

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re: Chapter 11
GOODY'S, LLC, et al.,¹ Case No. 09-10124 (CSS)
Debtors. Jointly Administered

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**DEBTORS' PLAN OF LIQUIDATION PURSUANT TO CHAPTER
11 OF THE UNITED STATES BANKRUPTCY CODE**

Dated: Wilmington, Delaware YOUNG CONAWAY STARGATT & TAYLOR, LLP
November 24, 2009

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**NO MATERIALS OTHER THAN THE DISCLOSURE
STATEMENT AND RELATED MATERIALS APPROVED BY THE
BANKRUPTCY COURT HAVE BEEN AUTHORIZED FOR USE IN
SOLICITING ACCEPTANCES OR REJECTIONS OF THIS PLAN**

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number are: Goody's, LLC (9573); New SYDOOG LLC (2047); New Trebor of TN, LLC (2157); New GOFAMCLO, LLC (2268); New Goody's Giftco, LLC (2366); New Goody's MS, L.P. (2490); New GFCTX, L.P. (2581); New Goody's IN, L.P. (3191); New GFCTN, L.P. (3266); New GFCGA, L.P. (3366); New Goody's ARDC, L.P. (3486); New Goody's Retail MS, L.P. (3527); New Goody's Holding TN, LLC (3620); and New Goody's TNDC, L.P. (3673). The Debtor's address is 504 Rolling Creek Road, Knoxville, TN 37934.

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INTRODUCTION

Goody's LLC, and its direct and indirect subsidiaries (collectively, the “Debtors”) hereby propose the following Chapter 11 Plan of Liquidation pursuant to the provisions of Section 1121 of the Bankruptcy Code. Reference is made to the Disclosure Statement (as that term is defined herein), distributed contemporaneously herewith, for a discussion of the Debtors’ history, business, properties and operations, risk factors, a summary and analysis of this Plan (as that term is defined herein), and certain related matters. Subject to Section 12.1 hereof and certain restrictions and requirements set forth in 11 U.S.C. § 1127 and Fed. R. Bankr. P. 3019, the Debtors reserve the right to alter, amend, modify, revoke or withdraw this plan prior to its substantial consummation.

ARTICLE I

DEFINITIONS AND INTERPRETATION

1.1 **Rules of Interpretation.** Unless otherwise specified, all Sections, Article and Exhibit references in this Plan are to the respective Section in, Article of, or Exhibit to this Plan, as the same may be amended, waived or modified from time to time. The headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. Words denoting the singular number shall include the plural number and vice versa, unless the context requires otherwise. Pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter. The words “herein”, “hereof”, “hereto”, “hereunder”, and others of similar import refer to this Plan as a whole, and not to any particular section, subsection, or clause contained in the Plan. In construing this Plan, the rules of construction set forth in Section 102 of the Bankruptcy Code shall apply. In computing any period of time prescribed or allowed by this Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

1.2 **Definitions.** Terms and phrases, whether capitalized or not, that are used and not defined in this Plan, but that are defined in the Bankruptcy Code or Bankruptcy Rules, have the meanings ascribed to them in the Bankruptcy Code or Bankruptcy Rules, as applicable. Unless otherwise provided in this Plan, the following terms have the respective meanings set forth below, and such meanings shall be equally applicable to the singular and plural forms of the terms defined, unless the context otherwise requires.

1.2.1 **“Administrative Expense Claim”** means a Claim for costs and expenses of administration of the Bankruptcy Cases Allowed under Sections 503, 507(a)(1) or 507(b) of the Bankruptcy Code, and all fees and costs assessed against the Estate pursuant to 28 U.S.C. § 1930. Administrative Expense Claims shall include, but are not limited to, Professional Claims and all Allowed Claims, if any, that are entitled to be treated as Administrative Expense Claims pursuant to a Final Order of the Bankruptcy Court under Section 546(c)(2) of the Bankruptcy Code and all requests for compensation or expense reimbursement for making a substantial contribution in the Bankruptcy Cases pursuant to Sections 503(b)(3), (4) and (5) of the Bankruptcy Code.

1.2.2 “**Administrative Expense Claim Bar Date**” means the date 30 days after the Effective Date or such other date set by the Bankruptcy Court as the last day for filing of a proof of Administrative Expense Claim or a request for payment of an Administrative Expense Claim, other than Professional Claims, subject to the exceptions set forth in this Plan.

1.2.3 “**Administrative Tax Claim**” means an Administrative Expense Claim held by a Governmental Unit for taxes (and for Allowed interest and/or penalties related to such taxes) for any tax year or period, all or any portion of which occurs or falls within the period from and including the Petition Date through and including the Effective Date.

1.2.4 “**Allowed**” means, as it relates to any type of Claim, a Claim (i) which has been scheduled as undisputed, noncontingent and liquidated in the Schedules and as to which no proof of Claim has been timely filed (subject to each Debtor's right to amend the Schedules) and as to which no objection or request for estimation has been filed on or before any Claim objection deadline, if any, set by the Bankruptcy Court or the expiration of such other period fixed by the Bankruptcy Court; (ii) as to which a proof of Claim has been properly and timely filed and either (a) no objection thereto has been timely filed, or if an objection has been timely filed, any portion of which is not subject to such objection, or (b) such Claim has been allowed (but only to the extent allowed) by a Final Order of the Bankruptcy Court; or (iii) which has been expressly allowed under the provisions of this Plan. “Allowed Claim” shall not, for purposes of computation of distributions under this Plan, include interest on such Claim from and after the Petition Date or include any penalty on such Claim.

1.2.5 “**Asset Purchase Agreements**” means collectively (i) the Agency Agreement by and among a joint venture comprised of Hilco Merchant Resources, LLC and Gordon Brothers Retail Partners, LLC and Goody's, LLC, dated as of January 6, 2009, a copy of which appears as an exhibit to the Order (I) Approving Assumption of Agency Agreement, (II) Granting Approval of Superpriority Administrative Claims and Security Interests, (III) Approving Store Closing Sales Free and Clear of Liens, Claims and Encumbrances and (IV) Granting Related Relief, [Docket No. 122]; (ii) the Asset Purchase Agreement by and among Goody's, LLC and New Goody's MS, LP, as Seller and DHIP Holdings, LLC dated as of June 22, 2009, a copy of which appears as an exhibit to the Order (A) Approving the Sale Certain of the Debtor's Intellectual Property (Duck Head) Free and Clear of all Liens, Encumbrances and Other Interests and (B) Granting Related Relief [Docket No. 728]; (iii) the Asset Purchase Agreement by and among Goody's, LLC and New Goody's MS, LP as Seller and Specialty Retailers, Inc. dated as of June 22, 2009, a copy of which appears as an exhibit to the Order (A) Approving the Sale Certain of the Debtor's Intellectual Property (Goody's) Free and Clear of all Liens, Claims, Encumbrances and Other Interests and (B) Granting Related Relief [Docket No. 729].

1.2.6 “**Available Cash**” means all Cash of each Estate to be distributed to holders of Allowed Claims against each Estate, pursuant to the provisions of this Plan, as well as all Cash that subsequently becomes an Estate Asset or an asset of any Debtor, including, without limitation, (i) Cash in any accounts wherever located; (ii) Cash proceeds realized from the sale, disposition, collection, or other realization of value in respect of the Estate Assets (including interest earned thereon if applicable), LESS (a) the Cash or property contained in the Disputed APS Claims Reserve, the Disputed Unsecured Claims Reserve, and any other similar reserve or escrow accounts established or maintained by the Debtors after the Petition Date or pursuant to the provisions of this Plan, and (b) the amount determined by the Liquidating Agent and Post-Effective Date Committee to be necessary and appropriate to reserve for future costs of administration of the Estate Assets (including, without limitation, the compensation, fees and costs of the Liquidating Agent and the compensation, fees, and costs of all Professionals, consultants, agents and employees retained or to be retained by the Debtors, the Liquidating Agent and the Committee), including the costs of liquidating the Estate Assets and of investigating, analyzing, and pursuing Estate Actions and Avoidance Actions pursuant to the terms of this Plan.

1.2.7 “**Avoidance Actions**” means any and all present or future causes of action, suits, claims, counterclaims, defenses, rights of offset or recoupment, and intangible rights of any sort which the Committee may assert on behalf of the Estate under Chapter 5 of the Bankruptcy Code, including actions under one or more provisions of Sections 510, 542, 544, 545, 547, 548, 549, 550, 551 and/or 553 of the Bankruptcy Code.

1.2.8 “**Ballot**” means the ballot, the form of which has been approved by the Bankruptcy Court, accompanying the Disclosure Statement provided to each holder of a Claim entitled to vote to accept or reject this Plan, on which such holder may vote to accept or reject this Plan.

1.2.9 “**Bankruptcy Cases**” means collectively the bankruptcy cases initiated by the Debtors in the Bankruptcy Court on January 13, 2009 in the United States Bankruptcy Court for the District of Delaware, which bankruptcy cases are jointly administered under Case No. 09-10124 (CSS).

1.2.10 “**Bankruptcy Code**” means Title 11 of the United States Code, Section 101, et. seq., as now in effect or as hereafter amended.

1.2.11 “**Bankruptcy Court**” means the United States Bankruptcy Court for the District of Delaware or, if such court ceases to exercise jurisdiction, the court or adjunct thereof that exercises jurisdiction over the Bankruptcy Cases.

1.2.12 “**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure, as amended and promulgated under Section 2075 of Title 28 of the United States Code, together with the local bankruptcy rules for the Bankruptcy Court as now in effect or as the same may from time to time hereafter be amended.

1.2.13 “**Bar Date**” means the date(s) set by the Bankruptcy Court as the last day for filing of proofs of Claim in the Bankruptcy Cases.

1.2.14 “**Business Day**” means any day which is not a Saturday, Sunday, or “legal holiday” within the meaning of Bankruptcy Rule 9006(a).

1.2.15 “**Cash**” means lawful currency of the United States and its equivalents; provided, however, that any distributions by the Debtors under this Plan will be deemed to be made in Cash if made by check drawn on any United States bank.

1.2.16 “**Claim**” means a claim against a Debtor or its property, as such term is defined in Section 101(5) of the Bankruptcy Code.

1.2.17 “**Claimant**” means the holder of any Allowed Claim entitled to distributions with respect to such Allowed Claim.

1.2.18 “**Class**” means one of the categories of Claims or Equity Interests established under Article III of this Plan pursuant to Sections 1122 and 1123(a) of the Bankruptcy Code.

1.2.19 “**Committee**” means the Statutory Committee of General Unsecured Creditors appointed by the Office of the United States Trustee for the District of Delaware on January 26, 2009 in the Bankruptcy Cases pursuant to Section 1102 of the Bankruptcy Code, as the composition of such Committee may be altered from time to time, and shall include and mean the Post-Effective Date Committee at all times after the Effective Date, as applicable.

1.2.20 “**Confirmation Date**” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on its docket.

1.2.21 “**Confirmation Hearing**” means the hearing(s) before the Bankruptcy Court pursuant to Section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing(s) may be continued, rescheduled or delayed.

1.2.22 “**Confirmation Order**” means the order of the Bankruptcy Court confirming this Plan pursuant to Section 1129 of the Bankruptcy Code, as such order may be amended, modified, or supplemented.

