

PLEASE NOTE THAT THIS DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED BY THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE UNDER SECTION 1125 OF THE BANKRUPTCY CODE FOR USE IN THE SOLICITATION OF ACCEPTANCES OF THE CHAPTER 11 PLAN DESCRIBED HEREIN. ACCORDINGLY, THE FILING AND DISTRIBUTION OF THIS DISCLOSURE STATEMENT IS NOT INTENDED, AND SHOULD NOT BE CONSTRUED, AS A SOLICITATION OF ACCEPTANCES OF SUCH PLAN. THE INFORMATION CONTAINED HEREIN SHOULD NOT BE RELIED UPON FOR ANY PURPOSE BEFORE A DETERMINATION BY THE BANKRUPTCY COURT THAT THIS DISCLOSURE STATEMENT CONTAINS "ADEQUATE INFORMATION" WITHIN THE MEANING OF SECTION 1125 OF THE BANKRUPTCY CODE.

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

----- X
In re: : Chapter 11
:
KCMVNO, INC., : Case No. 08-10600 (BLS)
f/k/a Movida Communications, Inc., :
a Delaware corporation,¹ :
:
Debtor. :
----- X

DISCLOSURE STATEMENT PURSUANT TO SECTION 1125 OF THE BANKRUPTCY CODE WITH RESPECT TO THE DEBTOR'S CHAPTER 11 PLAN OF LIQUIDATION

Deadline by which Ballots must be received: [redacted], 2009 at 4:00 p.m. (ET)
Deadline for filing objections to Confirmation of the Plan: [redacted], 2009 at 4:00 p.m. (ET)
Hearing on Confirmation of the Plan: [redacted], 2009 at [redacted] [redacted].m. (ET)

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Dated: November 24, 2008

¹ The last four digits of KCMVNO, Inc.'s (f/k/a Movida Communications, Inc.) federal tax identification number are 2263. The mailing address for KCMVNO, Inc. is 1855 Lakeland Drive, Suite D-20, Jackson, MS 39216.

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I. INTRODUCTION¹

KCMVNO, Inc. (f/k/a Movida Communications, Inc.), the above-captioned debtor and debtor in possession (the “Debtor”) filed a voluntary petition under chapter 11 of title 11 of the United States Code, §§ 101 et seq. (the “Bankruptcy Code”), on March 31, 2008 (the “Petition Date”), thereby commencing Case Number 08-10600 (BLS) currently pending before the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). On November 24, 2008, the Debtor filed its proposed Chapter 11 Plan of Liquidation (including all exhibits thereto and as amended, modified or supplemented from time to time, the “Plan”). A copy of the Plan is attached hereto as Exhibit A. THE DEBTOR URGES CREDITORS TO VOTE IN FAVOR OF THE PLAN.

APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT MEAN THAT THE BANKRUPTCY COURT RECOMMENDS ACCEPTANCE OR REJECTION OF THE PLAN.

WHILE THIS DISCLOSURE STATEMENT DESCRIBES CERTAIN BACKGROUND MATTERS AND THE MATERIAL TERMS OF THE PLAN, IT IS INTENDED AS A SUMMARY DOCUMENT ONLY AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS ATTACHED TO THE PLAN AND THIS DISCLOSURE STATEMENT. SIMILARLY, DESCRIPTIONS IN THIS DISCLOSURE STATEMENT OF PLEADINGS, ORDERS, AND PROCEEDINGS IN THIS CHAPTER 11 CASE ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE RELEVANT DOCKET ITEMS. YOU SHOULD READ THE PLAN AND THE EXHIBITS TO OBTAIN A FULL UNDERSTANDING OF THEIR PROVISIONS. ADDITIONAL COPIES OF THIS DISCLOSURE STATEMENT AND THE EXHIBITS ATTACHED TO THIS DISCLOSURE STATEMENT, AS WELL AS ANY DOCKET ITEMS FROM THIS CHAPTER 11 CASE, ARE AVAILABLE FOR INSPECTION DURING REGULAR BUSINESS HOURS AT THE OFFICE OF THE CLERK OF THE BANKRUPTCY COURT, UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 3RD FLOOR, 824 NORTH MARKET STREET, WILMINGTON, DELAWARE 19801. IN ADDITION, COPIES OF SUCH DOCUMENTS MAY BE OBTAINED FOR A CHARGE THROUGH DELAWARE DOCUMENT RETRIEVAL, 2 EAST 7TH STREET, 2ND FLOOR, WILMINGTON, DELAWARE 19801, OR VIEWED ON THE INTERNET AT THE BANKRUPTCY COURT’S WEBSITE ([HTTP://WWW.DEB.USCOURTS.GOV/](http://www.deb.uscourts.gov)) BY FOLLOWING THE DIRECTIONS FOR ACCESSING THE ECF SYSTEM ON SUCH WEBSITE.

THE STATEMENTS AND INFORMATION CONCERNING THE DEBTOR AND THE PLAN SET FORTH IN THIS DISCLOSURE STATEMENT CONSTITUTE THE ONLY STATEMENTS OR INFORMATION CONCERNING SUCH MATTERS THAT HAVE BEEN APPROVED BY THE BANKRUPTCY COURT FOR THE PURPOSE OF SOLICITING ACCEPTANCES OR REJECTIONS OF THE PLAN.

¹ Capitalized terms used in this Disclosure Statement and not expressly defined herein have the meaning ascribed to them in the Plan. A reference in this Disclosure Statement to a “Section” refers to a section of this Disclosure Statement.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN. NEITHER DELIVERY OF THIS DISCLOSURE STATEMENT NOR ANY EXCHANGE OF RIGHTS MADE IN CONNECTION WITH THE PLAN WILL UNDER ANY CIRCUMSTANCES CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE INFORMATION SET FORTH HEREIN SINCE THE DATE THIS DISCLOSURE STATEMENT AND THE MATERIALS RELIED UPON IN PREPARATION OF THIS DISCLOSURE STATEMENT WERE COMPILED. THE DEBTOR ASSUMES NO DUTY TO UPDATE OR SUPPLEMENT THE DISCLOSURES CONTAINED HEREIN AND DOES NOT INTEND TO UPDATE OR SUPPLEMENT THE DISCLOSURES, EXCEPT TO THE EXTENT, IF ANY, NECESSARY AT THE HEARING ON CONFIRMATION OF THE PLAN.

THE CONTENTS OF THIS DISCLOSURE STATEMENT SHOULD NOT BE CONSTRUED AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. HOLDERS OF CLAIMS AND INTERESTS SHOULD CONSULT THEIR OWN LEGAL, FINANCIAL OR TAX ADVISORS AS TO ANY MATTERS IN CONNECTION WITH THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY. THIS DISCLOSURE STATEMENT MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE WHETHER TO VOTE IN FAVOR OF OR AGAINST THE PLAN. CERTAIN OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS BY ITS NATURE FORWARD-LOOKING AND CONTAINS ESTIMATES, ASSUMPTIONS AND PROJECTIONS THAT MAY BE MATERIALLY DIFFERENT FROM ACTUAL FUTURE RESULTS, INCLUDING THOSE ESTIMATES OF THE CASH THAT WILL BE AVAILABLE FOR DISTRIBUTION TO THE HOLDERS OF CLAIMS, ESTIMATES OF THE PERCENTAGE RECOVERY OF THE VARIOUS TYPES OF CLAIMS, ESTIMATES OF THE AGGREGATE FINAL ALLOWED AMOUNTS OF THE VARIOUS TYPES OF CLAIMS, ESTIMATES OF THE PROCEEDS FROM THE SALE, LIQUIDATION, OR OTHER DISPOSITION OF THE DEBTOR'S REMAINING ASSETS AND ESTIMATES OF THE EXPENSES THAT WILL BE INCURRED BY THE LIQUIDATION TRUST DURING THE WIND-DOWN PERIOD. THERE CAN BE NO ASSURANCE THAT ANY FORECASTED OR PROJECTED RESULTS CONTAINED HEREIN WILL BE REALIZED, AND ACTUAL RESULTS MAY VARY FROM THOSE SHOWN HEREIN, POSSIBLY BY MATERIAL AMOUNTS.

AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS, AND OTHER ACTIONS OR THREATENED ACTIONS, THE CONTENTS OF THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING AND SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION BY THE DEBTORS OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE IN THE COURSE OF SETTLEMENT NEGOTIATIONS.

A. Disclosure Statement Enclosures

Accompanying this Disclosure Statement are copies of:

1. the Plan (attached hereto as Exhibit A);
2. the Order approving this Disclosure Statement entered on [REDACTED] (attached hereto as Exhibit B);
3. an analysis of a hypothetical liquidation of the Debtor under chapter 7 of the Bankruptcy Code (Exhibit C);
4. a notice setting forth: (i) the deadline for casting ballots either accepting or rejecting the Plan; (ii) the deadline for filing objections to confirmation of the Plan; and (iii) the date, time and location of the Confirmation Hearing (the "Notice"); and
5. a ballot for acceptance or rejection of the Plan for Holders of Impaired Claims entitled to vote to accept or reject the Plan (the "Ballot").

B. Only Impaired Classes Vote

Pursuant to the provisions of the Bankruptcy Code, only classes of claims and interests that are "impaired" under the Plan may vote to accept or reject the Plan. Generally, a claim or interest is impaired under a plan if the holder's legal, equitable or contractual rights are changed under such plan. In addition, if the holders of claims or interests in an impaired class do not receive or retain any property under a plan on account of such claims or interests, such impaired class is deemed not to have accepted the plan under section 1126(g) of the Bankruptcy Code.

Under the Plan, Claims in Classes 3, 4 and 5 are or may be impaired and are entitled to vote on the Plan. Holders of Claims in Class 2 are not impaired and are therefore not entitled to vote. Holders of Interests in Class 6 will receive no distribution and accordingly such holders are deemed not to have accepted the Plan. Votes from holders of Claims in Class 2 and holders of Interests in Class 6 are not being solicited. Under the Plan, Claims in Class 1 are unimpaired and the holders of Class 1 Other Priority Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. **ACCORDINGLY, A BALLOT FOR ACCEPTANCE OR REJECTION OF THE PLAN IS BEING PROVIDED ONLY TO HOLDERS OF CLAIMS IN CLASSES 3, 4 AND 5.**

For a summary of the treatment of each Class of Claims and Interests, see "Overview of the Plan" in Subsection I.E below.

