transport LLC			12,648.25		
Debbi Reed			30,000.00		
Dependable Highway Express			359.67		
Derek McGowan			32,305.00		
Diane Nott-Kilfoil			5,602.50		
Direct Demos			4,677.13		
DMH Ingredients			49,416.17		
Document Systems			2,243.58		
Dynamic Presence East			76,500.00		
Edgewater Park Media Inc			3,000.00		
Eichberg Associates, Inc			1,204.67		
Estes Express Lines	17	1,059.98	910.48		
FedEx	19	66,692.95	55,835.02		
FedEx Freight			7,849.18		
Food & Beverage Executive			27,000.00		
Food Chain Global Advisors, Inc			2,735.00		
Food Industries Circle Chapter			4,500.00		
Forsythe & Associates			1,190.07		
Franchise Tax Board	4	7,080.46	6,000.00		
Fresco Community Markets LLC			150.00		
G E Capital	11	14,433.39	1,283.29		
Garden Acres Santa Claus, Inc.			750.00		
Global Health Brokerage, Inc.			3,200.00		
Globaltranz Enterprises, Inc.	18	1,055.20	1,055.20		
Gluten Intolerance Group			500.00		
Greater Conejo Valley COC			380.00		
Grocery Headquarters			13,500.00		
GS1 US			1,045.00		
Hartford Insurance	14	35,876.12	25,307.97		
Hopster			199.35		

Creditor	Claim No.	General Unsecured	Schedule "F" Unsecured	C U D	Desc NOTES
Hot Ice Media			8,200.00		
Imperial Valley Foods, Inc			201,525.00		
InFocus Specialities			53,184.85		
IPFS Corporation			748.53		
James Lacey			20,000.00		
James Lacey			16,000.00		
James Lacey	44		322,000.00		
Jason Hardman			490.20		
Jennifer Hurless			1,600.00		
Jill M Watson			32,000.00		
John Hancock Life Insurance Co.			24,718.73		
KOF-K			7,200.00		
Koppel, Patrick,Heybl & Philpott			47,097.42		
Landsberg Santa Barbara			245,092.52		
Leadership Capital Partners			70,000.00		
Lewis Brisbois Bisgard and Smith LLP	9	71,081.86	103,435.86		
LightGabler LLP			197.50		
Lila's House Cleaning			950.00		
Mack Elevation Forum			5,000.00		
Manfredi Levine			395.00		
MegaPath Inc.			1,864.91		
Microsoft Financing			15,126.97		
Microsoft Financing			16,620.51		
Midwest Franchise Owner's Association			1,900.00		
MM&K LLC			7,250.00		
Morgan Lewis & Bockius LLP			34,508.85		
Multi Ad			18.00		
NACDS			8,400.00		
Nad Verjee			21,493.25		
Natl Asso of College Stores			963.00		
Northridge Container			15,456.00		
Office Depot	1	1,235.03	1,235.03		
One Stop Logistics			7,388.00		
Orkin Pest Control			124.00		
Oser Communications Group Inc	25	18,882.65	23,151.65		
Outdoor Retailer Summer Market			3,150.00		
Paramount Container, Inc	7	2,750.00	2,750.00		
PMA			1,165.00		
PNC Financing	22	17,345.90	1,197.13		
Pocantico			18,121.18		
Quest Diagnostics			28.00		
Racher Press Inc.			16,114.00		
Richard John Kohlbrand			10,438.84		
Santo J. Laquatra			5,648.77		
Schraad & Associates			631.56		
Scollon Productions			4,950.00		
Searsport Food			829,234.30		
Shawn Patt			0.00		
Shopper Events LLC			44,153.64		
Shred-It			199.36		
Sierra Packaging & Converting,LLC			97,583.95		
Simply Gluten Free Inc			2,700.00		
Skyline Exhibits West, Inc.			9,010.00		