1.2.23 “**Creditor**” means any entity that has a Claim against a Debtor that arose at the time of or before the Petition Date.

1.2.24 “**Debtors**” means Goody’s, LLC; New SYDOOG LLC; New Trebor of TN, LLC; New GOFAMCLO, LLC; New Goody’s Giftco, LLC; New Goody’s MS, L.P.; New GFCTX, L.P.; New Goody’s IN, L.P.; New GFCTN, L.P.; New GFCEGA, L.P.; New Goody’s ARDC, L.P.; New Goody’s Retail MS, L.P.; New Goody’s Holding TN, LLC; and New Goody’s TNDC, L.P.

1.2.25 “**Debtor Releasees**” means all officers, directors, employees, attorneys, financial advisors, accountants, investment bankers, agents and representatives of the Debtors and their subsidiaries who served in such capacity on or after the Petition Date, in each case in their respective capacity as such.

1.2.26 “**Debtors-in-Possession**” means the Debtors operating in their respective capacities as debtors-in-possession pursuant to Chapter 11 of the Bankruptcy Code.

1.2.27 “**Disallowed Claim**” means a Claim or portion thereof that (i) has been disallowed by a Final Order; (ii) is identified in the Schedules in the amount of zero dollars or as contingent, unliquidated, or disputed and as to which a proof of Claim was not filed by the Bar Date; (iii) is not identified in the Schedules and as to which no proof of Claim has been filed or deemed filed by the Bar Date or Administrative Expense Claim Bar Date, as applicable; or (iv) was not filed in a timely manner as provided by a relevant Order of the Bankruptcy Court.

1.2.28 “**Disclosure Statement**” means the Disclosure Statement with respect to this Plan, approved by the Bankruptcy Court as containing adequate information for the purpose of dissemination and solicitation of votes on and confirmation of this Plan, as it may be altered, amended or modified from time to time in accordance with the provisions of the Bankruptcy Code and the Bankruptcy Rules.

1.2.29 “**Disputed**” means any Claim or any portion thereof which is not a Disallowed Claim and which is (a) a filed Claim for which no amount was scheduled by the Debtors in the Schedules (b) a proof of claim of which was filed in an amount or priority which is greater than was scheduled by the Debtors in the Schedules, (c) a Claim which is contingent and/or unliquidated, (d) a Claim which is a duplicate of another Claim, (e) a Claim which amends a prior filed Claim, or (f) a Claim that is the subject of a pending application, motion, complaint, objection, or any other legal proceeding seeking to disallow, limit, subordinate, or estimate such Claim. Because holders of Allowed Equity Interests will not receive any distribution on account of such Equity Interests, it is unnecessary to characterize any Equity Interest, or part thereof, as Disputed.

1.2.30 “**Disputed APS Claims Reserve**” means the interest bearing reserve account established by the Debtors pursuant to Section 7.3 of this Plan to be used to satisfy Disputed Administrative Expense Claims, Disputed Priority Tax Claims, Disputed Priority Claims, and Disputed Secured Claims, in accordance with the Plan if and when such Claims become Allowed.

1.2.31 “**Disputed Claims Reserve**” means the Disputed APS Claims Reserve and the Disputed Unsecured Claims Reserve.

1.2.32 “**Disputed Unsecured Claims Reserve**” means the interest bearing reserve account established by the Debtors pursuant to Section 7.3 of this Plan to be used to satisfy Disputed Unsecured Claims in accordance with the Plan if and when such Claims become Allowed.

1.2.33 “**Distribution Date**” means any date on which distributions of Cash and other Estate Assets are to be made, except for the Effective Date and the Final Distribution Date.

1.2.34 “**Distribution Reserve**” means the interest bearing reserve account established by the Debtors pursuant to Section 7.3 of this Plan from which all distributions under this Plan shall be made to holders of Allowed Unsecured Claims, except the Initial Distribution.

1.2.35 “**Effective Date**” means as soon as practicable after the date on which the conditions specified in Section 10.2 of this Plan have been satisfied or waived in writing by the Debtors and the Committee.

1.2.36 “**Equity Interest**” means any ownership interest or share in the Debtors (including, without limitation, all options, warrants or other rights to obtain such an interest or share in the Debtors) whether or not transferable, preferred, common, voting, or denominated “stock” or a similar security.

1.2.37 “**Estate(s)**” means, individually, the estate created for each of the Debtors and, collectively, the estates created for all the Debtors pursuant to Section 541 of the Bankruptcy Code upon the commencement of the Bankruptcy Cases.

1.2.38 “**Estate Actions**” means all present or future causes of action, suits, claims, counterclaims, defenses, rights of offset or recoupment, and intangible rights of any sort, in law, equity or otherwise, whether arising under the Bankruptcy Code or federal, state, or common law, belonging to, held by or entitled to be asserted by a trustee, the Debtors, the Debtors in Possession, the Liquidating Agent, Post-Effective Date Committee or other appropriate party in interest on behalf of the Estate, but excluding (i) Avoidance Actions; and (ii) any and all causes of action that were released pursuant to the Settlement Agreement and the Settlement Order.

1.2.39 “**Estate Assets**” means the respective assets of the Debtors and their Estates as of the Effective Date, including any and all proceeds, rents, products, offspring, profits arising from or generated by such property after the Effective Date and including the Avoidance Actions, if any, and the Estate Actions, if any.

1.2.40 “**Executory Contract**” means, collectively, “executory contracts” and “unexpired leases” of the Debtors as of the Petition Date as such terms are used within Section 365 of the Bankruptcy Code; provided, however, that “Executory Contract” excludes the Asset Purchase Agreements.

1.2.41 “**Exculpated Person**” means, except as limited and restricted in Section 11.4 of this Plan, the Debtors and the Committee and its members (solely in their

capacity as Committee members), and any of the accountants, advisors, agents, attorneys, consultants, directors, members, employees, officers, representatives, or professional persons of such Persons employed or serving in any such capacity at any time on or after the Petition Date.

1.2.42 “**Final Decree**” means the final decree entered by the Bankruptcy Court after the Effective Date pursuant to Bankruptcy Rule 3022.

1.2.43 “**Final Distribution**” means the distribution of Available Cash made to Claimants pursuant to this Plan which (i) after giving effect to such distribution, results in remaining Estate Assets with a de minimis value; and (ii) is determined or ordered to be the final distribution to Claimants as set forth in section 7.5.3 of this Plan.

1.2.44 “**Final Distribution Date**” means the date of the Final Distribution.

1.2.45 “**Final Order**” means a judgment, order, ruling, or other decree issued and entered by the Bankruptcy Court or by any state or other federal court or other tribunal having jurisdiction over the subject matter thereof which judgment, order, ruling, or other decree has not been reversed, stayed, modified, or amended and as to which (i) the time to appeal or petition for review, rehearing or certiorari or move for reargument has expired or shall have been waived in writing in form and substance satisfactory to the Debtors and as to which no appeal or petition for review, rehearing or certiorari or motion for reargument is pending; or (ii) any appeal or petition for review, rehearing, certiorari or reargument has been finally decided and no further appeal or petition for review, rehearing, certiorari or reargument can be taken or granted provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or applicable state court rules of civil procedure, may be filed with respect to such order shall not cause such order not to be a Final Order.

1.2.46 “**Goody’s I Debtors**” means Goody's Family Clothing, Inc. and its direct and indirect subsidiaries GFC Aircraft Holdings, Inc., GFC Professional Services, LLC, SYDOOG LLC, ISDE, Inc., Trebor of TN, LLC., GOFAMCLO LLC, Goody's Giftco, LLC, GFC Aircraft Leasing, LLC, GFC Aircraft Management, LLC, GFCFS, LLC, Goody's MS, L.P., GFCTX, L.P., Goody's IN, L.P., GFCTN, L.P., GFCEGA, L.P., Goody's Holding TN, LLC, Goody's TNDC, L.P., Goody's ARDC, L.P. and Goody's Retail MS, L.P.

1.2.47 “**Initial Distribution**” means the distribution of Cash or other property made pursuant to Section 7.2 of this Plan.

1.2.48 “**Liens**” means a lien as defined in section 101(37) of the Bankruptcy Code.

1.2.49 “**Liquidating Agent**” means the Person designated under this Plan to control and manage the Debtors after the Confirmation Date and to act as the disbursing agent for distributions being made to Creditors pursuant to the Plan.

1.2.50 "**Payment Date**" means the first Business Day concluding each six (6) month period after the date of the Initial Distribution until the Final Distribution Date; provided, however, the Liquidating Agent, in consultation with the Post-Effective Date Committee, may shorten or lengthen such periods following the Effective Date without Bankruptcy Court approval.

1.2.51 "**Person**" means a person as defined in Section 101(41) of the Bankruptcy Code.

1.2.52 "**Petition Date**" means January 13, 2009, the date on which the Debtors commenced the Bankruptcy Cases by filing their voluntary petitions for relief under Chapter 11 of the Bankruptcy Code.

1.2.53 "**PGDYS**" means PGDYS LLC.

1.2.54 "**PGDYS Lending**" means PGDYS Lending LLC.

1.2.55 "**Plan**" means this liquidating Chapter 11 plan (including all exhibits annexed hereto and the Plan Supplement), either in its present form or as it may be altered, amended or modified from time to time in accordance with the provisions of the Bankruptcy Code and the Bankruptcy Rules.

1.2.56 "**Plan Supplement**" means the collection of plan related documents to be filed with the Court at least 10 days prior to the Voting Deadline, which may consist of one or multiple filings.

1.2.57 "**Post-Confirmation Operating Account**" means the account to be utilized by the Debtors in order to pay for all costs of administering or collecting the Estate Assets.

1.2.58 "**Post-Effective Date Committee**" means the Committee as it shall be reconstituted and function after the Effective Date in accordance with Section 14.3 of this Plan.

1.2.59 "**Prentice**" means Prentice Capital Management, LP, the manager of PGDYS and PGDYS Lending.

1.2.60 "**Prentice Entities**" means, collectively, Prentice, PGDYS and PGDYS Lending.

1.2.61 "**Priority Claim**" means all or a portion of a Claim entitled to priority in payment under Section 507(a) of the Bankruptcy Code, excluding any Claim that is an Administrative Expense Claim or a Priority Tax Claim.

1.2.62 "**Priority Tax Claim**" means a Claim entitled to priority in payment under Section 502(i) or Section 507(a)(8) of the Bankruptcy Code.

1.2.63 “**Professional**” means any Person employed or to be compensated pursuant to Sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code, or employed pursuant to the terms of this Plan after the Effective Date.

1.2.64 “**Professional Claim**” means a Claim by a Professional for compensation and/or reimbursement of expenses pursuant to Sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code in connection with an application made to the Bankruptcy Court in the Bankruptcy Cases.

1.2.65 “**Pro Rata Share**” means, with respect to any distribution to a Class under this Plan, as of any particular Distribution Date, or the Final Distribution Date, proportionate sharing pursuant to which the ratio of the cumulative amount of all funds distributed on account of an Allowed Claim to the amount of such Allowed Claim is the same as the ratio of the cumulative amount distributed to such Class to the total amount of all Allowed Claims and Disputed Claims classified into such Class.