C. Confirmation Hearing

The Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan for [REDACTED], 2008 at [REDACTED] (prevailing Eastern Time) before the Honorable Brendan Linehan Shannon in the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 6th Floor, Courtroom #1, Wilmington, Delaware 19801 (the "Confirmation Hearing"). The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be served and filed on or before [REDACTED], 2008 at 4:00 p.m.

(prevailing Eastern Time) in the manner described in the Notice accompanying this Disclosure Statement. The date of the Confirmation Hearing may be adjourned from time to time without further notice except for an in-court announcement at the Confirmation Hearing of the date and time as to which the Confirmation Hearing has been adjourned.

THE PLAN IS PROPOSED BY THE DEBTOR. THE DEBTOR BELIEVES THE PLAN PROVIDES THE GREATEST POSSIBLE RECOVERY TO CREDITORS AND URGES ALL IMPAIRED CREDITORS TO VOTE IN FAVOR OF THE PLAN. VOTING INSTRUCTIONS ARE DESCRIBED IN SECTION VII HEREIN.

D. Settlement

As explained more fully below, the Plan contains a settlement by and among the Debtor, the Committee and the Prepetition Lenders, pursuant to which the Prepetition Lenders have agreed to waive their rights to receive their Pro Rata share of the Class 5 Distribution Fund on account of their Class 3 Prepetition Lenders Claim in consideration for the waiver and release provided for under section 7.2 of the Plan. The Settlement additionally provides for the creation of the Liquidation Trust to, among other things, prosecute, collect, compromise and settle Liquidation Trust Causes of Action; prosecute, compromise and settle objections to Claims; and distribute the Class 5 Distribution Fund in accordance with the terms of the Plan.

E. Overview of the Plan

THE FOLLOWING IS A BRIEF SUMMARY OF THE TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN. THE DESCRIPTION OF THE PLAN SET FORTH BELOW CONSTITUTES A SUMMARY ONLY. CREDITORS AND OTHER PARTIES IN INTEREST ARE URGED TO REVIEW THE MORE DETAILED DESCRIPTION OF THE PLAN CONTAINED IN THIS DISCLOSURE STATEMENT AND THE PLAN ITSELF, WHICH IS ATTACHED AS EXHIBIT A TO THIS DISCLOSURE STATEMENT.

The Plan constitutes a liquidating chapter 11 plan for the Debtor. The Plan provides for the Debtor's assets to be liquidated and for the proceeds of such liquidation to be distributed to holders of Allowed Claims in accordance with the terms of the Plan and the priority of claims provisions of the Bankruptcy Code. Except as otherwise provided by order of the Bankruptcy Court, distributions will occur on the Effective Date or as soon thereafter as is practicable and at various intervals thereafter. The Post-Confirmation Debtor will be dissolved as soon as practicable after the final distributions under the Plan.

Set forth below is a table summarizing the classification and treatment of Claims and Interests under the Plan and the estimated distributions to be received by the holders of such Claims and Interests thereunder. The actual distributions may differ from those set forth in the table depending on the amount of Claims ultimately allowed in each category or Class and the amount of Cash ultimately available for distribution.

SUMMARY OF ESTIMATED DISTRIBUTIONS UNDER THE PLAN

DESCRIPTION/CLASS	ESTIMATED ALLOWED AMOUNTS	ESTIMATED DISTRIBUTION (%)
Administrative Claims • post-petition claims for costs and expenses of administration of the estate, post-petition ordinary business payables.	\$100,000 - \$150,000	100%
Priority Tax Claims • any Claim entitled to priority in payment pursuant to 11 U.S.C. § 507(a)(8).	\$280,000 - \$320,000	100%
Fee Claims • Claim pursuant to 11 U.S.C. §§ 328, 330(a), 503 or 1103 for the compensation of a Professional for services rendered or expenses incurred in the Chapter 11 Case on or prior to the Effective Date.	\$75,000 - \$125,000	100%
Class 1 Other Priority Claims • any Claim other than an Administrative Claim or a Priority Tax Claim to the extent entitled to priority in payment pursuant to 11 U.S.C. § 507(a).	\$0 - \$10,000	100%
Class 2 Miscellaneous Secured Claims.	\$0	100% or return of the collateral securing such Claim
Class 3 Prepetition Lenders Claim.	\$18,158,837.84	13% - 22%
Class 4 Senior Subordinated Notes Claim.	\$31,480,000.00	Estimated distribution dependent upon the proceeds received from the successful prosecution of the Causes of Action
Class 5 General Unsecured Claims • any Claim other than an Administrative Claim, Fee Claim, Priority Tax Claim, Other Priority Claim, Miscellaneous Secured Claim, Prepetition Lenders Claim, or Prepetition Lenders Deficiency Claim.	\$38,000,000.00 - \$40,000,000.00	Estimated distribution dependent upon the proceeds received from the successful prosecution of the Causes of Action

DESCRIPTION/CLASS	ESTIMATED ALLOWED AMOUNTS	ESTIMATED DISTRIBUTION (%)
Class 6 Interests – all Interests in the Debtor.	37,711,396 shares	0%

II. GENERAL BACKGROUND

A. The Debtor’s Business

The Debtor was incorporated on February 1, 2005 in Delaware and was formed via a merger with Movida Communications, Inc., a Minnesota corporation (“Movida Minnesota”). Upon consummation of the merger, Movida Minnesota was merged with and into the Debtor and was thereafter dissolved.

As of the Petition Date, the Debtor was a Mobile Virtual Network Operator or a MVNO, which provided pay-as-you-go wireless voice and data communications service, without owning its own cellular telephone network. Instead, a MVNO enters into an agreement with a cellular telephone company that does own a network, agrees to purchase minutes and megabytes on a wholesale basis from the network carrier, and then resells such capacity to be sold to individuals at the retail level.

The Debtor was the first and largest MVNO committed to delivering wireless services to Hispanic communities. Its overall mission was to enable the Hispanic community to connect to the world in which they live without the burden of imposed annual contracts and irrational or inflexible pricing, while providing state-of-the-art handsets and a vast inventory of wireless content and download options that are Latino-centric and relevant to the Debtor’s customer base. To further its mission, the Debtor offered (in addition to standard custom calling features such as caller I.D. and voice mail) a suite of international voice and data services featuring culturally and geographically-focused content in Spanish. In addition, the Debtor sought opportunities to bundle and deliver uncommon services that were high demand services for its specific customers.

In order to conduct its business, the Debtor entered into a MVNO support agreement (the “MVNO Agreement”) with Sprint Spectrum L.P. d/b/a Sprint (“Sprint”) and entered into retail sales arrangements, with several independent and national retail outlets, to sell Movida-branded handsets and prepaid cards in select markets throughout the nation. Since launching its services to consumers in 2005, as of the Petition Date the Debtor had expanded product sales to forty-five (45) states, and, as of March 2008, provided wireless voice and date communications using the Sprint nationwide wireless network to over 267,000 consumers.

As of the Petition Date, the Debtor employed approximately seventy-five (75) employees. Although a number of the Debtor’s employees were located at the Debtor’s corporate headquarters in Kansas City, Missouri, a vast majority of its employees were salespersons located throughout the nation. These employees remained connected to the Debtor through cellular phones and the Debtor’s computer network and systems.

B. Debtor's Prepetition Capital Structure

Pursuant to a Note Purchase Agreement dated November 29, 2006, the Debtor issued \$40,000,000 in aggregate principal amount of 7% Senior Subordinated Convertible Notes (the "Notes") due November 30, 2011. The Notes are convertible into 13,927,282 shares (subject to change due to anti-dilution period) of Series A Common Stock at the option of the Note holder or by the Debtor if there is a qualified public offering or sale of the Debtor. Interest on the Notes is payable semi-annually in arrears on May 30 and November 30. As of March 31, 2008, accrued and unpaid interest on the Notes totaled approximately \$2,080,000.00.

In addition to the Notes, the Debtor is a borrower under a secured credit facility with Plainfield Direct Inc., as administrative agent and collateral agent (the "Administrative Agent"), and certain other lender-parties pursuant to a credit agreement dated August 14, 2007 (the credit agreement, as amended and/or modified, shall hereinafter be referred to as the "Credit Facility"), under which the Debtor has the ability to borrow up to \$20,000,000 (excluding any capitalized interest). The outstanding amount under the Credit Facility, including accrued interest, is approximately \$18,160,000.00.

C. Events Leading to the Chapter 11 Filing

In the pay-as-you-go cellular phone industry, costs associated with the manufacture and distribution of handsets routinely exceeds the retail purchase price; however, MVNOs recoup this loss and realize their ultimate profits through attracting and keeping customers who subsequently purchase airtime, content downloads and/or other services. Although the Debtor was able to grow its business and attract over a quarter of a million customers, it was plagued by a combination of increased competition in the industry and the restrictive and costly terms of its MVNO Agreement with Sprint. In particular, during the months immediately preceding the Petition Date, competitors, in an effort to attract customers, drastically reduced the purchase price of handsets. The Debtor, whose operations were inextricably tied to its usage of the Sprint network, was unable to participate in the latest wave of handset promotions prior to the Petition Date due to the low margins resulting from the costly and restrictive terms of its MVNO Agreement with Sprint. Accordingly, the Debtor's ability to attract new customers was significantly impaired.

In the time leading to the Petition Date, the Debtor attempted to renegotiate the terms of the MVNO Agreement with Sprint in order to avoid its impending liquidity crisis. Unfortunately, such attempts were unsuccessful. In light of the circumstances, the Debtor, with the assistance of its legal and financial advisors determined to commence the Chapter 11 Case, and as a part of its efforts to maximize the value of its estate, the Debtor considered a number of alternative approaches, including a sale of its business, a sale of its assets, a piecemeal liquidation and a wind-down of its operations.

III. THE CHAPTER 11 CASE

A. Commencement of the Case

On March 31, 2008, the Debtor filed its voluntary petition under chapter 11 of the Bankruptcy Code and continued in the management and possession of its business and property

as a debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed.

B. Retention of Professionals

1. Retention of Bankruptcy Counsel

By order dated May 20, 2008 [Docket No. 144], the Debtor was authorized to retain Young Conaway Stargatt & Taylor, LLP to serve as its bankruptcy counsel in the Chapter 11 Case.

2. Retention of Other Professionals by the Debtor

By order dated May 20, 2008 [Docket No. 150], the Debtor was authorized to retain Ocean Ridge Capital Advisors, LLC as financial advisors to the Debtor in the Chapter 11 Case. By order dated July 15, 2008 [Docket No. 243], the Debtor was authorized to retain The Garden City Group, Inc. as claims agent in the Chapter 11 Case.