	FILED CLAIM		SCHEDULED CLAIM	NOTES
	Creditor Claim No.	General Unsecured	Schedule "F" Unsecured C/ U/ D	
So Ca Edison			3,504.31	
Society Social Calendar			4,400.00	
Sparkletts	26	837.36	498.27	
SPS Commerce	8	3,628.71	2,790.00	
Staples			1,807.31	
Sterling Networks			738.81	
Sunshine FPC Inc			38,327.40	
Sysco Ventura, Inc.	20	642.03	642.03	
Tri-Kids 123			4,500.00	
Uline			10,642.85	
Universal Marketing Services, Inc.			2,348.35	
UPS	16	13,538.87	13,661.43	
Van Drunen Farms			51,752.50	
Veg News Media	11	4,048.50	1,000.00	
Vegetarian Times			6,825.00	
VegWeb.com			1,118.00	
Ventura County Tax Collector			1,125.55	
Verizon			1,138.76	
Verizon Wireless			3,004.41	
Wasserman			43,816.00	
Wells Fargo Bank	3		7,446.90	
World Health Industries			320,712.33	
WZLX			7,500.00	
SoCal Signworx	5	490.20		
MILLENNIUM MEDIA, LLC	10	9,690.00		
GENERAL ELECTRIC CAPITAL CORPORATION	13	17,977.52		
Shandong Searsport Foods Co., Ltd.	15	882,362.51		
Employment Development Department	21	40,642.96		
Norman & Margaret Parks	24	100,000.00		
PNC Equipment Finance, LLC	23	16,429.38		
Phillip Tamminga	28	100,000.00		
Lynden L. Rader	29	100,000.00		
AEG Cycling LLC	30	259,111.05		
LA Live Properties LLC	32	87,993.50		
Anschultz 12K Company	31	87,993.50		
Northridge Container	34	15,240.00		
Society Social Calendar LLC	36	4,400.00		
Fundme Securities, LLC	37	105,397.80		
Koppel, Patrick,Heybl & Philpott	38	47,097.42		
Nadir Verjee	39	\$21,493.25		
William Innes	40	250,000.00		
Arent Fox LLP	41	259,111.05		
Arent Fox LLP	42	87,993.50		
Arent Fox LLP	43	87,993.50		
Daryl Dunbar	45	50,000.00		
Cruzbay Publishing	46	6,825.00		
Harry Bret Shepard and Patty Shepard	47	100,000.00		

EXHIBIT B

United States Bankruptcy Court
Central District of California

In re Crunchies Food Company, LLC
Debtor

Case No. _____

Chapter 11

LIST OF EQUITY SECURITY HOLDERS

Following is the list of the Debtor's equity security holders which is prepared in accordance with Rule 1007(a)(3) for filing in this chapter 11 case.

Name and last known address or place of business of holder	Security Class	Number of Securities	Kind of Interest
Allan Klein 1725 Butler Ave. #305 Los Angeles, CA 90025			
Allan Schoenberger 181 Bluffton Rd. Ste F2014 Bluffton, SC 29910			
Andy Anderson 2263 Johnson Dr. Ventura, CA 93003			
Brett Zaccardi 1400 Rosa Parks Blvd. #106 Nashville, TN 37208			
Christie Whitehead 5427 Brookside Dr. Broomfield, CO 80020			
Colln & Georgette Hann 355 Landeros Dr. Santa Clara, CA 90051			
Daly Sa 1006 LLC 5263 Denver St. Boulder, CO 80304			
Darrel & Nancy Horn 3707 Llyn Glaslyn Pl. Santa Rosa, CA 95403			
Daryl Dunbar 10 Bryant Ct. Sterling, VA 20166			
Deming 2002 FLP #3 451 N Washington El Dorado, AR 71730			
Deming Family Trust 451 N Washington El Dorado, AR 71730			

In re Crunchles Food Company, LLC

Case No. _____

Debtor

LIST OF EQUITY SECURITY HOLDERS
(Continuation Sheet)

Name and last known address or place of business of holder	Security Class	Number of Securities	Kind of Interest
Denver Darling 10271 Wesley Circle Huntington Beach, CA 92646			
Donald Turner 3923 Maple Hill E W. Bloomfield, MI 48323			
Ethan Ruby 189 W. 89th St #11C New York, NY 10024			
Greg Parsons 166 Duane St. #7C New York, NY 10013			
Hamidreza Mottaghinejad 5699 Kanan Rd. #157 Agoura Hills, CA 91301			
Harold Cohen 181 E. 66th St. New York, NY 10065			
Harry Bret Shepard 5404 Chandley Farm Cir Centreville, VA 20120			
Howard Robby 6944 96th Ave SE Mercer Island, WA 98040			
James Lacey 3808 Bowspirit Cir. Westlake Village, CA 91361			
James O'Dea 111 Water Street East Dundee, IL 60115			
Jill Watson 195 Highway 50, #104-396 Stateline, NV 89449			
John Bloom PO Box 1134 Manzanita, OR 97130-1134			
John Kohlbrand 1581 Hendrix Ave. Thousand Oaks, CA 91360			

In re Crunchies Food Company, LLC

Case No. _____

Debtor

LIST OF EQUITY SECURITY HOLDERS
(Continuation Sheet)