1.2.66 “**Record Date**” means, for purposes of voting on this Plan, the date on which the Bankruptcy Court approves the Disclosure Statement, and for purposes of making distributions under the Plan, the Confirmation Date.

1.2.67 “**Schedules**” means the Schedules of Assets and Liabilities and Statement of Financial Affairs filed by the Debtors with the clerk of the Bankruptcy Court pursuant to Bankruptcy Rule 1007, as they have been or may be amended or supplemented from time to time in accordance with Bankruptcy Rule 1009.

1.2.68 “**Secured Claim**” means a Claim that is secured (i) by a Lien that is valid, perfected and enforceable under the Bankruptcy Code or applicable non bankruptcy law or by reason of a Final Order; or (ii) as a result of rights of setoff under Section 553 of the Bankruptcy Code, but in any event only to the extent of the value, determined in accordance with Section 506(a) of the Bankruptcy Code, of the holder’s interest in the Estate’s interest in such property or to the extent of the amount subject to such setoff, as the case may be.

1.2.69 “**Settlement Agreement**” means that certain Term Sheet by and among the Plan Administrator for the Estates of Goody’s Family Clothing, Inc., et al. (collectively, the “Goody’s I Debtors”), Goody’s, LLC, and its affiliated Debtors and Debtors in possession (collectively, “Goody’s, LLC” or the Goody’s II Debtors”), Prentice Capital Management, LP, PGDYS LLC and PGDYS Lending LLC (collectively, the “Prentice Entities) and the Official Committee of Unsecured Creditors in the Goody’s II Debtor’s cases (for itself and as successor in interest to the Ad Hoc Committee), including the addendum thereto, a copy of which is attached as Exhibit 1 to the Settlement Order.

1.2.70 “**Settlement Order**” means the Order Approving and Authorizing the Settlement by and between the Debtors, the Plan Administrator for the Estates of Goody’s Family Clothing, Inc., et al., Prentice Capital Management, LP, PGDYs LLC and PGDYS Lending LLC, and the Committee, dated March 6, 2009, which appears as Docket No. 449 in the Bankruptcy Cases.

1.2.71 “**Unsecured Claim**” means any Claim that is not an Administrative Expense Claim, a Priority Claim, a Priority Tax Claim, a Secured Claim or an Equity Interest.

1.2.72 “**Voting Deadline**” means the deadline set by the Bankruptcy Court for parties to submit their ballots to accept or reject the Plan.

ARTICLE II

PROVISION FOR PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY TAX CLAIMS

2.1 **Treatment of Allowed Administrative Expense Claims.** Each holder of an Allowed Administrative Expense Claim shall receive in full satisfaction of and in exchange for such Claim (i) the unpaid amount of such Allowed Administrative Expense Claim, without interest, in Cash, on or as soon as practicable after the later of (a) the Effective Date, or (b) the date that is ten (10) Business Days after such Claim becomes an Allowed Administrative Expense Claim; or (ii) such other treatment as may be agreed upon in writing by the holder of such Claim and the Debtors, in consultation with the Committee or the Post-Effective Date Committee, as applicable.

2.1.1 **Bar Date for the Filing and Assertion of Administrative Expense Claims, Excluding Professional Claims.** Pursuant to the Plan and except as otherwise provided by separate order of the Bankruptcy Court, the date that is thirty (30) days after the Effective Date shall be the Administrative Expense Claim Bar Date for all parties to file with the Bankruptcy Court any requests for payment or any other means of preserving and obtaining payment of an Administrative Expense Claim to the extent such Claim (i) arose or was incurred on or before the Effective Date but after April 1, 2009 and (ii) has not been paid, released, or otherwise settled, excluding all requests for payment of Professional Claims. Any request for payment of an Administrative Expense Claim (other than a Professional Claim expressly excluded from the operation of the Administrative Expense Claim Bar Date) that is not timely filed as set forth above will be forever barred, and holders of such Claims will not be able to assert such Claims in any manner against the Debtors, the Estate, or the Liquidating Agent or any of the foregoing parties’ accountants, advisors, agents, attorneys, consultants, directors, employees, members, officers, representatives, or Professionals.

2.1.2 **Approval of Payments.** Except as otherwise provided herein, all payments made or to be made by the Debtors for costs and expenses for or in connection with the Bankruptcy Cases, or in connection with this Plan and incident to the Bankruptcy Cases, shall be subject to approval of the Bankruptcy Court as reasonable, following application and the opportunity for notice and a hearing.

2.1.3 **Bar Date for the Filing and Assertion of Professional Claims.** All requests for payment or any other means of preserving and obtaining payment of a Professional Claim that arose prior to the Effective Date and that were not already paid, released, or otherwise settled must be filed with the Bankruptcy Court and served upon counsel to the Debtors, counsel to the Post-Effective Date Committee, and the United States Trustee (and notice thereof must also be served on all parties who have requested notice in the Bankruptcy Cases) by no later than forty-five (45) days after the Effective Date, or such extended date as the Bankruptcy Court may allow. Any request for payment of a Professional Claim that is not timely filed as set forth above will be forever barred, and holders of such Claims will not be able to assert such Claims in any manner against the Debtors, the Estates or the Liquidating Agent. All compensation and reimbursement of expenses for Professionals allowed by the Bankruptcy Court shall be paid by the Debtors through the Liquidating Agent within ten (10) days after entry of the order allowing such fees and expenses on the docket of the Bankruptcy Court. All Professional fees and expenses incurred after the Effective Date of the Plan are not subject to Bankruptcy Court approval and shall be paid in accordance with Section 8.3.3 of this Plan.

2.2 **Treatment of Allowed Priority Tax Claims.** Each holder of an Allowed Priority Tax Claim shall receive in full satisfaction of and in exchange for such Claim (i) the amount of such Allowed Priority Tax Claim, without interest, in Cash, on or as soon as practicable after the later of (a) the Effective Date, or (b) the date that is ten (10) Business Days after such Claim becomes an Allowed Priority Tax Claim; or (ii) such other treatment as may be agreed upon in writing by the holder of such Claim, the Liquidating Agent, and the Post-Effective Date Committee.

ARTICLE III

CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

3.1 **Creation of Classes.** Subject to Article XII of the Plan, this Plan constitutes a single plan of reorganization for all Debtors. Pursuant to Sections 1122 and 1123 of the Bankruptcy Code, set forth below is a designation of Classes of Claims and Equity Interests. Administrative Expense Claims and Priority Tax Claims have not been classified and are excluded from the following classes in accordance with Section 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest is placed in a particular Class only to the extent that the Claim or Equity Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Equity Interest falls within the description of such other Classes. A Claim or Equity Interest is also placed in a particular Class for the purpose of receiving distributions pursuant to this Plan only to the extent that such Claim or Interest is an Allowed Claim or Equity Interest in that Class and such Claim or Equity Interest has not been

paid, released, or otherwise settled prior to the Effective Date. For purposes of organization, voting and all confirmation matters with respect to other Claims and Equity Interests, this Plan classifies the Claims against and the Equity Interests in the Debtors as follows:

Class	Status	Voting Rights
Class 1 - Allowed Priority Claims	Unimpaired	Deemed to accept the Plan; not entitled to vote
Class 2 - Allowed Secured Claims	Unimpaired	Deemed to accept the Plan; not entitled to vote
Class 3 - Allowed Unsecured Claims	Impaired	Entitled to vote
Class 4 - Equity Interests	Impaired	Deemed to reject the Plan; not entitled to vote

3.2 **Impaired Classes of Claims.** Other than the Classes listed as “Unimpaired” in Section 3.1 above, all other Classes are impaired under this Plan.

3.3 **Impairment Controversies.** If a controversy arises as to whether any Class of Claims or Class of Equity Interests is impaired under this Plan, such Class shall be treated as specified in this Plan unless the Bankruptcy Court shall determine such controversy differently upon motion of the party challenging the characterization of a particular Class of Claims or Class of Equity Interests under this Plan.

ARTICLE IV

PROVISIONS FOR TREATMENT OF CLASSES OF CLAIMS AND EQUITY INTERESTS

4.1 **Class 1 – Allowed Priority Claims.** Each holder of an Allowed Priority Claim shall receive in full satisfaction of and in exchange for such Claim (i) the amount of such Allowed Priority Claim, without interest, in Cash, on or as soon as practicable after the later of (a) the Effective Date, or (b) the date that is ten (10) Business Days after such Claim becomes an Allowed Priority Claim; or (ii) such other treatment as may be agreed upon in writing by the holder of such Claim and the Debtors, in consultation with the Committee.

4.2 **Class 2 – Allowed Secured Claims.** Each holder of an Allowed Secured Claim shall receive in full satisfaction of and in exchange for such Claim either (i) Cash equal to the amount of such Allowed Secured Claim or such other amount as may be agreed upon by the Debtors as the holder of such claim on or as soon as practicable after the later of (a) the Effective Date, or (b) the date that is ten (10) Business Days after such Claim becomes an Allowed Secured Claim, and all Liens and security interests asserted by the holder of such Allowed Secured Claim shall be extinguished and of no further force or effect, or (ii) a return of the collateral or other property that secures the Allowed Secured Claim, on or as soon as practicable after the later of (a) the Effective Date, or (b) the date that is ten (10) Business Days after such Claim becomes an Allowed Secured Claim.

4.3 **Class 3 – Allowed Unsecured Claims.** Holders of Allowed Unsecured Claims shall receive in full satisfaction of and in exchange for such Claims, their Pro Rata Share of any Cash distribution from the Estate Assets to holders of Allowed Unsecured Claims. The timing and nature of the distributions to be made to the holders of Allowed Unsecured Claims shall be governed by Article VII of this Plan.

4.4 **Class 4 – Equity Interests.** On the Effective Date, all Equity Interests of the Debtors shall be canceled, annulled and voided, and holders thereof shall be entitled to no distribution whatsoever under this Plan or in the Bankruptcy Cases on account of such Equity Interests.

ARTICLE V

ACCEPTANCE OR REJECTION OF PLAN; CRAMDOWN

5.1 **Classes and Claims Entitled to Vote.** Each holder of an Allowed Claim in an impaired Class of Claims as of the Record Date shall be entitled to vote separately to accept or reject this Plan as provided for in the order entered by the Bankruptcy Court establishing certain procedures with respect to the solicitation and tabulation of votes to accept or reject this Plan (a copy of which was distributed together with the Disclosure Statement). Classes of Claims not impaired under this Plan shall not be entitled to vote to accept or reject this Plan and shall be presumed to have accepted this Plan pursuant to Section 1126(f) of the Bankruptcy Code. Classes 1 and 2 are not impaired and hence are presumed to have accepted this Plan. Class 3 is impaired and the members of such Class will receive property under this Plan and therefore are entitled to vote to accept or reject this Plan. Class 4 is impaired under this Plan, and the members of such Class will not receive or retain any property under this Plan or the Bankruptcy Cases on account of their Equity Interests. Accordingly, the members of Class 4 are presumed to have rejected this Plan under Section 1126(g), and shall not be entitled to vote.

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

5.3 **Non-consensual Confirmation.** If any impaired Class of Claims entitled to vote shall not accept the Plan by the requisite majorities provided in Section 1126(c) of the Bankruptcy Code, the Debtors reserve the right to amend the Plan or undertake to have the Bankruptcy Court confirm the Plan under Section 1129(b) of the Bankruptcy Code or both. With respect to impaired Classes of Claims that are deemed to reject the Plan or that reject the Plan, the Debtors shall request the Bankruptcy Court to confirm the Plan under Section 1129(b) of the Bankruptcy Code.