3. Appointment of Official Committee of Unsecured Creditors and Retention of Counsel

On April 14, 2008, the United States Trustee appointed the Official Committee of Unsecured Creditors (the "Committee"). By order dated May 20, 2008 [Docket No. 143], the Committee was authorized to retain the law firm of Blank Rome LLP as its counsel.

C. Cash Collateral

At the outset of this Chapter 11 Case, the Debtor and the Administrative Agent reached an agreement with respect to the Debtor's use of the cash derived from its business claimed as collateral by the Prepetition Lenders (the "Cash Collateral"). On April 10, 2008, the Bankruptcy Court entered the Interim Order (A) Authorizing Use of Cash Collateral; (B) Granting Adequate Protection; and (C) Granting Related Relief [Docket No. 55] (the "Interim Cash Collateral Order"). Pursuant to the Interim Cash Collateral Order, the Debtor was authorized to, among other things, use the Prepetition Lenders' Cash Collateral to pay necessary post-petition operating expenses. Thereafter, on May 16, 2008, the Court entered the Final Order (A) Authorizing Use of Cash Collateral; (B) Granting Adequate Protection; and (C) Granting Related Relief [Docket No. 131] (the "Final Cash Collateral Order"). The Debtor's use of the Cash Collateral, as approved by the Final Cash Collateral Order, provided the Debtor with the financial resources necessary to fund the day-to-day operating expenses of the Debtor's business, including payments to remaining employees and the wind-down of its business. Without the use of the Cash Collateral, the Debtor would have been unable to pay for services and expenses necessary to preserve and maximize the value of its business. Moreover, the Cash Collateral has ensured that the Debtor would be able to continue to satisfy the various expenses and charges associated with the bankruptcy process.

D. Employee Issues

1. Employee Wage Motion

Recognizing that employees were essential to ensure the continued operation of the Debtor's business through the chapter 11 process, the Debtor filed its Motion for an Order (A) Authorizing, But Not Directing, the Debtor to Pay Certain Prepetition Wages, Compensation and Employee Benefits and Continue Payment of Wages, Compensation and Employee Benefits in the Ordinary Course of Business; and (B) Authorizing and Directing Applicable Banks and Other Financial Institutions to Process and Pay All Checks Presented for Payment and to Honor All Funds Transfer Requests Made by the Debtor Relating to the Foregoing [Docket No. 8] (the "Employee Wage Motion"). By the Employee Wage Motion, the Debtor requested that the Court authorize the continuation of payment of wages, salaries and employee benefits (the "Prepetition Employee Obligations") for sixty-five (65) full-time employees and seven (7) contract employees. On April 9, 2008, the Court entered the Order (A) Authorizing, But Not Directing, the Debtor to Pay Certain Prepetition Wages, Compensation and Employee Benefits and Continue Payment of Wages, Compensation and Employee Benefits in the Ordinary Course of Business; and (B) Authorizing and Directing Applicable Banks and Other Financial Institutions to Process and Pay All Checks Presented for Payment and to Honor All Funds Transfer Requests Made by the Debtor Relating to the Foregoing [Docket No. 48], thereby authorizing the Debtor to pay the Prepetition Employee Obligations.

2. Sale-Related Incentive Plan

The Debtor also obtained approval through an order dated June 16, 2008 [Docket No. 186] (the "SRIP Order") to adopt and implement a limited sale-related incentive plan (the "SRIP") for certain key employees (the "SRIP Participants") that assisted the Debtor with the negotiation and consummation of a sale of the Debtor's business as a going concern. Under the SRIP, each SRIP Participant that remained with the Debtor through the closing of a sale and executed a general release of claims against the Debtor received a payment in the amount set forth on Exhibit 1 to the SRIP Order.

E. Rejection of Executory Contracts and Unexpired Leases

Pursuant to an order dated May 20, 2008 [Docket No. 147] (the "First Rejection Order"), the Debtor rejected its nonresidential real property lease for 1627 Main Street, Suite 200, Kansas City, Missouri 64108, effective as of April 30, 2008. Any personal property located at this location was abandoned. Subsequent to the First Rejection Order, pursuant to an order dated June 26, 2008 [Docket No. 214] (the "Second Rejection Order"), the Debtor rejected *all* of its executory contracts and unexpired leases *other than* those contracts and leases set forth on Exhibits A-C of the Second Rejection Order, effective as of May 30, 2008.

F. Sale of Debtor's Operations and Assets

1. APA and Sale Order

On April 3, 2008, the Debtor filed its Emergency Motion for Order Authorizing the Debtor to (i) Wind Down Its Business and Effectuate the Immediate Termination of Its Pay-

As-You-Go Wireless Voice and Data Communications Service; (ii) Enter into One or More Agreements with Third Party Service Providers to Facilitate Customer Transitions to Such Third Party Service Providers; and (iii) Take Other Actions as May Be Necessary to Effectuate a Wind-Down, Transition or Sale of the Debtor's Operations and Assets, Including Approval of Bid Procedures and Entry Into a Management Services Agreement for a Stalking Horse Bidder [Docket No. 23] (the "Sale Motion"), requesting, among other things, authority to establish sale procedures (the "Sale Procedures") with respect to the proposed sale (the "Sale") of the Debtor's operations and assets. On April 4, 2008, this Court entered an order [Docket No. 27] (the "Sale Procedures Order") that, among other things, approved the Sale Procedures with respect to the Sale and granted related relief pursuant to the Sale Motion.

In accordance with the Sales Procedures Order and the Sale Procedures approved therein, the Debtor conducted an auction on April 8 and 9, 2008, at which time it determined, in its business judgment, that the bid of Cozac, LLC ("Cozac") was the highest and best offer. On April 9, 2008, this Court held a hearing on the Sale to Cozac and approved and authorized the Sale on the record. By order entered April 18, 2008 [Docket No. 74] (the "Sale Order"), the Court approved and authorized the Sale to Cozac pursuant to the terms of that certain Asset Purchase Agreement dated as of April 4, 2008, by and between the Debtor and Cozac (as amended, the "APA") [Docket No. 31]. Pursuant to the APA, as amended by the Sale Order, the Debtor sold its operations and assets to Cozac free and clear of all liens, claims and encumbrances for a purchase price of \$2,800,000 (the "Purchase Price"), less any adjustments pursuant to section 3.3(b)(i) of the APA, as well as a \$500,000 interest in certain accounts receivable collected by Cozac. The Sale closed on April 18, 2008 (the "Closing").

2. Settlement with the Cozac Parties

On June 26, 2008, the Debtor commenced an adversary proceeding, Adversary Proceeding No. 08-51042 (BLS) (the "Adversary Proceeding"), against Cozac, Cozac Wireless, LLC ("Cozac Wireless") and America's Premier Corp., a/k/a APC Wireless ("APC," and together with Cozac and Cozac Wireless, the "Cozac Parties") by filing the Complaint [Adv. Docket No. 1] and therein asserted various claims under the (i) APA, (ii) Sale Order, (iii) that certain Assumption and Assignment Agreement dated as of April 16, 2008 and (iv) that certain Guaranty dated as of April 18, 2008 and sought a declaratory judgment that as of the Closing, the Debtor had in excess of 125,000 active subscribers, as defined in the APA. On July 9, 2008, the Cozac Parties filed their Answer, Affirmative Defenses and Counterclaim [Adv. Docket No. 11] (the "Counterclaim") disputing the claims asserted by the Debtor in the Complaint. On July 16, 2008, the Debtor filed its Answer to the Counterclaim [Adv. Docket No. 14] disputing the counterclaims asserted by Cozac and Cozac Wireless in the Counterclaim.

After good faith negotiations between the Debtor and the Cozac Parties, on August 4, 2008, the parties entered into the Stipulation By and Between the Debtor and the Cozac Parties Regarding the Adversary Proceeding [Adv. Docket No. 18] (the "Sale Stipulation"), thereby resolving the various claims, counterclaims and defenses asserted by the

Debtor and the Cozac Parties in the Adversary Proceeding, except for the First Count of the Counterclaim. The principal terms of the Sale Stipulation are as follows:²

a. Upon execution of the Sale Stipulation by the Parties, the Cozac Parties shall immediately make: (i) a payment to the Debtor in the amount of \$175,000; and (ii) an additional payment to the Debtor in the amount of \$15,270.06, which represents the amount currently held in escrow by counsel for the Cozac Parties related to the collection of certain accounts receivable by the Cozac Parties.

b. On August 6, 2008, the Cozac Parties shall make a payment to the Debtor in the amount of \$75,000.

c. Over the course of the 30-week period beginning on Wednesday, August 13, 2008 and ending on March 4, 2009 (the "30-Week Period"), the Cozac Parties shall make payments to the Debtor (collectively, the "Weekly Payments") in accordance with the schedule attached as Exhibit C to the Sale Stipulation (the "Weekly Payments Schedule"); provided, however, that the Weekly Payments shall be subject to certain adjustments set forth in more detail in the Sale Stipulation.

d. Cozac Wireless assigns to the Debtor any and all rights Cozac Wireless has to collect the remaining unpaid prepetition accounts receivable of the Debtor that were sold to Cozac pursuant to the APA, as amended by the Sale Order (the "Accounts Receivable"). The Debtor agrees to pursue collections and or liquidation of the Accounts Receivable in a reasonable manner, and to keep the Cozac Parties informed from time to time about the results of these collection efforts, including, without limitation, upon the Cozac Parties' reasonable request, a report on the amounts collected and accounts remaining to be collected. The Debtor shall be entitled to retain any amounts it collects from the Accounts Receivable, and shall deduct such amounts from the Balloon Payment (as clarified below) and the Weekly Payments as set forth in more detail in the Sale Stipulation. After 120 days following the entry of the Sale Stipulation, and provided there is no Event of Default (as defined in the Sale Stipulation), the Cozac Parties shall have the right, in their reasonable discretion, to suspend the Debtor's rights to collect the Accounts Receivable so that Cozac Wireless may resume such collection efforts.

e. In accordance with the Weekly Payments Schedule, on March 4, 2009, the Cozac Parties shall make a balloon payment to the Debtor in the amount of \$732,500 (the "Balloon Payment"); provided, however, that the Balloon Payment shall be reduced by the following amounts: (i) any amounts actually collected by the Debtor from the Accounts Receivable; and (ii) any adjustments pursuant to section 3.3(b)(i) of the APA.