Name and last known address or place of business of holder	Security Class	Number of Securities	Kind of Interest
Jon Wickwire 917 Leigh Mill Rd. Grat Falls, VA 22066			
Julie Arnold 1128 Galesmorre Ct Westlake Village, CA 91361			
Julie Boys 9947 Darling Rd. Ventura, CA 93004			
Kelvin Clarke 8612 Beech Tree Rd. Bethesda, MD 20817			
Kent Swanson 6335 E Tufts Ave Englewood, CO 80111			
Kevin Daly 136 Spruce St. Steamboat Springs CO 80487			
Kurt Maler 13 Leeward Road Belvedere, CA 94108			
Lee I Turner Trust 26000 West 12 Mile Rd. Southfield, MI 48034			
Lel-an LTD PO Box 5858 Breckenridge, CO 80424			
Lynden L. Rader 10342 Carloca Ct. San Diego, CA 92124			
Mark Loewenstein 12612 White Dr. Silver Spring, MD 20904			
Marlene Schwartz 9751 Woodhollow Dr. Reno, NV 89521			
Melvin Shaw 32399 Chestnut Lane Pepper Pike, OH 44124			

In re Crunchles Food Company, LLC

Case No. _____

Debtor

LIST OF EQUITY SECURITY HOLDERS
 (Continuation Sheet)

Name and last known address or place of business of holder	Security Class	Number of Securities	Kind of Interest
Michael Dieveney 1571 Macarthur Blvd Costa Mesa, CA 92626			
Mitch Baruchowitz 1054 Boston Post Rd. Rye, NY 10580			
Nell Druks 17 Nimrod Farm Rd. Weston, CT 06883			
Norman & Margaret Parks 379 96th St. Stone Harbor, NJ 08247			
Omega Venture Group 15627 Jube Wright Ct. San Diego, CA 92127			
Phillip Tamminga 477 Adams St. Denver, CO 80206			
Proactive Management Ser PO Box 143 Sicklerville, NJ 08081			
Ragnar Storm-Larsen 240 E. Lombard St. #200 Thousand Oaks, CA 91360			
Randy Horn/Tracy Coombe 30 La Cuesta Greenbrae, CA 94904			
Robert Dye 1920 Main St., Ste 1070 Irvine, CA 92614			
Robert Harris 654 N. Delsea Dr. Pltman, NJ 08071			
Robert Taggart Jr. 7163 S. Chapparel Circle E Centennial, CO 80016			
Ron Gonen 13449 Mulholland Dr. Beverly Hills, CA 90210			

In re Crunchies Food Company, LLC

Case No. _____

Debtor

LIST OF EQUITY SECURITY HOLDERS
 (Continuation Sheet)

Name and last known address or place of business of holder	Security Class	Number of Securities	Kind of Interest
RSL Venture Partners 18 Pheasant Run Old Westbury, NY 11568			
Satsuki Mitchell c/o Gary Halpert 20335 Ventura Blvd #400 Woodland Hills, CA 91364			
Shawn Patt 965 Wilshire Blvd, Suite #600 Beverly Hills, CA 90212			
Steve Krause 200 N Westlake Blvd #204 Westlake Village, CA 91362			
Stifel Nicolaus/Denver Dar 501 N Broadway St. Louis, MO 63102			
Studio 21st West 873 Old Holly Dr. Great Falls, VA 22066			
Thomas Chisari 57 W. Sidlee St. Thousand Oaks, CA 91360			
Tom Armstrong 163 Burns Way Fanwood, NJ 07023			
Tom Bellia 223 Bishop Rd Millicahill, NJ 08062			
Troy Taggart 21220 Crab Orchard Ct. Ashburn, VA 20147			
William Innes 822 Hampshire Rd #G Westlake Village, CA 91362			
Woodman Avenue LLC 13701 Riverside Dr. #500 Sherman Oaks, CA 91423			

In re Crunchles Food Company, LLC

Case No. _____

Debtor

LIST OF EQUITY SECURITY HOLDERS
(Continuation Sheet)

Name and last known address or place of business of holder	Security Class	Number of Securities	Kind of Interest
Yldam, LTD PO Box 5858 Breckenridge, CO 80424			

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF CORPORATION OR PARTNERSHIP

I, the Managing Member of the corporation named as the debtor in this case, declare under penalty of perjury that I have read the foregoing List of Equity Security Holders and that it is true and correct to the best of my information and belief.

Date 8-15-14

Signature James P Lacey
James P Lacey
Managing Member

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C §§ 152 and 3571.