ARTICLE VI

PROVISIONS FOR THE RESOLUTION OF OBJECTIONS TO CLAIMS AND EQUITY INTERESTS

6.1 **Objections to Claims.** Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, and except as otherwise expressly provided for in this Plan, following the Effective Date, the Debtors through the Liquidating Agent shall be authorized, and vested with the exclusive right, to object to any and all Claims, and initiate, file and/or prosecute such objections on behalf of the Debtors and their Estates so as to have the Bankruptcy Court determine the Allowed amount, if any, of such Claims to be paid under this Plan. All objections to Claims must be filed with the Bankruptcy Court and served upon the holder of the Claim, and all parties who have requested notice in the Bankruptcy Cases, by no later than one hundred twenty (120) days after the Effective Date, or, to the extent applicable, the date set forth in Section 9.1.2, or such other date set by order of the Bankruptcy Court upon the motion of the Liquidating Agent, on behalf of the post-confirmation Debtors, with the consent of the Post-Effective Date Committee, without notice and a hearing. Responses and litigation over the allowance of any Claim that is the subject of an objection shall be governed by the Bankruptcy Code and the Bankruptcy Rules, and any other applicable order of the Bankruptcy Court. From and after the Effective Date, all objections shall be litigated to Final Order except to the extent that the Liquidating Agent elects, with the consent of the Post-Effective Date Committee, to withdraw such objection or elects to compromise, settle or otherwise resolve any such objection, in which event (A) as to Unsecured Claims, if (i) the amount of such Claim, as set forth in the Schedules and any applicable proof of claim, is \$50,000 or less, the Liquidating Agent may settle the objection to such claim without notice to any other party or order of the Bankruptcy Court, (ii) the amount of such Claim as set forth in the Schedules or any applicable proof of claim is greater than \$50,000 and less than \$250,000, the Liquidating Agent may settle the objection to such Claim for an amount within \$25,000 of the amount of such Claim set forth in the Schedules without notice to any other party or order of the Bankruptcy Court, or (iii) the amount of such Claim as set forth in the Schedules or any applicable proof of claim is \$250,000 or more the Liquidating Agent may settle the objection to such Claim for an amount within \$50,000 of the amount of such Claim set forth in the Schedules without notice to any other party or order of the Bankruptcy Court, or (iv) the settlement amount is any amount other than an amount described in clauses (i) through (iii) of this Section 6.1, the Liquidating Agent may settle the objection to such Claim upon the entry of an order of the Bankruptcy Court approving such settlement after notice and an opportunity to be heard (as that term is used in Section 102(1) of the Bankruptcy Code), and (B) as to Administrative Expense Claims, Priority Claims, Priority Tax Claims, and Secured Claims, if (i) the settlement amount is \$50,000 or less, the Liquidating Agent may settle the objection to such claim without notice to any party or order of the Bankruptcy Court, or (ii) the settlement amount is greater than \$50,000, the Liquidating Agent may settle the objection to such claim upon the entry of an order of the Bankruptcy Court approving such settlement after notice and an opportunity to be heard (as that term is used in Section 102(1) of the Bankruptcy Code). Any proposed withdrawal, compromise, settlement or other resolution by the Liquidating Agent of any objection to a Claim or an Administrative Expense Claim shall be made only with the approval of the Post-Effective Date Committee of any such proposed withdrawal, compromise, settlement or other resolution.

6.2 **Claims Filed After the Confirmation Date.** No Claim that was required to be filed by the Bar Date or the Administrative Expense Claims Bar Date (as the case may be) shall be filed with the Bankruptcy Court after such applicable Bar Date or Administrative Expense Claim Bar Date. Any Claim that was required to be filed by the Bar Date or the Administrative Expense Claims Bar Date (as the case may be) that is instead filed after such applicable Bar Date or Administrative Expense Claim Bar Date shall be deemed disallowed without further action or order of the Bankruptcy Court or the Debtors.

**ARTICLE VII
FUNDING OF DISTRIBUTIONS AND PROVISIONS
FOR TREATMENT OF DISPUTED CLAIMS**

7.1 **Liquidation of Assets.** On and after the Effective Date, the Debtors, through the Liquidating Agent, may, without further approval of the Bankruptcy Court, use, sell, assign, transfer, abandon or otherwise dispose of at a public or private sale any of the Debtors' remaining tangible or intangible assets for the purpose of liquidating and converting such assets to Cash, making distributions and fully consummating this Plan. Any proposed use, sale, assignment, transfer, abandonment, or other disposition by the Liquidating Agent of any of the Debtors' remaining tangible or intangible assets shall be made in consultation with the Post-Effective Date Committee of any such proposed use, sale, assignment, transfer, abandonment or other disposition.

7.2 **The Initial Distribution.** Except as otherwise provided herein or by order of the Bankruptcy Court, distributions to be made on the Effective Date on account of Claims that are Allowed as of the Effective Date and are entitled to receive distributions under the Plan shall be made on the Effective Date or as promptly thereafter as practicable. For purposes of calculating a Pro Rata Share, the amount of the total Allowed Claims in each Class shall be calculated as if all unresolved Disputed Claims in each Class were Allowed in the full amount thereof. On the Effective Date, or as soon thereafter as is practicable, the Liquidating Agent, on behalf of the Debtors, shall pay, in full and in Cash, (a) all Allowed Administrative Expense Claims, including, without limitation, the Allowed Administrative Expense Claim described in section 4.3 of this Plan, (b) all Allowed Priority Tax Claims, (c) all Allowed Priority Claims that are to be satisfied pursuant to Section 4.1(i) of this Plan, and (d) all Allowed Secured Claims that are to be satisfied pursuant to Section 4.2(i) of this Plan. The Debtors shall provide to each holder of an Allowed Secured Claim that is being treated in accordance with Section 4.2(ii) of this Plan, the property securing such Allowed Secured Claim. After payment of the amounts set forth in section 7.2 above and the establishment and funding of the Post-Confirmation Operating Account and the Disputed APS Claims Reserve in accordance with section 7.3 of this Plan, the Liquidating Agent, on behalf of the Debtors, may pay holders of Unsecured Claims whose Claims are Allowed as of the Effective Date their Pro Rata share of the amount deposited into the Distribution Reserve. After giving effect to the Cash distributions described in this Section 7.2, the Liquidating Agent shall deposit all remaining Cash in its possession, custody or control in the reserves and accounts established by this Plan, as described in Section 7.3 below.

7.3 **Establishment of Accounts and Reserves.** Before the Effective Date, the Debtors shall establish the Post-Confirmation Operating Account, the Disputed APS Claims Reserve, the Disputed Unsecured Claims Reserve, and the Distribution Reserve, all of which shall be interest bearing accounts. Prior to the Effective Date, the Debtors shall fund (i) the Disputed APS Claims Reserve with Cash in an amount sufficient to pay the full amount of all Disputed Administrative Expense Claims, all Disputed Priority Tax Claims, all Disputed Priority Claims, all Disputed Secured Claims, and all estimated unpaid Professional Claims; and (ii) the Post-Confirmation Operating Account with Cash in an amount sufficient to pay for the estimate of all costs of administration of the Estate Assets. On the Effective Date, after funding the Disputed APS Claims Reserve and the Post-Confirmation Operating Account and after making or providing for the Initial Distribution, the Debtors shall (a) deposit any Available Cash into (x) the Distribution Reserve in an amount sufficient to pay the holders of Allowed Unsecured Claims their respective Pro Rata Share of Available Cash and (y) the Disputed Unsecured Claims Reserve with Cash in an amount sufficient to pay the Pro Rata Share of all Disputed Unsecured Claims as if they were Allowed Unsecured Claims, in the lesser of (a) the amount claimed in the filed proof of claim by the holder of such Disputed Claim, or (b) the estimated amount of such Claim, as determined by order of the Bankruptcy Court. To the extent a Debtor determines to pay an undisputed, Allowed portion of any Disputed Claim of the type described above, the Debtor shall be allowed to reduce the amount reserved for that Claim in the appropriate account. All accounts established and reserves funded by the Debtors pursuant to this Plan shall be established, funded and managed, as applicable, by the Liquidating Agent in each case for and on behalf of each applicable Debtor. Upon request of the Post-Effective Date Committee, the Liquidating Agent shall provide a summary and accounting of the funds in each account and reserve established pursuant to this Section 7.3.

Thereafter, as and when Estate Assets are liquidated and reduced to Cash, the Debtors through the Liquidating Agent shall add to the Post-Confirmation Operating Account in sufficient amounts such that the aggregate amount in the Post-Confirmation Operating Account is sufficient to pay all costs of administering or collecting the Estate Assets. Any cash remaining after so funding the Post-Confirmation Operating Account shall be added (i) to the Distribution Reserve and (ii) to the Disputed Unsecured Claims Reserve in an amount sufficient to pay the Pro Rata Share of all Disputed Unsecured Claims as if they were Allowed Unsecured Claims, in the lesser of (a) the amount claimed in the filed proof of claim by the holder of such Disputed Claim, or (b) the estimated amount of such Claim, as determined by order of the Bankruptcy Court.

7.4 **Disbursing Agent.** The Liquidating Agent shall make all distributions and payments provided under this Plan for and on behalf of each applicable Debtor. Notwithstanding anything in this Plan to the contrary, except as otherwise provided in Section 14.3 of this Plan, the Liquidating Agent shall make no distribution or payment provided for in this Plan under Sections 7.2, 7.5, 7.5.2, 7.5.3, or 7.6 without the prior approval of the Post-Effective Date Committee of any such proposed distribution or payment.

7.5 Subsequent Distributions; Source and Deposit of Funds for Subsequent Distributions. It is anticipated that after the Effective Date, each Debtor through the Liquidating Agent will reduce to Cash the non-Cash assets still belonging to it or its Estate, subject to the limitations of Sections 7.1, 14.2, and 14.2.1 hereof. In addition, as Disputed Claims become Disallowed Claims or are only partially Allowed, some funds held on reserve on account thereof may then be distributed to holders of Allowed Unsecured Claims. Accordingly, as those events occur, such proceeds shall first be used to replenish the Post-Confirmation Operating Account, to the extent more funds are needed for the operations of administering the Estate Assets, in the reasonable judgment of the Liquidating Agent after consultation with the Post-Effective Date Committee. Thereafter, proceeds shall be placed in the Distribution Reserve for subsequent distributions in accordance with this Plan.

7.5.2 Timing of Subsequent Distributions. Following the Initial Distribution, on each Payment Date, as appropriate, or on the Final Distribution Date, the Liquidating Agent shall pay each holder of an Allowed Unsecured Claim its Pro Rata share of the amounts in the Distribution Reserve, with the amount of such Allowed Unsecured Claims and Available Cash calculated as of the date that is fifteen (15) Business Days prior to such Payment Date. Distributions in accordance with this section shall continue until the Final Distribution Date. The Liquidating Agent, in consultation with the Post-Confirmation Committee, reserves the right to determine when and if to make a subsequent distribution under the Plan.