² To the extent there is any inconsistency between the summary herein and the actual terms of the Sale Stipulation, the terms of the Sale Stipulation shall govern.

f. To the extent that the sum of (i) any adjustments pursuant to section 3.3(b)(i) of the APA and (ii) any collections by the Debtor of the Accounts Receivable exceeds the amount of the Balloon Payment, the Weekly Payments shall be reduced accordingly, with such reduction to occur in inverse order of the Weekly Payments Schedule beginning with the Weekly Payment due on March 4, 2009 of the 30-Week Period.

In sum, the Sale Stipulation modifies the payment schedule provided for under the APA, as amended by the Sale Order, for payment of the Purchase Price by the Cozac Parties, as the Sale Stipulation lengthens the payment schedule set forth in Paragraph K of the Sale Order. Additionally, pursuant to the Sale Stipulation, Cozac Wireless assigned to the Debtor any and all rights Cozac Wireless has to collect the Accounts Receivable. Aside from the foregoing modifications, the Sale Stipulation substantially preserves the terms of the APA, as amended by the Sale Order.

G. Schedules and Statement of Financial Affairs

The Debtor filed its schedules of assets and liabilities and statement of financial affairs on May 27, 2008 [Docket Nos. 153 and 154]. On June 17, 2008, the Debtor amended Schedule F to its schedules of assets and liabilities [Docket No. 194].

H. Claims Bar Date

In accordance with Bankruptcy Rule 3003(c)(3), by order dated June 12, 2008, [Docket No. 176] the Bankruptcy Court established July 23, 2008 (the "Claims Bar Date"), as the last date by which creditors, other than governmental units, were permitted to file proofs of Claim in the Chapter 11 Case. The Bankruptcy Court also established September 29, 2008, as the last date by which governmental units are permitted to file proofs of Claim in the Chapter 11 Case (the "Government Bar Date" and together with the Claims Bar Date, the "Bar Dates"). Pursuant to Bankruptcy Rule 3003(c)(2), any creditor whose Claim was not scheduled by the Debtor or was scheduled as disputed, contingent, or unliquidated, and who failed to file a proof of Claim on or before the Bar Dates, may not be treated as a creditor with respect to that Claim for purposes of voting on the Plan or receiving a distribution thereunder.

IV. THE SETTLEMENT

The Plan implements a compromise and settlement with respect to the Prepetition Lenders Claim and the Prepetition Lenders Deficiency Claim (the "Settlement"). The Debtor, the Committee and the Prepetition Lenders have negotiated and propose to settle certain disputes regarding potential causes of action the Debtor and the Committee may hold against the Prepetition Lenders and the validity of the Prepetition Lenders Claim and the Prepetition Lenders Deficiency Claim. The Debtor and/or the Committee may be able to assert several claims against the Prepetition Lenders for the recovery of certain funds and challenges to the validity of the Prepetition Lenders Claim. The Committee has investigated the potential claims against the Prepetition Lenders and notwithstanding that investigation, the Committee, the Debtor and the Prepetition Lenders have each recognized that litigating the Prepetition Lenders Claim and the

claims of the Debtor against the Prepetition Lenders would involve substantial costs and significant risk. Accordingly, the parties agreed to the Settlement.

As more specifically set forth in section VI.D hereof and in the Plan, the Settlement provides that in consideration for the waiver and release of claims as provided in section 7.2 of the Plan, the Prepetition Lenders have agreed to the creation of a Class 5 Distribution Fund and to waive their rights to receive their Pro Rata share of the Class 5 Distribution Fund on account of their Class 3 Prepetition Lenders Claim; provided, however, that Allowed Claims held by the Prepetition Lenders relating to the Class 4 Senior Subordinated Notes Claim shall receive a Pro Rata share of the Class 5 Distribution Fund. The Class 5 Distribution Fund is comprised of 11% of the net proceeds of Causes of Action (subject to an aggregate cap of \$1 million unless Class 3 Prepetition Lenders Claims are paid in full), thereby enabling the holders of Allowed Class 5 General Unsecured Claims to share in such litigation recoveries. The Settlement also provides for the release and waiver of preference actions against the creditors of the Debtor (excepting Brightstar US, Inc.) to avoid the scenario of having such actions brought against unsecured creditors for the exclusive benefit of the Prepetition Lenders.

The Settlement additionally provides for the creation of the Liquidation Trust to, among other things, (i) prosecute, collect, compromise and settle Liquidation Trust Causes of Action, (ii) prosecute, compromise and settle objections to Claims and (iii) distribute the Class 5 Distribution Fund in accordance with the terms of the Plan. The Liquidation Trust will be funded by the residual of the \$125,000 carve-out for Committee professionals.

The Prepetition Lenders have also agreed that on the Effective Date, consistent with the terms of the Final Cash Collateral Order, \$1,250,000 of Cash (net of the Committee Reserve) shall be available for the Post-Confirmation Debtor and the Plan Administrator for the purposes set forth in section 10.2 of the Plan and the Plan Administration Agreement. The parties have also negotiated the terms and provisions of the attached Plan which provides a meaningful distribution to Class 5 General Unsecured Claims in an efficient manner, without the cost and delay otherwise associated with litigation.

In connection with the Settlement, subject to and upon the occurrence of the Effective Date, the Committee, the Liquidation Trustee, the Liquidation Trust and the Debtor's estate shall waive and be deemed to have released all claims against the Prepetition Lenders, including any claims on account of section 506(c) of the Bankruptcy Code, existing as of the occurrence of the Effective Date without need for further action or Bankruptcy Court approval. Such releases are specifically set forth in section 7.2(d) of the Plan (collectively, the "Releases"). The Releases are integral and vital to the Settlement and the other compromises embodied in the Plan and provide consideration for a consensual chapter 11 plan. The Debtor has been advised by the Prepetition Lenders and the Committee that unless the Releases are included in the Plan, the Plan will not have the support of the Prepetition Lenders or the Committee. Further, the Prepetition Lenders have advised the Debtor that it will not agree to waive their Pro Rata share of the Class 5 Distribution Fund on account of their Class 3 Prepetition Lenders Claim or make funds available to the Post-Confirmation Debtor and the Plan Administrator absent the Releases. The Debtor believes that without such contributions, it is likely that the holders of Class 5 General Unsecured Claims will receive substantially less recoveries than as currently provided for in the Plan. Moreover, by providing the Releases, the Debtor avoids the burdens and

uncertainties of litigation and of the Debtor's continued existence in chapter 11. Accordingly, based on the foregoing, the Debtor submits that the Releases are reasonable and appropriate and are supported by substantial consideration and, therefore, should be approved.

The Settlement was the process of extensive negotiations, and the Debtor, the Committee and the Prepetition Lenders believe that the Settlement is in the best interest of the Debtor's estate and Creditors. Accordingly, pursuant to section 1123(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9019, and consistent with section 1129 of the Bankruptcy Code, the Plan constitutes an application for approval of, and the Confirmation Order may authorize and constitute approval of, the Settlement.

V. LITIGATION OF AVOIDANCE ACTIONS

Under sections 547 and 550 of the Bankruptcy Code, a debtor may seek to avoid and recover certain prepetition transfers made by the debtor to or for the benefit of a creditor, in the ninety days (90) prior to the petition date, in respect of an antecedent debt if such transfer was made when the debtor was insolvent. Transfers made to a creditor that was an "insider" of the debtor are subject to these provisions if the payment was made within one (1) year of the debtor's filing of a petition under chapter 11. Such transfers are commonly referred to as "preference payments".

To avoid the scenario where general unsecured creditors of the Debtor are sued for preference payments for the exclusive benefit of the Prepetition Lenders, the Committee, as part of the Settlement, negotiated the waiver of preference actions against general unsecured creditors (excluding such actions against Brightstar US Inc. which are preserved under the Plan).

VI. SUMMARY OF THE PLAN OF LIQUIDATION

A. General

The Plan constitutes a liquidating chapter 11 plan for the Debtor. The Plan provides for the Debtor's assets to be liquidated and for the proceeds of such liquidation to be distributed to holders of Allowed Claims in accordance with the terms of the Plan and the priority of claims provisions of the Bankruptcy Code. Except as otherwise provided by order of the Bankruptcy Court, distributions will occur on the Effective Date or as soon thereafter as is practicable and at various intervals thereafter. The Post-Confirmation Debtor will be dissolved as soon as practicable after the final distributions under the Plan.

As of October 1, 2008, the Debtor had \$1,168,555.77 of Cash on hand. As of December 6, 2008, and as more fully set forth in the Liquidation Analysis attached hereto as Exhibit B, the Debtor estimates that it will have approximately \$1,116,129.00 of Cash on hand to fund the Plan and make distributions to holders of Allowed Claims in accordance with the Plan.

THE FOLLOWING IS A SUMMARY OF SOME OF THE SIGNIFICANT ELEMENTS OF THE PLAN. THIS DISCLOSURE STATEMENT IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED INFORMATION SET FORTH IN THE PLAN.

B. Classification and Treatment of Claims and Interests

1. Unclassified Claims

The Bankruptcy Code does not require administrative and certain priority claims to be classified under a chapter 11 plan. Accordingly, Administrative Claims, Priority Tax Claims and Fee Claims have not been classified in the Plan.

Treatment of Administrative Claims

Except to the extent the holder of an Allowed Administrative Claim agrees otherwise, each holder of an Allowed Administrative Claim shall be paid in respect of such Allowed Claim (i) the full amount thereof in Cash, as soon as practicable after the later of (a) the Effective Date and (b) the date on which such Claim becomes an Allowed Claim, or upon other agreed terms, or (ii) such lesser amount as the holder of an Allowed Administrative Claim and the Debtor, the Post-Confirmation Debtor, the Plan Administrator or the Liquidation Trustee, as applicable, might otherwise agree, as soon as practicable after the later of (a) the Effective Date and (b) the date upon such parties' agreement.

Treatment of Priority Tax Claims

Except to the extent the holder of an Allowed Priority Tax Claim agrees otherwise, each holder of an Allowed Priority Tax Claim shall be paid in respect of such Allowed Claim either (i) the full amount thereof, without post-petition interest or penalty, in Cash, as soon as practicable after the later of (a) the Effective Date and (b) the date on which such Claim becomes an Allowed Claim or upon other agreed terms, or (ii) such lesser amount as the holder of an Allowed Priority Tax Claim and the Debtor, the Post-Confirmation Debtor, the Plan Administrator, or the Liquidation Trustee might otherwise agree, as soon as practicable after the later of (a) the Effective Date and (b) the date upon such parties' agreement.