7.5.3 Timing of Final Distribution. The Final Distribution shall have occurred when, after giving effect to a distribution of Available Cash, there are remaining Estate Assets with a de minimis value and the Liquidating Agent and the Post-Confirmation Committee determine, or the Bankruptcy Court otherwise orders after notice and a hearing, that such distribution is the final distribution to Claimants under the Plan.

7.6 Distributions on Account of Disputed Claims. Notwithstanding any provision in the Plan or Confirmation Order to the contrary, except as otherwise agreed to by the Liquidating Agent in consultation with the Post-Confirmation Committee, or as otherwise ordered by the Bankruptcy Court, no partial payments and no partial distributions shall be made with respect to a Disputed Claim until the resolution of such disputes by settlement or Final Order. A Disputed Claim, to the extent it becomes an Allowed Claim for distribution purposes, shall be paid on the first applicable Payment Date after such claim becomes an Allowed Claim in the same manner as all other Allowed Claims of the same Class. Notwithstanding the foregoing, any Person who holds both an Allowed Claim(s) and a Disputed Claim(s) shall receive the appropriate payment or distribution on the Allowed Claim(s), although, except as otherwise agreed by the Liquidating Agent in consultation with the Post-Effective Date Committee, no payment or distribution shall be made on the Disputed Claim(s) until such dispute is resolved by settlement or Final Order.

7.7 Disputed Payments or Distributions. In the event of any dispute between or among Claimants as to the right of any Person to receive or retain any distribution to be made to such Claimant under this Plan, the Liquidating Agent may, in lieu of making such distribution to such entity, make it instead into an escrow for payment or distribution as ordered by the Bankruptcy Court or as the interested parties to such dispute may otherwise agree in writing among themselves.

7.8 **Estimation.** The Debtors or the Liquidating Agent, may, at any time, request that the Bankruptcy Court estimate any Disputed Claim, which is a contingent and/or unliquidated Claim, pursuant to Section 502(c) of the Bankruptcy Code regardless of whether the applicable Debtor has previously objected to such Claim, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time, including, without limitation, during litigation concerning any objection to such Claim. In the event that the Bankruptcy Court estimates any Disputed Claim, that estimated amount may constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors or the Liquidating Agent may elect to pursue any supplemental proceedings to object to any ultimate payment of such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another. On and after the Confirmation Date, Claims which have been estimated subsequently may be compromised, settled, withdrawn or otherwise resolved as provided in Section 7.1 of this Plan.

7.9 **Investment of Disputed Claims Reserve.** The Debtors through the Liquidating Agent shall be permitted, from time to time, to invest all or a portion of the Cash in the Disputed Claims Reserve in United States Treasury Bills, interest-bearing certificates of deposit, tax exempt securities, money market accounts or investments permitted by Section 345 of the Bankruptcy Code or otherwise as authorized by the Bankruptcy Court, using prudent efforts to enhance the rates of interest earned on such Cash without inordinate credit risk or interest rate risk. All interest earned on such Cash shall be held in the Disputed Claims Reserve and, after satisfaction of any expenses incurred in connection with the maintenance of such Disputed Claims Reserves, including taxes payable on such interest income, if any, shall be transferred out of such Disputed Claims Reserves and, in the discretion of the Liquidating Agent and the Post-Effective Date Committee, be used to satisfy the costs of administering and fully consummating this Plan or become Available Cash for distribution in accordance with this Plan.

7.10 **Minimum Distribution.** Notwithstanding anything to the contrary in this Plan, the Liquidating Agent shall not be required to make distribution of less than \$50.00 to any Claimant unless either a request therefor is made in writing to the Debtors by the Claimant with respect to such Claim or the Liquidating Agent after consultation with the Post-Effective Date Committee so determines to make such payment in its sole and absolute discretion.

7.11 **Undeliverable Distributions.** If any distribution to a Claimant is returned as undeliverable, no further distributions shall be made to such Claimant unless and until the Debtors are notified in writing of such Claimant's then-current address. Undeliverable distributions made by the Liquidating Agent and any other unclaimed distributions shall be returned to the Debtors and shall remain in the possession of the Debtors pursuant to this Section until such time as a distribution becomes deliverable. Any unclaimed distributions pursuant to this section shall be Available Cash for distribution as part of the Final Distribution. The Debtors shall have no obligation to attempt to locate any Claimant with regard to whom a distribution has been returned as undeliverable, forwarding time expired or similar indication. Undeliverable distributions shall not be entitled to any interest, dividends or other accruals of any kind. If the Liquidating Agent, in consultation with the Post-Effective Date Committee, determines that there are de minimis undistributed funds held in any of the reserves, such de minimis funds may be donated to a charity selected by the Post-Effective Date Committee. De

minimis undistributed funds shall mean an amount less than \$10,000 or such greater amount as may be approved by the Bankruptcy Court prior to the entry of a final decree.

7.12 **Setoff.** In accordance with this Plan, Section 553 of the Bankruptcy Code and applicable non-bankruptcy law, the Debtors may, but shall not be required to, set off against any Claim, and the distributions to be made pursuant to this Plan with respect to such Claim, claims of any nature whatsoever that the Debtors or the Estate may have against the holder of such Claim. Notwithstanding the foregoing, the failure to effect such a setoff or the allowance of any claim hereunder will not constitute a waiver or release by the Debtors or the Estates of any such claim, right or cause of action against such holder.

7.13 **Distributions Paid to Holders of Record.** Subject to section 6.3 of this Plan, all distributions to be made pursuant to this Plan with respect to Claims of any nature whatsoever may be made by the Liquidating Agent to the holder of record as of the Record Date. To the extent that any Claims are transferred, assigned or alienated in any way after the Record Date, the Liquidating Agent, on behalf of the Debtors, has the right, in its sole discretion, to ignore and disregard such transfer or assignment and to make the distribution to the holder of record of such Claim as of the Record Date.

7.14 **Distributions in Cash.** At the applicable Debtor's option, any Cash payment to be made by the Liquidating Agent pursuant to this Plan may be made by check drawn on a domestic bank or by wire transfer.

ARTICLE VIII IMPLEMENTATION AND MEANS OF CONSUMMATING THIS PLAN

8.1 **Limited Survival and Ultimate Dissolution of Corporate Entities.** From and after the Confirmation Date, the Debtors shall continue in existence pursuant to the terms of this Plan for the purposes of (i) winding up their affairs as expeditiously as reasonably possible, (ii) liquidating, by converting to Cash or other methods, any remaining Estate Assets, as expeditiously as reasonably possible, (iii) enforcing and prosecuting claims, interests, rights and privileges of the Debtors, including, without limitation, the prosecution of Estate Actions in conjunction with the marshaling of the Debtors' assets, (iv) resolving Disputed Claims, (v) administering this Plan and (vi) filing appropriate tax returns.

8.1.1 **Shareholder, Officer and Director of the Debtors.** All officers and directors of the Debtors serving immediately prior to the Effective Date shall be deemed to have been terminated as of the Effective Date. From and after the Effective Date, the Liquidating Agent shall be deemed the sole shareholder and shall be appointed as the sole director and officer of each Debtor (and all bylaws, articles or certificates of incorporation, and related corporate documents are deemed amended by this Plan to permit and authorize such appointment) and shall serve in such capacity through the earlier of the date the applicable Debtor is dissolved in accordance with this Plan and the date such Liquidating Agent resigns, is terminated or otherwise unable to serve; provided, however, that, any successor Liquidating Agent appointed pursuant to Section 8.3.5 of this Plan, shall serve in such capacities after the effective date of such persons appointment as Liquidating Agent.

8.1.2 **Corporate Governance.** All corporate governance activities of the Debtors shall be exercised by the Liquidating Agent, subject to the terms of this Plan. Once the Liquidating Agent, in consultation with the Post-Effective Date Committee, determines that the Final Distribution Date is approaching or has passed, the Debtors, shall be dissolved, without any further action by the stockholders or directors of the Debtors, upon the filing by the Liquidating Agent of a certification to that effect with the Bankruptcy Court. The Liquidating Agent shall file a certificate of dissolution of the Debtors and shall take all other actions necessary or appropriate to effect the dissolution of the Debtor under the laws of the state where each Debtor is incorporated, and under the laws of any other jurisdiction where formal dissolution or other steps are required. All applicable regulatory or governmental agencies shall take all steps necessary to allow and effect the prompt dissolution of the Debtors as provided herein, without the payment of any fee, tax, or charge and without need for the filing of reports or certificates.

8.2 **Governance of Estate Assets.** The Estate Assets will be managed by the Debtors, through the Liquidating Agent, subject to the provisions of this Plan and the Confirmation Order.

8.3 **The Debtors and the Liquidating Agent.** Each Debtor, through the Liquidating Agent, will be the exclusive trustee of its Estate Assets for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code. David Peek shall serve as the Liquidating Agent for the Debtors. The Liquidating Agent shall be compensated from the Estate Assets in an amount as specified in Section 8.3.3 of this Plan. Removal of the Liquidating Agent shall be governed according to Section 8.3.4 of this Plan.

8.3.1 **Responsibilities.** Except as otherwise specifically provided by this Plan or pursuant to Order of the Bankruptcy Court, the responsibilities of the Liquidating Agent shall include (i) the receipt, management, supervision, and protection of the Estate Assets for the benefit of the beneficiaries of the Estate Assets; (ii) the investigation, pursuit, initiation, commencement, filing, prosecution and/or enforcement, and if necessary and appropriate, compromise of the objections to, estimations and settlements of Disputed Claims; (iii) the investigation, pursuit, initiation, commencement, filing, prosecution and/or enforcement, and if necessary and appropriate, compromise of the claims and causes of action included among the Estate Assets, but excluding Avoidance Actions; (iv) calculation, implementation, and making of all distributions to be made under this Plan to holders of Allowed Claims; (v) marketing, selling, leasing, or otherwise disposing of all of the Estate Assets, if any; (vi) filing all required tax returns and paying taxes and all other obligations of the Debtors; (vii) filing all operating reports and paying all fees required by 28 U.S.C. § 1930; and (viii) such other responsibilities as may be vested in the Debtors pursuant to this Plan and orders of the Bankruptcy Court, or as may be necessary and proper to carry out the provisions of this Plan.

8.3.2 **Powers.** Except as otherwise specifically provided by this Plan or pursuant to Order of the Bankruptcy Court, the powers vested in the Debtors and the Liquidating Agent under this Plan shall include, subject to consultation with the Post-Effective Date Committee as provided in this Plan, the power to (i) invest funds; (ii)

make distributions provided for in this plan; (iii) pay taxes and other obligations owed by or from the Estate Assets or incurred by the Debtors; (iv) engage and compensate from the Estate Assets, consultants, agents, employees, attorneys and professional persons to assist the Liquidating Agent or the Debtors with respect to the Debtors' or Liquidating Agent's responsibilities; (v) retain and compensate from the Estate Assets, the services of experienced auctioneers, brokers, and/or marketing agents to assist and/or advise in the sale or other disposition of the Estate Assets; (vi) liquidate and dispose of the Estate Assets; (vii) compromise and settle Claims and Estate Actions; (viii) investigate, pursue, initiate, commence, file, prosecute and/or enforce, and if necessary and appropriate, compromise all adversary proceedings and contested matters (the Estate Actions but excluding the Avoidance Actions) pending in the Bankruptcy Court and in all actions and proceedings pending elsewhere; (ix) in consultation with the Post-Effective Date Committee utilize Estate Assets to purchase appropriate insurance to insure the acts and omissions of the Liquidating Agent, or to insure other Estate Assets; and (x) implement this Plan and orders of the Bankruptcy Court. The Debtors and the Liquidating Agent shall exercise such powers in accordance with the provisions of this Plan. Without limiting the foregoing, the Liquidating Agent shall have the authority and power, in consultation with the Post-Effective Date Committee, to retain and compensate any former employee, officer and/or director of the Debtors to assist the Liquidating Agent with respect to its responsibilities under this Plan.