Treatment of Fee Claims

Except to the extent the holder of an Allowed Fee Claim agrees otherwise, each holder of an Allowed Fee Claim shall receive payment in full in Cash of such Fee Claim, as approved by the Bankruptcy Court on the later of the Effective Date and the first Business Day after the date that is five (5) Business Days after the date on which such Fee Claim is approved by the Bankruptcy Court.

2. Classification and Treatment of Claims and Interests

The Plan classifies and treats other Claims and Interests as follows:

Treatment of Class 1 Claims – Other Priority Claims

Each holder of an Allowed Other Priority Claim shall be paid in respect of such Allowed Claim (i) the full amount thereof in Cash, as soon as practicable after the later of (a) the Effective Date and (b) the date on which such Claim becomes an Allowed Claim or upon other agreed terms, or (ii) such lesser amount as the holder of an Allowed Other Priority Claim and the

Post-Confirmation Debtor, the Plan Administrator, or the Liquidation Trustee might otherwise agree.

The holders of Claims in this Class are not impaired and therefore not entitled to vote.

Treatment of Class 2 Claims – Miscellaneous Secured Claims

The Debtor believes that there are no valid Miscellaneous Secured Claims in this Class. To the extent there are any Allowed Secured Claims in this Class, each such Claim shall be deemed to be a separate subclass. At the option of the Debtor, holders of Class 2 Claims shall receive either (i) the return of the collateral securing such Claim, (ii) the net proceeds from the disposition of the collateral securing such Claim without representation or warranty by or recourse against the Debtor, or (iii) such other treatment as shall be agreed to between the holder of a Class 2 Miscellaneous Secured Claim and the Debtor. Any alleged Class 2 Miscellaneous Secured Claim not specifically addressed in the Plan and the Confirmation Order as a Secured Claim shall be disallowed as a Secured Claim and shall be treated for all purposes under the Plan as a Class 5 General Unsecured Claim if and to the extent allowed.

The holders of Claims in this Class are not impaired and therefore not entitled to vote.

Treatment of Class 3 Claims – Prepetition Lenders Claim

The holders of the Class 3 Prepetition Lenders Claim shall receive the Cash on hand after all distributions have been made pursuant to the Plan, plus the Proceeds of the Causes of Action, less (i) the aggregate distributions to holders of Allowed Administrative Claims, Allowed Fee Claims, Allowed Priority Claims, Allowed Other Priority Claims, and Allowed Miscellaneous Secured Claims, (ii) the Class 5 Distribution Fund, and (iii) the funds transferred to the Post-Confirmation Debtor Reserve. Upon the closing of the Chapter 11 Case, the Plan Administrator shall distribute any balance remaining in the Post-Confirmation Debtor Reserve to the holder of the Allowed Class 3 Prepetition Lenders Claim in accordance with the terms of the Plan and the Settlement described in Article VII.

The holders of Claims in this Class are impaired and therefore entitled to vote.

Treatment of Class 4 Claims – Senior Subordinated Notes Claim

In connection with the Settlement described in Article VII of the Plan, the Class 4 Senior Subordinated Notes Claims shall be treated *pari passu* with the Class 5 General Unsecured Claims.

The holders of Claims in this Class are impaired and therefore entitled to vote.

Treatment of Class 5 Claims – General Unsecured Claims

The holders of Allowed Class 5 General Unsecured Claims against the Debtor shall receive their Pro Rata share of the Class 5 Distribution Fund.

The holders of Claims in this Class are impaired and therefore entitled to vote.

Treatment of Class 6 Interests

The holders of Class 6 Interests shall receive no distribution. On the Effective Date, all Class 6 Interests shall be deemed canceled, null and void and of no force and effect.

The holders of Class 6 Interests are deemed to reject the Plan and therefore not entitled to vote.

C. Means for Implementation of the Plan

1. Corporate Action

On the Effective Date and automatically and without further action (except as otherwise necessary pursuant to applicable non-bankruptcy law), (i) each existing member of the board of directors of the Debtor will be deemed to have resigned, (ii) the new board members shall be those identified on Exhibit A of the Plan, and (iii) the Plan Administrator and the Post-Confirmation Debtor shall be authorized and empowered to take all such actions and measures necessary to implement and administer the terms and conditions of the Plan.

2. Plan Administrator

(a) Transfer of Powers.

- (i) On the Effective Date, the authority, power and incumbency of the persons then acting as officers of the Debtor shall be terminated and such officers shall be deemed to have resigned.
- (ii) On the Effective Date, the Plan Administrator, shall be deemed appointed and shall succeed to such powers as would have been applicable to the Debtor's officers. Other than the Liquidation Trust Assets, all property of the Post-Confirmation Debtor not distributed to holders of Allowed Claims on the Effective Date, including the Plan Administrator Expense Reserve and any moneys held in escrow or separate segregated accounts during the pendency of the Chapter 11 Case, shall be managed by the Plan Administrator, as the sole officer of the Post-Confirmation Debtor, and shall be held in the name of the Post-Confirmation Debtor free and clear of all Claims and Interests in the Debtor. To the extent necessary, the Plan Administrator or the Post-Confirmation Debtor shall be deemed to be a judicial substitute for the Debtor as the party-in-interest in the Chapter 11 Case, under the Plan or in any judicial proceeding or appeal to which the Debtor is a party, consistent with section 1123(b)(3)(B) of the Bankruptcy Code.
- (iii) The Plan Administrator shall not be liable for any action he takes or omits to take that he believes in good faith to be authorized or

within his rights or powers unless it is ultimately and finally determined by a court of competent jurisdiction that such action or inaction was the result of gross negligence or willful misconduct.

(b) Compensation and Duties. The terms of the Plan Administrator's employment, including the Plan Administrator's duties and compensation, to the extent not set forth in the Plan, shall be set forth in the Plan Administration Agreement. The Plan Administrator shall act for the Post-Confirmation Debtor in a fiduciary capacity, as applicable to a corporate officer, subject to the provisions hereof and the Plan Administration Agreement. The duties and powers of the Plan Administrator shall include the following, in all cases without further approval of the Bankruptcy Court, and otherwise consistent with and subject to the terms and conditions of the Plan and the Plan Administration Agreement:

- (i) To exercise all power and authority that may be exercised, commence all proceedings that may be commenced and take all actions that may be taken by any officer of the Post-Confirmation Debtor, including consummating the Plan and all transfers thereunder on behalf of the Post-Confirmation Debtor and prosecuting any Debtor Causes of Actions;
- (ii) To sell, dispose, litigate, settle or otherwise transfer, resolve for value or abandon, as appropriate, the Remaining Assets;
- (iii) To maintain accounts, make distributions and take other actions consistent with the Plan and the implementation hereof, including the establishment, evaluation, adjustment and maintenance of reserves for Disputed Claims, other than Disputed General Unsecured Claims, and reasonable reserves for the payment of unpaid Administrative Claims, Fee Claims, Priority Tax Claims, Other Priority Claims, Miscellaneous Secured Claims, any other unpaid liabilities or obligations of the Post-Confirmation Debtor and the expenses of administering and liquidating the Post-Confirmation Debtor and otherwise performing the obligations of the Plan Administrator under the Plan and the Plan Administration Agreement, in the name of the Post-Confirmation Debtor or the Plan Administrator;
- (iv) To sell, dispose or otherwise transfer for value the Real Property Interests, if any;
- (v) To maintain all accounts, make distributions and take other actions consistent with the Plan, including the maintenance of appropriate reserves, in the name of the Debtor or Post-Confirmation Debtor;
- (vi) To take all steps necessary to terminate the corporate existence of the Debtor;

- (vii) To take all steps to file tax returns;
- (viii) To prosecute objections to Claims, other than General Unsecured Claims, and to compromise or settle any Claims, other than General Unsecured Claims (Disputed or otherwise);
- (ix) To make decisions regarding the retention or engagement of professionals or other Persons by the Post-Confirmation Debtor and to pay, without court order, all reasonable fees and expenses accruing after the Effective Date;
- (x) To perform any act authorized, permitted or required under any agreement, instrument or other document to which the Post-Confirmation Debtor is a party, whether in the nature of an approval, consent, demand or notice thereunder or otherwise;
- (xi) To purchase or create and carry all insurance policies, pay all insurance premiums and costs and recover all insurance proceeds as the Plan Administrator deems necessary or advisable;
- (xii) To investigate, prosecute, defend, commence or continue litigation or arbitration, compromise or settle any and all Debtor Causes of Action and to assert any claims, defenses, offsets or privileges related thereto other than any rights to the Liquidation Trust Assets;
- (xiii) To transfer the Liquidation Trust Assets to the Liquidation Trust;
- (xiv) To provide the Liquidation Trustee with access to the books and records of the Post-Confirmation Debtor to enable the Liquidation Trustee to prosecute, compromise, and settle the Liquidation Trust Causes of Action, and prosecute, compromise, or settle objections to Claims; and
- (xv) To implement and/or enforce all provisions of the Plan and to take all other actions not inconsistent with the provisions of the Plan which the Plan Administrator deems reasonably necessary or desirable with respect to administering the Plan, including executing any documents, instruments, contracts and agreements necessary and appropriate to carry out the powers and duties of the Plan Administrator.

3. Investments. All Cash held by the Plan Administrator in any accounts or otherwise shall be invested in accordance with section 345 of the Bankruptcy Code or as otherwise permitted by a Final Order of the Bankruptcy Court.

4. Resignation, Death or Removal. The Plan Administrator may be removed by the Bankruptcy Court upon application for good cause shown. In the event of the resignation or

removal, death or incapacity of the Plan Administrator, the Board of Directors of the Post-Confirmation Debtor shall designate another Person to become Plan Administrator and thereupon the successor Plan Administrator, upon approval by the Bankruptcy Court, shall become fully vested with all of the rights, powers, duties and obligations of his predecessor.

5. Winding Up Affairs. Following the Confirmation Date, the Post-Confirmation Debtor shall not engage in any business activities or take any actions, except those necessary to effectuate the Plan and wind up the affairs of the Debtor. On and after the Effective Date, the Plan Administrator may, in the name of the Debtor or Post-Confirmation Debtor, take such actions without supervision or approval by the Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than any restrictions expressly imposed by the Plan or the Confirmation Order. Without limiting the foregoing, the Plan Administrator may, without application to or approval of the Bankruptcy Court, pay the reasonable charges that it incurs after the Effective Date for professional's fees and expenses.

6. Release of Liens. Except as otherwise provided in the Plan or in any contract, instrument or other agreement or document created in connection with the Plan, on the Effective Date, all mortgages, deeds of trust, liens or other security interests against the property of the Debtor's estate shall be released, and all the right, title and interest of any holder of such mortgages, deeds of trust, liens or other security interests shall revert to the Post-Confirmation Debtor.

D. Settlement and Compromise

1. Application for Approval of Settlement. The Plan implements a compromise and settlement with respect to the Prepetition Lenders Claim and the Prepetition Lenders Deficiency Claim. Pursuant to section 1123(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9019, and consistent with section 1129 of the Bankruptcy Code, the Plan constitutes an application for approval of, and the Confirmation Order may authorize and constitute approval of, the Settlement.

2. The Settlement. The following terms and conditions set forth the Settlement by and among the Debtor, the Committee and the Prepetition Lenders:

(a) A fund (the "Class 5 Distribution Fund") shall be established for holders of Allowed General Unsecured Claims. The Class 5 Distribution Fund shall consist of eleven-percent (11%) of the net Proceeds of the Causes of Action, subject to an aggregate cap of \$1,000,000 (the "Class 5 Distribution Fund Cap"). In the event that the Class 3 Prepetition Lenders Claim is paid in full, the Class 5 Distribution Fund Cap shall be removed and holders of Allowed General Unsecured Claims shall receive a Pro Rata share in any additional net Proceeds from the Causes of Action.

(b) The Prepetition Lenders waive their rights to receive their Pro Rata share of the Class 5 Distribution Fund on of account their Class 3 Prepetition Lenders Claim; provided, however, that Allowed Claims held by the Prepetition Lenders

relating to the Class 4 Senior Subordinated Notes Claims shall receive a Pro Rata share of the Class 5 Distribution Fund.

(c) In consideration for, among other things, waiving the right to receive their Pro Rata share of the Class 5 Distribution Fund, subject to and upon the occurrence of the Effective Date, the Committee, the Liquidation Trustee, the Liquidation Trust, the Plan Administrator and the Debtor's estate shall waive and be deemed to have released all claims against the Prepetition Lenders, including any claims on account of section 506(c) of the Bankruptcy Code, existing as of the occurrence of the Effective Date (subject to the preservation of any claims relating to the Prepetition Lenders' obligations in connection with the implementation of this Plan) without need for further action or Bankruptcy Court approval.

(d) Subject to and upon the occurrence of the Effective Date, the Committee, the Liquidation Trustee, the Liquidation Trust, and the Debtor's estate shall waive and be deemed to have released all claims against the Prepetition Lenders, including any claims on account of section 506(c) of the Bankruptcy Code, existing as of the occurrence of the Effective Date (subject to the preservation of any claims relating to Prepetition Lender obligations in connection with the Plan, if any) without need for further action or Bankruptcy Court approval. The deadline by which the Committee shall bring an action against the Prepetition Lenders is extended through and including the Effective Date. The Committee shall not seek discovery or commence any actions against the Prepetition Lenders from May 16, 2008 through the Effective Date, so long as the Plan is confirmed within 240 days of May 16, 2008. The 240-day confirmation deadline may be extended by mutual agreement of the Committee, the Debtor and the Prepetition Lenders or by order of the Bankruptcy Court for cause shown.

(e) The Liquidation Trust will be created pursuant to the terms of the Plan and the Liquidation Trust Agreement.

(f) Subject to and upon the occurrence of the Effective Date, the Plan Administrator will transfer and assign to the Liquidation Trust all rights, title and interest in the Liquidation Trust Assets free and clear of all liens, claims and encumbrances. The Liquidation Trust Assets shall be used to fund the operations of the Liquidation Trust and the fees and expenses of the Liquidation Trustee.

(g) The Prepetition Lenders have agreed that on the Effective Date, consistent with the terms of the Final Cash Collateral Order, \$1,250,000 of Cash (net of the Committee Reserve) shall be available for the Post-Confirmation Debtor and the Plan Administrator for the purposes set forth in section 10.2 of the Plan and the Plan Administration Agreement. On or around the 15th day of each month and the last day of each month, all Cash in excess of \$1,250,000 (net of the Committee Reserve) shall be remitted to the Prepetition Lenders on account of the Class 3 Prepetition Lenders Claim.

E. Liquidation Trust

1. Appointment. On the Confirmation Date, the Bankruptcy Court shall enter an order approving the Liquidation Trust Agreement and appointing the Liquidation Trustee who shall serve from and after the Effective Date until completion of his responsibilities or his resignation or discharge and appointment of a successor Liquidation Trustee.

2. Transfer by the Plan Administrator to Liquidation Trust. On the Effective Date, the Plan Administrator shall transfer to the Liquidation Trust all rights, title and interest in the Liquidation Trust Assets free of all liens, claims, charges, interests and encumbrances.

3. Ratification. On the Effective Date, each holder of a Class 5 General Unsecured Claim will be deemed to have ratified and become bound by the terms of the Liquidation Trust Agreement.

4. Liquidation of Liquidation Trust Assets. The Liquidation Trustee shall pursue, litigate or settle the Liquidation Trust Causes of Action in accordance with the Plan and the Liquidation Trust Agreement and pay all associated costs associated therewith from the Class 5 Distribution Fund.

5. Funding of Liquidation Trust. On the Effective Date, the Plan Administrator shall transfer to the Liquidation Trust the Liquidation Trust Assets to be used by the Liquidation Trustee to, among other things, (i) fund operations of the Liquidation Trust, (ii) make distributions in accordance with the Plan to holders of Allowed Class 5 General Unsecured Claims, (iii) prosecute, compromise, and settle objections to Claims, and (iv) prosecute, compromise, and settle Liquidation Trust Causes of Action.

6. Powers. The rights, powers and duties of the Liquidation Trustee are set forth in the Liquidation Trust Agreement, which is incorporated herein by reference and shall include, but not be limited to, (i) prosecution, collection, compromise and settlement of Liquidation Trust Causes of Action, (ii) prosecution, compromise and settlement of objections to Claims, and (iii) distributing the Class 5 Distribution Fund in accordance with the terms of the Plan. Such rights, powers and duties granted to the Liquidation Trustee as set forth in the Liquidation Trust Agreement shall vest without the need to obtain further Bankruptcy Court approval.

7. Retention of Counsel. The Liquidation Trustee shall be authorized to retain counsel, which may be, but is not required to be, counsel for the Committee and other professionals as he deems appropriate without application to or approval of the Bankruptcy Court.

8. Compensation. The Liquidation Trustee and its retained professionals shall be compensated for all fees and expenses incurred in connection with its services under the Liquidation Trust Agreement from Liquidation Trust Assets without application to or approval of the Bankruptcy Court.

9. Appointment of Successor. In the event of the death, resignation or discharge of the Liquidation Trustee, the Bankruptcy Court shall appoint a successor to the Liquidation Trustee upon motion by counsel for the Liquidation Trustee. Any such successor to the

Liquidation Trustee shall be bound by the provisions of the Plan, the Liquidation Trust Agreement and the order appointing the Liquidation Trustee.

10. Termination of Liquidation Trustee. After the Effective Date, and upon the final distribution of the Liquidation Trust Assets in accordance with the terms of the Plan, the Liquidation Trustee shall so inform the Bankruptcy Court or such other persons and shall be relieved of further responsibility.

11. Liquidation Trust Oversight Committee. After the Effective Date, Liquidation Trust Oversight Committee shall come into existence for the purposes more fully set forth in the Liquidation Trust Agreement. The members of the Liquidation Trust Oversight Committee shall not be entitled to any fees or expenses under the Plan.

F. Sale and Disposition of Remaining Assets

1. On or after the Confirmation Date, the Debtor intends to consummate any necessary transactions regarding the sale or other disposition of the Remaining Assets. With respect to any sale or disposition of the Real Property Interests, if any, on or subsequent to the date of the entry of the Confirmation Order, if any, the Confirmation Order shall serve as an order granting a waiver of all stamp and/or transfer taxes pursuant to section 1146(c) of the Bankruptcy Code, if applicable.

2. The Cash on hand on the Effective Date and the Proceeds from the sale or other disposition of the Remaining Assets shall be distributed to the holders of Allowed Claims in accordance with the terms of the Plan and the priorities of the Bankruptcy Code.

G. Distributions under the Plan

1. Distributions for Claims Allowed as of the Effective Date. Except as otherwise provided herein or as ordered by the Bankruptcy Court, distributions to be made on account of Claims that are Allowed Claims as of the Effective Date shall be made on the Effective Date or as soon thereafter as is practicable. Any distribution to be made on the Effective Date pursuant to the Plan shall be deemed as having been made on the Effective Date if such distribution is made on the Effective Date or soon as thereafter is practicable. Any payment or distribution required to be made under the Plan on a day other than a Business Day shall be made on the next preceding Business Day.

2. Reserve Accounts. On the Effective Date or as soon as practicable after the Effective Date, the Plan Administrator shall establish and maintain a reserve (the "Plan Administrator Expense Reserve") in the amount of \$1,250,000 (net of the Committee Reserve) to be used to (i) pay fees and expenses of the Post-Confirmation Debtor and Plan Administrator, including their professionals in connection with the Post-Confirmation Debtor's operations, (ii) pay the costs, fees and expenses of prosecuting the Debtor Causes of Action, and (iii) fund the reserves set forth in the following subsections. On or around the 15th day of each month and the last day of each month, all Cash in excess of \$1,250,000 (net of the Committee Reserve) shall be remitted to the Prepetition Lenders on account of the Class 3 Prepetition Lenders Claim. Upon the closing of the Chapter 11 Case, the Plan Administrator shall distribute any balance remaining

in the Post-Confirmation Debtor Reserve to the holder of the Allowed Class 3 Prepetition Lenders Claim in accordance with the terms of the Plan and the Settlement.

(a) Reserve for Administrative Claims. On or as soon as practicable after the Effective Date, the Plan Administrator, shall establish and maintain a reserve (the “Administrative Claims Reserve”) from the Cash on hand on the Effective Date for Administrative Claims that may be asserted prior to or on the Administrative Claims Bar Date. As soon as practicable after the Administrative Claims Bar Date, the Plan Administrator shall release and distribute to holders of Allowed Claims the portion of the Administrative Claims Reserve not required to either (i) pay such Allowed Administrative Claims or (ii) be set aside as part of the Reserve for Disputed Administrative Claims under section 10.2(d) of the Plan.