8.3.3 Compensation of Liquidating Agent and Related Professionals. After the Effective Date, in addition to reimbursement for the actual, reasonable and necessary expenses incurred, the Liquidating Agent, and any employees, agents, consultants, financial advisors, attorneys, accountants or Professionals engaged or retained by the Liquidating Agent, the Post-Effective Date Committee, or the Debtors shall be entitled to reasonable compensation from the Estate Assets to perform the duties of the Liquidating Agent, the Debtors or the Post-Effective Date Committee, as the case may be. The fees for the Liquidating Agent, unless modified after the Effective Date by order of the Bankruptcy Court shall be paid, without further order of the Bankruptcy Court, at the rate of \$[] per hour for services performed by David Peek. The fees and expenses of any Professionals employed by the Liquidating Agent, the Debtors, or the Post-Effective Date Committee shall be subject to the approval of the Liquidating Agent upon receipt of a detailed invoice, copies of which shall be provided contemporaneously to the Liquidating Agent and the Post-Effective Date Committee. Unless a party entitled to receive notice as set forth above files an objection with the Bankruptcy Court within fifteen (15) days of the receipt of such notice, the Liquidating Agent shall be fully authorized without an order of the Bankruptcy Court to pay, on a monthly basis, one hundred percent (100%) of the reasonable fees and one hundred percent (100%) of the reasonable expenses incurred by the Professionals retained by the Debtor, the Post-Effective Date Committee and Liquidating Agent. If an objection is filed, then the Liquidating Agent shall still be fully authorized without an order of the Bankruptcy Court to pay, on a monthly basis, one hundred percent (100%) of the fees and one hundred percent (100%) of the expenses incurred by the Professionals that are not the subject of an objection. The Disputed portion of such invoice shall not be paid until the dispute is resolved; the undisputed portion shall be paid as otherwise provided in this section 8.3.3.

The Bankruptcy Court shall retain jurisdiction over any objections to such fees and expenses that are filed.

8.3.4 **Removal of Liquidating Agent.** Only the Post-Effective Date Committee has standing to remove the Liquidating Agent or any successor Liquidating Agent appointed pursuant to this Plan upon filing a notice of such removal with the Bankruptcy Court and serving a copy upon the Liquidating Agent and its counsel. Removal of the Liquidating Agent shall require the consent of a majority of the members of the Post-Effective Date Committee and Bankruptcy Court approval.

8.3.5 **Successor Liquidating Agent.** In the event that the Liquidating Agent resigns or otherwise ceases to serve as Liquidating Agent, the Liquidating Agent shall, in consultation with the Post-Effective Date Committee, select a proposed successor Liquidating Agent within five (5) Business Days or as soon thereafter as practicable following such resignation or cessation of service by the incumbent Liquidating Agent. Notice of any Successor Liquidating Agent shall be filed with the Bankruptcy Court and shall be effective upon the issuance of such notice. Any successor Liquidating Agent shall be subject to the same qualifications and shall have the same rights, powers, duties and discretion, and otherwise be in the same position, as the originally named Liquidating Agent. Wherever reference is made in this Plan to the Liquidating Agent, the same shall be deemed to refer to the successor Liquidating Agent acting hereunder.

8.3.6 **Termination.** The duties, responsibilities and powers of the Liquidating Agent shall terminate after all causes of action involving the Debtors on behalf of the Estate Assets are fully resolved or waived and all the Estate Assets have been distributed on the Final Distribution Date in accordance with this Plan and a Final Decree has been entered closing the Bankruptcy Cases. The Estate Assets shall be distributed no later than five (5) years from the Effective Date. However, if warranted by the facts and circumstances provided for in this Plan, and subject to the approval of the Bankruptcy Court upon a finding that an extension is necessary for the purpose of distributing Estate Assets, the term for distributing Estate Assets may be extended for a finite period based on the particular circumstances at issue. Each such extension must be approved by the Bankruptcy Court within six (6) months of the beginning of the extended term, after notice and a hearing.

8.3.7 **Records.** The Debtors and the Liquidating Agent shall maintain good and sufficient books and records of account relating to the Estate Assets, the Available Cash, the management thereof, all transactions undertaken by such parties, all expenses incurred by or on behalf of the Estate Assets, and all distributions contemplated or effectuated under this Plan. Upon the entry of a Final Decree closing the Chapter 11 case, the Debtors and Liquidating Agent may destroy or otherwise dispose of all records maintained by the Debtors and/or Liquidating Agent.

8.4 **Transfer of Estate Assets.** The transfer and assignment of any Estate Assets shall be made pursuant to the terms of this Plan and, accordingly, to the fullest extent permitted by law, shall be exempt from all stamp taxes and similar taxes within the meaning of Section 1146(c) of the Bankruptcy Code.

8.5 **Substantive Consolidation.** Entry of the Confirmation Order shall constitute the approval, pursuant to Section 105(a) of the Bankruptcy Code, effective as of the Effective Date, of the substantive consolidation of the Debtors solely for purposes of voting on, confirmation of, and distributions under the Plan. This Plan does not contemplate the substantive consolidation of the Debtors for any other purpose. On and after the Effective Date, (i) all guaranties of any Debtor of the payment, performance, or collection of another Debtor shall be deemed eliminated and cancelled, (ii) any obligation of one of the Debtors and all guarantees with respect thereto executed by the other Debtor shall be treated as a single obligation and any obligation of both Debtors, and all multiple Claims against such entities on account of such joint obligations shall be treated and Allowed only as a single Claim against the consolidated Debtors, (iii) each Claim filed or to be filed against any Debtor shall be deemed filed against the consolidated Debtors and shall be deemed a single Claim against and a single obligation of the consolidated Debtors, and (iv) no distributions shall be made under the Plan on account of the Claims of one Debtor against the other Debtor. On the Effective Date, and in accordance with the terms of this Plan and the consolidation of the assets and liabilities of the Debtors, all Claims based upon guarantees of collection, payment, or performance made by one Debtor as to the obligations of another Debtor shall be released and of no further force and effect. Except as set forth in this Section 8.6, such substantive consolidation shall not (other than for purposes related to this Plan) (i) affect the legal or corporate structures of the Debtors, (ii) cause any Debtor to be liable for any Claim under this Plan for which it otherwise is not liable, and the liability for any such Claim shall not be affected by such substantive consolidation, (iii) affect any obligations under the Asset Purchase Agreements, or (iv) affect any obligations to pay quarterly fees to the United States Trustee.

8.6 **Closing of the Bankruptcy Cases.** When all Disputed Claims filed against the Debtors have become Allowed Claims or have been disallowed by Final Order, and all remaining assets of the Debtors have been liquidated and converted into Cash (other than those assets abandoned by the Debtors), and such Cash has been distributed in accordance with this Plan, or at such earlier time as the Debtors and Post-Effective Date Committee deem appropriate, the Debtors or the Liquidating Agent shall seek authority from the Bankruptcy Court to close the Bankruptcy Cases in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules of the Bankruptcy Court.

ARTICLE IX

EXECUTORY CONTRACTS

9.1 **Rejection.** Effective on and as of the Effective Date, all Executory Contracts that exist between a Debtor and any Person and that have not previously been assumed and assigned or rejected by the Debtors will be deemed rejected pursuant to Section 365 of the Bankruptcy Code. Entry of the Confirmation Order shall constitute approval, pursuant to Section 365(a) of the Bankruptcy Code, of the rejection of executory contracts rejected pursuant to this Plan.

9.1.1 **Claims for Rejection Damages.** Proofs of Claim for damages allegedly arising from the rejection pursuant to this Plan or the Confirmation Order of any Executory Contract must be filed with the Bankruptcy Court and served on the Liquidating Agent and Post-Effective Date Committee not later than thirty (30) days after the Effective Date. All proofs of Claim for such damages not timely filed and properly served as prescribed herein shall be forever barred and the holder of such a Claim shall not be entitled to participate in any distribution under this Plan.

9.1.2 **Objections to Proofs of Claim Based On Rejection Damages.** The objection to any such proof of Claim shall be filed not later than One Hundred and Twenty (120) days after the later of (a) the date that such proof of Claim is filed, (b) the Effective Date, or (c) such other date as the Bankruptcy Court may so order.

ARTICLE X

CONDITIONS PRECEDENT

10.1 **Conditions Precedent to the Effective Date.** The following are conditions precedent to the Effective Date of this Plan, unless waived in writing by the Debtors and the Committee:

- (a) The Bankruptcy Court has entered the Confirmation Order
- (b) The Disputed APS Claims Reserve and the Post-Confirmation Operating Account have been funded in accordance with Article 7 of this Plan; and
- (c) No stay of the Confirmation Order is in effect.

10.2 **Conditions Precedent to Consummation.** This Plan shall not become effective and operative unless and until the Effective Date occurs. In the event that one or more of the conditions specified in Section 10.1 of the Plan have not been waived pursuant to Section 10.1 of this Plan or have not occurred on or before 60 days after the Confirmation Date, (a) the Confirmation Order may, upon the request of the Debtors, be vacated, (b) no distributions under the Plan shall be made, (c) the Debtors and all holders of Claims and Equity Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date never occurred and (d) the Debtors' obligations with respect to Claims and Equity Interests shall remain unchanged and nothing contained herein shall constitute or be deemed a waiver or release of any Claims or Equity Interests by or against the Debtors or any other Person or to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors.

ARTICLE XI

EFFECTS OF PLAN CONFIRMATION

11.1 **Satisfaction of Claims.** The treatment of and consideration to be received by holders of Allowed Claims pursuant to this Plan shall be in full satisfaction of such holders'

respective Claims against the Estates. Notwithstanding the foregoing, unless an Estate Action is expressly waived, relinquished, exculpated, released, compromised or settled in this Plan or another Final Order of the Bankruptcy Court, all Estate Actions are expressly reserved for later adjudication and therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches shall apply to such Estate Actions upon or after the confirmation or consummation of the Plan, and the Debtors, through the Liquidating Agent in consultation with the Post-Effective Date Committee, retain the exclusive right to enforce any and all present and future rights, claims or causes of action against any Person consistent with Section 14.2 of this Plan.