(b) Reserve for Fee Claims. On the Effective Date, the Plan Administrator, shall establish and maintain reserves for payment of estimated unpaid Fee Claims. For purposes of establishing a reserve for Fee Claims, Cash will be set aside from the Cash on hand on the Effective Date in an amount equal to the amount that the Debtor and Committee anticipate will be incurred for fees and expenses by Professionals retained in the Chapter 11 Case up to and including the Effective Date. If, when, and to the extent any such Fee Claims become Allowed Claims by Final Order, the relevant portion of the Cash held in reserve therefor shall be distributed by the Plan Administrator to the Professional in a manner consistent with distributions to similarly situated Allowed Claims or as set forth in such Final Order approving the Fee Claim. The balance of such Cash, if any remaining after all Fee Claims have been resolved and paid, shall be distributed to the holders of Allowed Claims pursuant to the terms of the Plan. No payments or distributions shall be made with respect to a Fee Claim until such Fee Claim is Allowed by Final Order.

(c) Reserves for Disputed Class 5 General Unsecured Claims and Certain Costs. Prior to any distributions to the holders of Allowed Class 5 General Unsecured Claims, the Liquidation Trustee shall establish and maintain reserves for all Disputed Class 5 General Unsecured Claims. Notwithstanding anything else in the Plan, the Liquidation Trustee shall not be required to make distributions to holders of Allowed Class 5 General Unsecured Claims until the objections to Disputed Class 5 General Unsecured Claims have been resolved and the Causes of Action have been fully litigated, settled, collected and/or abandoned.

(d) Reserves for Disputed Administrative, Priority Tax and Other Priority Claims. On or as soon as practicable after the Effective Date, the Plan Administrator shall establish and maintain reserves for all Disputed Administrative, Priority Tax, and Other Priority Claims. With respect to such Disputed Administrative, Priority Tax, and Other Priority Claims, if, when, and to the extent any such Disputed Administrative, Priority Tax, and Other Priority Claims become an Allowed Administrative, Priority Tax, and Other Priority Claim by Final Order or by agreement of the parties, the relevant portion of the Cash held in reserve therefor shall be distributed by the Plan Administrator to the Claimant in a manner consistent with distributions to similarly situated Allowed Administrative, Priority Tax, and Other Priority Claims. The balance of such Cash, if any, remaining after all Disputed Administrative, Priority Tax, and Other Priority Claims have been resolved and the costs of the Plan Administrator have been fully paid, shall be distributed in accordance with the terms of the Plan. No payments or distributions shall be made with respect to a Claim that is a Disputed Administrative, Priority

Tax, and Other Priority Claim pending the resolution of the dispute, provided however, that the Plan Administrator may in his discretion pay any undisputed portion of a Disputed Administrative, Priority Tax, and Other Priority Claim.

3. Objections to Claims. Objections to Claims shall be filed with the Court and served upon each affected Creditor no later than one-hundred-twenty (120) days after the Effective Date, provided, however, that this deadline may be extended by the Court upon motion of the Plan Administrator or the Liquidation Trustee, as applicable, without notice to Creditors. Notwithstanding the foregoing and except as otherwise provided in the Plan, unless an order of the Court specifically provides for a later date, any proof of claim filed after the Confirmation Date shall be automatically disallowed as a late filed claim, without any action by the Plan Administrator or Liquidation Trustee, as applicable, unless and until the party filing such Claim obtains the written consent of the Plan Administrator and the Liquidation Trustee to file such Claim late or obtains an order of the Court upon notice to the Plan Administrator and Liquidation Trustee that permits the late filing of the Claim. In the event any proof of claim is permitted to be filed after the Confirmation Date, the Plan Administrator and Liquidation Trustee shall have one-hundred-twenty (120) days from the date of such carve-out for final rejection claims, written consent or order to object to such Claim, which deadline may be extended by the Court upon motion of the Plan Administrator or Liquidation Trustee, as applicable, without notice to Creditors.

4. Settlement of Disputed Claims and Causes of Actions. Objections to Claims may be litigated to judgment or withdrawn, and may be settled with the approval of the Bankruptcy Court, except to the extent that such approval is not necessary as provided in this section. After the Effective Date, and subject to the terms of the Plan, the Plan Administrator and the Liquidation Trustee may settle any Disputed Claim or Cause of Action where the asserted amount of the Disputed Claim or Cause of Action is \$500,000 or less without providing any notice or obtaining an order from the Bankruptcy Court; provided, however, that the Plan Administrator receives notice of any settlement proposed by the Liquidation Trustee and does not oppose the same within ten (10) days of receipt of such notice and that the Liquidation Trustee receives notice of any settlement proposed by the Plan Administrator and does not oppose the same within ten (10) days of receipt of such notice. Notices to the Plan Administrator and the Liquidation Trustee described in the preceding sentence can be accomplished by electronic mail. All proposed settlements of Disputed Claims or Causes of Action where the asserted amount of the Disputed Claim or Cause of Action exceeds \$500,000 shall be subject to the approval of the Bankruptcy Court, which may be requested under certification of counsel, without notice to Creditors.

5. Unclaimed Property. If any interim distribution remains unclaimed for a period of ninety (90) days after it has been delivered (or attempted to be delivered) in accordance with the Plan to the holder entitled thereto, such unclaimed property, along with any subsequent distribution to be made in accordance with the Plan, shall be forfeited by such holder whereupon all right, title and interest in and to the unclaimed property shall be held in reserve by the Plan Administrator or Liquidation Trustee, as applicable, to be distributed to other holders of Allowed Claims in accordance with the terms of the Plan and this paragraph. Distributions from the Class 5 Distribution Fund which remain unclaimed for a period of ninety (90) days after they have been delivered (or attempted to have been delivered) in accordance with the Plan to the holders

entitled thereto that: (i) are intended to be final distributions; and (ii) do not exceed \$10,000 in the aggregate, shall, as soon thereafter as practicable, be donated to an organization officially recognized by the Internal Revenue Service as a charitable organization, a contribution to which would be deductible for federal income tax purposes, in the name of the unsecured creditors of the Debtor to an organization designated by the Liquidation Trustee; provided, however, that if the giving over of such unclaimed property under this Section would result in a donation exceeding \$10,000 in the aggregate, then such unclaimed property shall not be eligible for donation under this Section, and the unclaimed property shall be held in reserve by the Liquidation Trustee to be distributed to other holders of Allowed Class 5 General Unsecured Claims in accordance with the Plan. The Post-Confirmation Debtor shall be entitled to any tax or other benefits associated with any donation made under this Section.

6. Withholding from Distributions. Any federal, state, or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from distributions hereunder. All Persons holding Claims shall be required to provide any information necessary to effect the withholding of such taxes. The Plan Administrator and Liquidation Trustee may withhold from amounts distributable to any Entity any and all amounts, determined in the Plan Administrator's or Liquidation Trustee's reasonable, sole discretion, to be required by any law, regulation, rule, ruling, directive, or other governmental requirement.

7. Fractional Cents. Any other provision of the Plan to the contrary notwithstanding, no payment of fractions of cents will be made. Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding down of such fraction to the nearest whole cent.

8. Payments of Less than Ten Dollars. If a cash payment otherwise provided for by the Plan with respect to an Allowed Claim would be less than ten (\$10.00) dollars (whether in the aggregate or on any payment date provided in the Plan), notwithstanding any contrary provision of the Plan, the Plan Administrator and the Liquidation Trustee shall not be required to make such payment and such funds shall be otherwise distributed to holders of Allowed Claims in accordance with Article IV and Article V of the Plan.

9. Setoffs. Except as otherwise provided for herein, the Post-Confirmation Debtor, Plan Administrator or Liquidation Trustee, as applicable, may, but shall not be required to, set off against any Claim and the payments to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever the Debtor or its estate may have against the Creditor, but neither the failure to do so nor the allowance of a Claim hereunder shall constitute a waiver or release by the Debtor or its estate of any Claim they may have against the Creditor.

H. Unexpired Leases and Executory Contracts

1. Any and all pre-petition leases or executory contracts not previously rejected by the Debtor, unless specifically assumed pursuant to orders of the Bankruptcy Court prior to the Confirmation Date or the subject of a motion to assume or assume and assign pending on the Confirmation Date, shall be deemed rejected by the Debtor effective as of the Confirmation Date, but subject to the occurrence of the Effective Date.

2. All proofs of claim with respect to claims arising from the rejection of executory contracts or leases shall, unless another order of the Bankruptcy Court provides for an earlier date, be Filed with the Bankruptcy Court within thirty (30) days after the mailing of notice of entry of the Confirmation Order (the "Rejection Bar Date"). Unless otherwise permitted by Final Order, any proof of claim that is not Filed prior to the Confirmation Date (other than those claims arising from the rejection of executory contracts or leases which may be Filed within thirty (30) days after mailing of the notice of entry of Confirmation Order as set forth above) shall automatically be disallowed as a late filed claim, without any action by the Post-Confirmation Debtor, the Plan Administrator or the Liquidation Trustee, as applicable, and the holder of such Claim shall be forever barred from asserting such Claim against the Debtor, its estate or property or the Post-Confirmation Debtor.

I. Conditions Precedent to Effectiveness of Plan

1. Conditions to Effectiveness of the Plan. The Plan shall not become effective unless and until each of the following conditions has been satisfied or waived:

- (a) The Bankruptcy Court shall have entered the Confirmation Order; and
- (b) The Confirmation Order shall have become a Final Order.

2. Waiver of Conditions. The Debtor, with the consent of the Prepetition Lenders and the Committee, may at any time, without notice or authorization of the Bankruptcy Court, waive the conditions set forth in section 12.1(b). The failure of the Debtor to satisfy or waive such condition may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied (including any action or inaction by the Debtor). The Debtor reserves the right to assert that any appeal from the Confirmation Order shall be moot after consummation of the Plan.

3. Effect of Failure of Condition. In the event that the condition specified in section 12.1(b) of the Plan has not occurred or been waived on or before sixty (60) days after the Confirmation Date, the Confirmation Order may be vacated upon order of the Court after motion made by the Debtor or any party in interest and an opportunity for parties in interest, including the Committee, to be heard.