11.2 **Injunction.** From and after the Effective Date all Persons that have held, currently hold or may hold a Claim or other debt or liability against any of the Debtors or their Estates, or who have held, currently hold or may hold an Equity Interest in the Debtors, are permanently enjoined from taking any of the following actions (whether directly, indirectly, derivatively or otherwise) on account of such Claim or Equity Interest: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind against or affecting the Debtors, the Estates, the Liquidating Agent, the Committee or the Post-Effective Date Committee with respect to any property to be distributed under this Plan including funds or reserves held or maintained by any of them pursuant to this Plan; (ii) enforcing, levying, attaching, collecting, or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree, or order against any of the Debtors, the Estates or the Liquidating Agent, Committee and Post-Effective Date Committee with respect to any property to be distributed under this Plan, including funds or reserves held or maintained by any of them pursuant to this Plan; (iii) creating, perfecting or enforcing in any manner directly or indirectly, any lien, charge or encumbrance of any kind against the Debtors, the Estates or the Liquidating Agent with respect to any property to be distributed under this Plan, including funds or reserves held or maintained by any of them pursuant to this Plan; and (iv) proceeding in any manner in any place whatsoever against any of the Debtors, the Estates, or the Liquidating Agent, Committee and Post-Effective Date Committee with respect to any property to be distributed under this Plan, including funds or reserves held or maintained by any of them pursuant to this Plan in any way that does not conform to, or comply, or is inconsistent with, the provisions of this Plan; provided, however, that nothing in this Section 11.2 shall prohibit any Person from enforcing the terms of the Asset Purchase Agreements, this Plan, or the Confirmation Order in the Bankruptcy Court.

11.3 **No Liability for Solicitation or Participation.** Pursuant to Section 1125(e) of the Bankruptcy Code, Persons that solicit acceptances or rejections of this Plan and/or that participate in the offer, issuance, sale, or purchase of securities offered or sold under this Plan, in good faith and in compliance with the applicable provisions of the Bankruptcy Code, shall not be liable, on account of such solicitation or participation, for violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of this Plan or the offer, issuance, sale, or purchase of securities.

11.4 **Limitation of Liability of Exculpated Persons.** The Exculpated Persons shall not have or incur any liability to any Person for any act taken or omission made in connection with or in any way related to negotiating, formulating, implementing,

confirming, consummating or administering this Plan, the Disclosure Statement, or any contract, instrument, release, or other agreement or document created in connection with or related to this Plan or the Bankruptcy Cases, or any other act taken or omission made in connection with the Bankruptcy Cases; provided that the foregoing provisions of this section shall have no effect on the liability of any Person that results from any act or omission that is determined in a Final Order to have constituted fraud, gross negligence or willful misconduct; and provided further that nothing in this Section shall prohibit any Person from enforcing the terms of the Asset Purchase Agreements in the Bankruptcy Court against the Debtors or the Liquidating Agent. Notwithstanding anything in this Plan to the contrary, no Person serving as Liquidating Agent shall have or incur any personal liability as the shareholder, director or officer of any of the Debtors for any act taken or omission made in connection with the wind-up or dissolution of the Non-Debtor Subsidiaries pursuant to Section 8.5 of this Plan, except for any personal liability of such Person that would not have resulted but for an act or omission of such Person that is determined in a Final Order to have constituted fraud, gross negligence or willful misconduct.

11.5 **Indemnification by Debtors.** The Debtors will indemnify, hold harmless and reimburse the Exculpated Persons, the Liquidating Agent (including any Person serving as the Liquidating Agent), the Post-Effective Date Committee and its members (solely in their capacity as committee members), and any of the accountants, advisors, agents, attorneys, consultants, directors, members, employees, officers, representatives, or professional persons of such Persons from and against any and all losses, claims, causes of action, damages, fees, expenses, liabilities, and actions arising from or related to any act taken or omission made in connection with or in any way related to negotiating, formulating, implementing, confirming, consummating or administering this Plan, the Disclosure Statement, or any contract, instrument, release, or other agreement or document created in connection with or related to this Plan or the Bankruptcy Cases, or any other act taken or omission made in connection with the Bankruptcy Cases, and the losses, claims and expenses of such Persons shall be paid from the Estate Assets as they are incurred by such Persons; provided that the Debtors will not indemnify, hold harmless or reimburse any Person pursuant to the foregoing provisions of this section from or against any losses, claims, causes of action, damages, fees, expenses, liabilities or actions resulting from any act or omission that is determined in a Final Order to have constituted fraud, gross negligence or willful misconduct. All rights of the Exculpated Persons and other Persons indemnified pursuant to Sections 11.4 and 11.5 of this Plan shall survive confirmation and effectiveness of this Plan.

11.6 **Releases of Debtor Releasees.** In consideration of the efforts expended and to be expended by the Debtors' officers and directors in conjunction with the Bankruptcy Cases and this Plan, subject only to the exclusive rights of the Liquidating Agent set forth in this Section 11.6, as of the Effective Date, the Debtors automatically shall release and shall be deemed to release the Debtor Releasees from any and all claims, obligations, rights, suits, damages, causes of action, remedies and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that the Debtors or their estates would have been legally entitled to assert in their own right or on behalf of the holder of any Claim or Equity Interest or other Person, based in whole or in part upon any actions, conduct or omissions occurring prior to the Effective Date and including any actions, conduct or omissions occurring in connection with the Bankruptcy

Cases. The Confirmation Order shall constitute an order approving the compromise, settlement and release of any and all such claims pursuant to Section 1123(b)(3)(A) of the Bankruptcy Code.

11.7 **Term of Injunctions and Stays.** Unless otherwise provided herein or in another order of the Bankruptcy Court, all injunctions or stays provided for in the Bankruptcy Cases pursuant to Sections 105, 362 and 524 of the Bankruptcy Code, or otherwise, and in effect on the Confirmation Date shall remain in full force and effect until the Effective Date.

11.8 **Release of Liens.** Except as otherwise provided in this Plan or the Confirmation Order, all Liens, security interests, deeds of trust, pledges, guaranties, indemnities or mortgages against property of the Debtor or the Estate shall and shall be deemed to be released, cancelled, terminated, and nullified on the Effective Date.

11.9 **Cancellation of Instruments.** Unless otherwise provided for herein, on the Effective Date, all notes, certificates, shares, instruments or other evidences of any Equity Interest shall be cancelled and deemed null and void as of the Effective Date.

ARTICLE XII

MODIFICATION, REVOCATION OR WITHDRAWAL OF THIS PLAN

12.1 **Modification of This Plan.** The Debtors and the Committee may jointly alter, amend or modify this Plan under Section 1127 of the Bankruptcy Code or as otherwise permitted by applicable law at any time prior to the Confirmation Date. After the Confirmation Date and prior to the substantial consummation of this Plan, any party in interest in the Bankruptcy Cases may, so long as the treatment of holders of Claims or Equity Interests under this Plan are not materially adversely affected, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in this Plan, the Disclosure Statement or the Confirmation Order, and any other matters as may be necessary to carry out the purposes and intents of this Plan; provided, however, prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

12.2 **Revocation or Withdrawal of This Plan.** The Debtors reserve the right to jointly revoke or withdraw this Plan at any time prior to the Confirmation Date with respect to any or all of the Debtors. If the Debtors revoke or withdraw this Plan prior to the Confirmation Date with respect to any of the Debtors, this Plan shall be deemed null and void only as to such Debtor. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims by or against such Debtor or any other Person or to prejudice in any manner the rights of such Debtor or any Person in any further proceedings involving such Debtor.

ARTICLE XIII

RETENTION OF JURISDICTION

13.1 **Jurisdiction of Bankruptcy Court.** Following the Effective Date, and notwithstanding the entry of the Confirmation Order, the Bankruptcy Court shall retain exclusive jurisdiction of the Bankruptcy Cases and all matters arising under, arising out of, or related to,

the Bankruptcy Cases and this Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

(a) Hear and determine motions, applications, adversary proceedings, and contested matters pending or commenced after the Effective Date;

(b) Hear and determine objections (whether filed before or after the Effective Date) to, or requests for estimation of any Claim, and to enter any order requiring the filing of proof of any Claim before a particular date;

(c) Ensure that distributions to holders of Allowed Claims are accomplished as provided in this Plan;

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

(e) Construe and take any action to enforce this Plan and the Confirmation Order;

(f) Issue such orders as may be necessary for the implementation, execution and consummation of this Plan and to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan and the Confirmation Order;

(g) Hear and determine any applications to modify this Plan, to cure any defect or omission or to reconcile any inconsistency in this Plan, the Disclosure Statement or in any order of the Bankruptcy Court including, without limitation, the Confirmation Order;

(h) Hear and determine all applications for Professional Claims required by this Plan;

(i) Hear and determine other issues presented or arising under this Plan, including disputes among holders of Claims and arising under agreements, documents or instruments executed in connection with this Plan;

(j) Determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(k) Hear and determine any other matters related hereto and not inconsistent with Chapter 11 of the Bankruptcy Code;

(l) Enter the Final Decree; and

(m) Hear and determine any action concerning the recovery and liquidation of Estate Assets, wherever located, including without limitation, litigation to liquidate and recover Estate Assets that consist of, among other things, the Estate Actions, or other actions seeking relief of any sort with respect to issues relating to or affecting Estate

Assets; and to hear and determine any action concerning the determination of taxes, tax refunds, tax attributes, and tax benefits and similar or related matters with respect to the Debtor or the Estate including, without limitation, matters concerning federal, state and local taxes in accordance with Sections 346, 505 and 1146 of the Bankruptcy Code.

13.2 **Failure of Bankruptcy Court to Exercise Jurisdiction.** If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction, or is otherwise without jurisdiction, over any matter arising under, arising in or related to the Bankruptcy Cases, including with respect to the matters set forth above in Section 13.1 of this Plan, this Article shall not prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such subject matter.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

14.1 **Payment of Statutory Fees.** All fees payable pursuant to Section 1930 of Title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing pursuant to Section 1128 of the Bankruptcy Code, shall be paid by the Estate on or before the Effective Date or from the Estate Assets when otherwise due.

14.2 **Revesting of Property and Retention of Actions and Defenses.** Except as otherwise provided for herein, as of the Effective Date, all property of the Estates or the Debtors shall be the property of, and vest in, the Debtors and shall be under the exclusive dominion and control of the Debtors, acting through the Liquidating Agent, for the benefit of the creditors of the Estates. All Estate Actions which constitute property of the Estate within the meaning of Section 541 of the Bankruptcy Code, shall be and hereby are preserved for the benefit of the holders of Allowed Claims and the other beneficiaries of the Estate Assets, and shall be and hereby are retained by and vested in the Debtors for all purposes as of the Effective Date. On and after the Effective Date, subject to Section 11.6 of this Plan, the Debtors, through the Liquidating Agent, in consultation with the Post-Effective Date Committee, will retain and have the exclusive right, to investigate, pursue, initiate, commence, file, prosecute and/or enforce any and all Estate Actions against any Person that arose before or after the Petition Date. Any proposed initiation, commencement, filing, prosecution and/or enforcement of any and all Estate Actions against any Person shall be made only in consultation with the Post-Effective Date Committee of any such proposed initiation, commencement, filing, prosecution and/or enforcement. Except as otherwise provided for herein, as of the Effective Date the Avoidance Actions, shall be the property of, and vest in, the post-confirmation Debtors and shall be under the exclusive dominion and control of the Post-Effective Date Committee for the benefit of the creditors of the Estates, pursuant to the terms of the Settlement Agreement. Pursuant to the terms of the Settlement Agreement, the Post-Effective Date Committee, has the exclusive right, to investigate, pursue, initiate, commence, file, prosecute and/or enforce any and all Avoidance Actions against any Person that arose before or after the Petition Date.

14.2.1 **Settlement and Compromise of Estate Actions and Avoidance Actions.** The Debtors, through the Liquidating Agent, in consultation with the Post-Effective Date Committee, shall have the right and authority, without notice to any party or further order

of the Bankruptcy Court, to settle or compromise all Estate Actions enforced by the Debtors, through the Liquidating Agent or the Post-Effective Date Committee after the Effective Date where (i) the original amount sought in such action is \$10,000 or less, (ii) the original amount sought in such action is greater than \$10,000 and less than \$100,000 and the settlement amount is seventy percent (70%) or more of the original amount sought in such action, and (iii) the original amount sought in such action is \$100,000 or more and the settlement amount is eighty percent (80%) or more of the original amount sought in such action. The Debtors, through the Liquidating Agent, shall have the right and authority, with the consent of the Post-Effective Date Committee without notice to any party or further order of the Bankruptcy Court, to settle or compromise any other Estate Actions. Any proposed settlement or compromise of any Estate Action by the Liquidating Agent shall be made only with the prior approval of the Post-Effective Date Committee of any such proposed settlement or compromise. Consistent with Section 14.14 of this Plan, the Debtors and the Liquidating Agent shall also have the authority to execute any documents or take any other action required to effectuate such settlements or compromises. The Post-Effective Date Committee, shall have the right and authority, without notice to any party or further order of the Bankruptcy Court, to settle or compromise all Avoidance Actions after the Effective Date where (i) the original amount sought in such action is \$10,000 or less, (ii) the original amount sought in such action is greater than \$10,000 and less than \$100,000 and the settlement amount is seventy percent (70%) or more of the original amount sought in such action, and (iii) the original amount sought in such action is \$100,000 or more and the settlement amount is eighty percent (80%) or more of the original amount sought in such action. Consistent with Section 14.14 of this Plan, the Debtors, the Liquidating Agent and Post-Effective Date Committee shall also have the authority to execute any documents or take any other action required to effectuate such settlements or compromises.

14.3 Post-Effective Date Committee. Until the Final Distribution Date, the Committee shall continue in existence; provided, however, that as of the Effective Date, the Committee shall be reconstituted and shall be comprised of at least three (3) and up to five (5) members of the Committee prior to the Effective Date. The Committee members who are no longer members of the Committee as of the Effective Date shall, as of the Effective Date, be released and discharged of and from all further authority, duties, responsibilities and obligations related to and arising from their service as Committee members in the Bankruptcy Cases. In the event of death or resignation of any member of the Committee after the Effective Date, the remaining members of the Committee shall have the right to designate a successor from among the holders of Unsecured Claims. If a Committee member assigns its Claim or releases the Debtors from payment of the balance of its Claim, such act shall constitute a resignation from the Committee. Until a vacancy on the Committee is filled, the Post-Effective Date Committee shall function in its reduced number. Notwithstanding anything in this Plan to the contrary, if at any time the Post-Effective Date Committee does not have at least three (3) members, the Liquidating Agent during such time shall be authorized to enforce and discharge its responsibilities and powers under this Plan without the consent or approval of the Post-Effective Date Committee. The current counsel for the Committee Cooley Godward Kronish LLP, and Benesch Friedlander Coplan & Aronoff LLP, shall continue as counsel for the Post-Effective Date Committee; provided, however, subject to Bankruptcy Court approval, the Post-Effective Date Committee shall be entitled to select other or alternative counsel in its sole discretion.

14.3.1 **Compensation of Post-Effective Date Committee Members.** The individual members of the Post-Effective Date Committee shall serve without compensation, except that they shall be entitled to reimbursement of reasonable, actual and necessary out-of-pocket expenses (which shall not include any professional fees and expenses for attorney's or other professionals retained by an individual committee member) from the Debtors pursuant to the procedures set forth in Section 8.3.3 of this Plan.

14.3.2 **Powers and Duties of Post-Effective Date Committee.** Following the Effective Date, the powers and duties of the Post-Effective Date Committee shall include (a) performing the functions specifically provided for in this Plan, and (b) performing such additional functions as may be agreed to by the Debtors or the Liquidating Agent, are provided for in the Confirmation Order, or provided for by further order of the Court entered after the Effective Date.

14.3.3 **Dissolution of Post-Effective Date Committee.** On the Final Distribution Date and following all payments being made to the holders of Allowed Unsecured Claims under this Plan and the closing of these Bankruptcy Cases, the Post-Effective Date Committee shall be dissolved and the members thereof shall be released and discharged of and from all further authority, duties, responsibilities and obligations related to and arising from their service as Post-Effective Date Committee members, and the retention or employment of the Post-Effective Date Committee's attorneys, financial advisors, accountants, and other agents shall terminate, except that the employment of the counsel for the Post-Effective Date Committee shall continue as necessary for the winding up and dissolution of the Debtors.

14.4 **No Admissions.** Notwithstanding anything herein to the contrary, nothing contained in this Plan shall be deemed an admission by the Debtors with respect to any matter set forth herein including, without limitation, liability on any Claim or Equity Interest or the propriety of any classification of any Claim or Equity Interest.

14.5 **Plan Controls.** To the extent there is an inconsistency or ambiguity between any term or provision contained in the Disclosure Statement and this Plan, the terms and provisions of this Plan shall control.

14.6 **Governing Law.** Except to the extent the Bankruptcy Code, the Bankruptcy Rules or other federal or state laws are applicable, the laws of the State of Delaware shall govern the construction, implementation and enforcement of this Plan and all rights and obligations arising under this Plan, without giving effect to the principles of conflicts of law.

14.7 **Substantial Consummation of Plan.** This Plan shall be deemed to be substantially consummated when the Debtors through the Liquidating Agent makes the Initial Distribution.

14.8 **Successors and Assigns.** The rights, benefits and obligations of any Person named or referred to in this Plan will be binding upon, and will inure to the benefit of, the heir, executor, administrator, representative, successor, or assign of such Person.

14.9 **Severability.** Should the Bankruptcy Court determine, on or prior to the Confirmation Date, that any provision of this Plan is either illegal or unenforceable on its face or illegal or unenforceable as applied to any Claim or Equity Interest or Debtor, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and modify such provision to make it valid and enforceable to the maximum extent practicable consistent with the original purpose of such provision. Notwithstanding any such determination, interpretation, or alteration, the remainder of the terms and provisions of this Plan shall remain in full force and effect.

14.10 **Notices and Distributions.** On and after the Effective Date, all notices, requests and distributions to a holder of a Claim or Equity Interest shall be sent to the last known address of (i) the holder or its attorney of record as reflected in the holder's Proof of Claim or Administrative Expense Claim filed by or on behalf of such holder; or (ii) if there is no such evidence of a last known address, to the last known address of the holder according to the books and records of the Debtors. Any holder of a Claim or Equity Interest may designate another address for the purposes of this Section by providing the Debtors written notice of such address, which notice will be effective upon receipt by the Debtors of the written designation. Any notices to the Debtors, the Liquidating Agent or the Committee or the Post Effective-Date Committee under or in connection with this Plan shall be in writing and served either by (1) certified mail, return receipt requested, postage prepaid, (2) via facsimile with a copy sent via First Class Mail, postage prepaid, or (3) reputable overnight delivery service, all charges prepaid, and shall be deemed to have been given when received by the following parties:

To the Debtor c/o the Liquidating Agent:

David Peek
504 Rolling Creek Road
Knoxville, TN 37934

-and-

Young, Conaway, Stargatt & Taylor LLP
1000 West Street, 17th Floor
Wilmington, Delaware 19801
Attention: M. Blake Cleary, Esquire

To the Committee or the Post-Effective Date Committee:

Cooley, Godward Kronish LLP
The Grace Building
1114 Avenue of the Americas
New York, NY 10036-7798
Attention: Cathy Hershcopf, Esquire
Jeffrey Cohen, Esquire

14.11 **Unclaimed Property.** If any property distributed by the Debtors or the Liquidating Agent remains unclaimed, or in the case of a check, not negotiated, for a period of ninety (90) calendar days after it has been delivered (or delivery has been attempted and such has been returned as undeliverable or otherwise) or has otherwise been made available, such unclaimed property shall be forfeited by the Person entitled to receive the property and the unclaimed property and the right to receive it shall revert to and vest in the Estate Assets free and clear of any rights, claims or interests. In addition, the Debtors and the Liquidating Agent shall make no further distributions to the Person that failed to claim such property, and any subsequent distributions that would have been made to such Person shall instead be distributed Pro Rata to holders of Allowed Unsecured Claims. The use of regular mail, postage prepaid, to the last known address of a holder of a Claim shall constitute delivery for purposes of this Section.

14.12 **Binding Effect.** This Plan shall be binding on and inure to the benefit of (and detriment to, as the case may be) the Debtors, the Committee, the Liquidating Agent, the Post-Effective Date Committee, all holders of Claims or Equity Interests (whether or not they have accepted this Plan) and their respective personal representatives, successors and assigns.

14.13 **Withholding and Reporting.**In connection with this Plan and all instruments issued in connection therewith and distributions thereon, the Debtors through the Liquidating Agent shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority and all distributions hereunder shall, to the extent applicable, be subject to any such withholding and reporting requirements. Notwithstanding anything herein to the contrary, in calculating and making the payments due to Allowed Claims hereunder, the Debtors through the Liquidating Agent shall be authorized to deduct from such payments any necessary withholding amount.

14.14 **Other Documents and Actions.** In consultation with the Post-Effective Date Committee the Debtors and the Liquidating Agent may execute, deliver, file or record such documents, contracts, instruments, releases and other agreements, and take such other action as is reasonable, necessary, or appropriate to effectuate the transactions provided for in this Plan or the terms of this Plan, without any further action by or approval of the Bankruptcy Court or the Board of Directors of the Debtor.

14.15 **Accounts.** The Debtors through the Liquidating Agent may establish one or more interest-bearing accounts as they determine may be necessary or appropriate to effectuate the provisions of this Plan consistent with Section 345 of the Bankruptcy Code and any orders of the Bankruptcy Court.

14.16 **Allocation of Plan Distributions.** All distributions in respect of Claims will be allocated first to the original principal amount of such Claims (as determined for federal income tax purposes), and any excess to the remaining portion of such Claims.

CONFIRMATION REQUEST

The Debtors hereby request confirmation of this Plan pursuant to Sections 1129(a) and 1129(b) of the Bankruptcy Code.

Dated: November 24, 2009

**GOODY'S, LLC
NEW SYDOOG LLC
NEW TREBOR OF TN, LLC
NEW GOFAMCLO, LLC
NEW GOODY'S GIFTCO, LLC
NEW GOODY'S MS, L.P.
NEW GFCTX, L.P.
NEW GOODY'S IN, L.P.
NEW GFCTN, L.P.
NEW GFCGA, L.P.
NEW GOODY'S ARDC, L.P.
NEW GOODY'S RETAIL MS, L.P.
NEW GOODY'S HOLDING TN, LLC
NEW GOODY'S TNDC, L.P.**

/s/ David G. Peek

By: David G. Peek

Title: Executive Vice President, Chief Financial
Officer, and Secretary of Goody's, LLC