J. Retention of Jurisdiction

1. Following the Confirmation Date and until such time as all payments and distributions required to be made and all other obligations required to be performed under the Plan have been made and performed by the Plan Administrator and/or Liquidation Trustee and a final decree has been entered closing this Chapter 11 Case, the Bankruptcy Court shall retain jurisdiction as is legally permissible, including, without limitation, for the following purposes:

- (a) Claims. To determine the allowance, classification, or priority of Claims against the Debtor upon objection by the Post-Confirmation Debtor, Plan Administrator, Liquidation Trustee, or any other party in interest;

- (b) Injunction, etc. To issue injunctions or take such other actions or make such other orders as may be necessary or appropriate to restrain interference with the Plan or its execution or implementation by any Person, to construe and to take any other action to enforce and execute the Plan, the Confirmation Order, or any other order of the Bankruptcy Court, to issue such orders as may be necessary for the implementation, execution, performance and consummation of the Plan and all matters referred to herein, and to determine all matters that may be pending before the Bankruptcy Court in the Chapter 11 Case on or before the Effective Date with respect to any Entity;
- (c) Professional Fees. To determine any and all applications for allowance of compensation and expense reimbursement of Professionals for periods before the Effective Date, as provided for in the Plan;
- (d) Certain Priority Claims. To determine the allowance and classification of any Priority Tax Claims, Other Priority Claims, Administrative Claims or any request for payment of an Administrative Claim;
- (e) Dispute Resolution. To resolve any dispute arising under or related to the implementation, execution, consummation or interpretation of the Plan and/or Confirmation Order and the making of distributions hereunder and thereunder, including, without limitation, any dispute concerning payment of professional fees and expenses of the Plan Administrator;
- (f) Executory Contracts and Unexpired Leases. To determine any and all motions for the rejection, assumption, or assignment of executory contracts or unexpired leases, and to determine the allowance of any Claims resulting from the rejection of executory contracts and unexpired leases;
- (g) Actions. To determine all applications, motions, adversary proceedings, contested matters, actions, and any other litigated matters instituted in the Chapter 11 Case by or on behalf of the Debtor, Post-Confirmation Debtor, the Plan Administrator or the Liquidation Trustee, including, but not limited to, the Causes of Action commenced by the Debtor, Post-Confirmation Debtor, the Plan Administrator, or Liquidation Trustee, as applicable, and any remands;
- (h) General Matters. To determine such other matters, and for such other purposes, as may be provided in the Confirmation Order or as may be authorized under provisions of the Bankruptcy Code or as may be requested by the Plan Administrator or Liquidation Trustee, as applicable;
- (i) Plan Modification. To modify the Plan under section 1127 of the Bankruptcy Code, remedy any defect, cure any omission, or reconcile any

inconsistency in the Plan or the Confirmation Order so as to carry out its intent and purposes;

- (j) Aid Consummation. To issue such orders in aid of consummation of the Plan and the Confirmation Order notwithstanding any otherwise applicable non-bankruptcy law, with respect to any Entity, to the full extent authorized by the Bankruptcy Code;
- (k) Protect Property. To protect the Property of the Debtor and Post-Confirmation Debtor from adverse Claims or interference inconsistent with the Plan, including to hear actions to quiet or otherwise clear title to such property based upon the terms and provisions of the Plan or to determine a purchaser's exclusive ownership of claims and causes of actions retained under the Plan;
- (l) Abandonment of Property. To hear and determine matters pertaining to abandonment of Property of the Debtor's estate;
- (m) Implementation of Confirmation Order. To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated; and
- (n) Final Order. To enter a final decree closing the Chapter 11 Case.

K. Miscellaneous Provisions

1. Pre-Confirmation Modification. On notice to and opportunity to be heard by the United States Trustee, counsel to Prepetition Lenders and the Committee, the Plan may be altered, amended or modified by the Debtor before the Confirmation Date as provided in section 1127 of the Bankruptcy Code.

2. Post-Confirmation Immaterial Modification. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in section 1101(2) of the Bankruptcy Code, the Debtor may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect of omission or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan and such proceedings do not materially adversely affect the treatment of holders of the Claims under the Plan; provided, however, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

3. Withdrawal or Revocation of the Plan. The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Debtor revokes or withdraws the Plan, then the Plan shall be deemed null and void.

4. Payment of Statutory Fees. All fees payable pursuant to section 1930 of Title 28 of the United States Code shall be paid on the Effective Date (if due) or by the Plan

Administrator when otherwise due out of the Post-Confirmation Debtor Reserve set aside on the Effective Date.

5. Role of the Committee. Upon the Effective Date, the appointment and existence of the Committee shall terminate for all purposes.

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

7. Termination of 401(k) Plan. Any section 401(k) savings plans maintained by the Debtor for its employees shall be terminated by the Debtor and the Plan Administrator in accordance with applicable law.

8. Exculpation. Except as otherwise provided by the Plan or the Confirmation Order, on the Effective Date, the Debtor, the Committee and its members, and their respective present and former officers, directors, members, managers, employees, representatives, counsel and other agents, successors and assigns shall be deemed released by each of them against the other, and by all holders of Claims or Interests, of and from any claims, obligations, rights, causes of action and liabilities for any act or omission in connection with, or arising out of, the Chapter 11 Case, including, without limiting the generality of the foregoing, all sales of Property, assets, the Disclosure Statement, the pursuit of approval of the Disclosure Statement, the pursuit of confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan, except for acts or omissions which constitute willful misconduct or gross negligence, and all such Persons, in all respects, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan and under the Bankruptcy Code. For the avoidance of any doubt, the exculpation provided herein does not affect any cause of action the Debtors or its estate may have against any of the foregoing parties on account of any prepetition payments received by such parties or prepetition actions taken by such parties.

9. Injunction. Except as otherwise provided in the Plan or an order of the Court, on and after the Confirmation Date, all Entities who have held, hold or may hold Claims against or Interests in the Debtor are, with respect to any such Claims or Interests, permanently enjoined from and after the Confirmation Date from: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Post-Confirmation Debtor, any of its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Entities, or any property of any such transferee or successor; (b) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means whether directly or indirectly, of any judgment, award, decree or order against the Post-Confirmation Debtor, any of its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to any of the foregoing Entities; (c) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any

encumbrance of any kind against the Post-Confirmation Debtor, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to any of the foregoing Entities or against any property of the foregoing Entities; (d) asserting any right of setoff, subrogation, or recoupment of any kind, directly or indirectly, against any obligation due the Post-Confirmation Debtor, any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Entities; and (e) taking any actions in any place and in any manner whatsoever that do not conform to or comply with the provisions of the Plan.

10. **Releases Pursuant to the Settlement.** Subject to and upon the occurrence of the Effective Date, the Committee, the Liquidation Trustee, the Liquidation Trust, and the Debtor's estate shall waive and be deemed to have released all claims against the Prepetition Lenders, including any claims on account of section 506(c) of the Bankruptcy Code, existing as of the occurrence of the Effective Date (subject to the preservation of any claims relating to Prepetition Lender obligations in connection with the Plan, if any) without need for further action or Bankruptcy Court approval. The deadline by which the Committee shall bring an action against the Prepetition Lenders is extended through and including the Effective Date.

11. **Preservation of Insurance.** The Debtor's discharge and release from and payment of all Claims as provided in the Plan shall not diminish or impair the enforceability of any insurance policy that may cover Claims against the Debtor (including, without limitation, their officers or directors) or any other person or entity.

12. **Cramdown.** To the extent any Impaired Class of Claims or Interest holders entitled to vote on the Plan votes to reject the Plan, the Debtor reserves the right to request confirmation of the Plan under section 1129(b) of the Bankruptcy Code with respect to such Class(es).

13. **Governing Law.** Except to the extent that the Bankruptcy Code is applicable, the rights and obligations arising under the Plan shall be governed by and construed and enforced in accordance with the laws of the State of Delaware.

14. **Section 1146 Exemption.** Pursuant to section 1146(c) of the Bankruptcy Code, the issuance, transfer or exchange of any security under the Plan or the making or delivery of any instrument of transfer pursuant to, in implementation of, or as contemplated by, the Plan or the revesting, transfer or sale of any real or personal property of the Debtor or Post-Confirmation Debtor pursuant to, in implementation of, or as contemplated by, the Plan shall not be taxed under any state or local law imposing a stamp tax or similar tax or fee.

15. **Severability.** If any term or provision of the Plan is held by the Bankruptcy Court prior to or at the time of Confirmation to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as so altered or interpreted. In the event of any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan may, at the Debtor's option remain in full force

and effect and not be deemed affected. However, the Debtor reserves the right not to proceed to Confirmation or consummation of the Plan if any such ruling occurs. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

VII. VOTING REQUIREMENTS, ACCEPTANCE AND CONFIRMATION OF THE PLAN

The Bankruptcy Code requires that, in order to confirm the Plan, the Bankruptcy Court must make a series of findings concerning the Plan and the Debtor, including that (i) the Plan has classified Claims in a permissible manner; (ii) the Plan complies with applicable provisions of the Bankruptcy Code; (iii) the Debtor has complied with applicable provisions of the Bankruptcy Code; (iv) the Debtor has proposed the Plan in good faith and not by any means forbidden by law; (v) the disclosure required by section 1125 of the Bankruptcy Code has been made; (vi) the Plan has been accepted by the requisite votes of Creditors or Interest Holders in each class (except to the extent that cramdown is available under section 1129(b) of the Bankruptcy Code) (see “Acceptance of Plan” and “Confirmation Without Acceptance of All Impaired Classes” below); (vii) the Plan is feasible and confirmation is not likely to be followed by further financial restructuring of the Debtor; (viii) the Plan is in the “best interests” of all Holders of Claims or Interests in an Impaired class (see “Best Interests Test” below); and (ix) all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the hearing on confirmation, have been paid or the Plan provides for the payment of such fees on the Effective Date. The Debtor believes that the Plan satisfies all the requirements for confirmation.

A. Parties in Interest Entitled to Vote

Pursuant to the Bankruptcy Code, only Classes of Claims and Interests that are “impaired” (as defined in section 1124 of the Bankruptcy Code) under the Plan are entitled to vote to accept or reject the Plan. A Class is impaired if the legal, equitable or contractual rights to which the Claims or Interests of that Class entitled the holders of such Claims or Interests are modified, other than by curing defaults and reinstating the debt. Classes of Claims and Interests that are not impaired are not entitled to vote on the Plan and are conclusively presumed to have accepted the Plan. In addition, Classes of Claims and Interests that receive no distributions under the Plan are not entitled to vote on the Plan and are deemed to not have accepted the Plan.

B. Classes Impaired Under the Plan

The following Classes of Claims are or may be impaired under the Plan and are entitled to vote on the Plan:

Class 3 Prepetition Lenders Claim
Class 4 Senior Subordinated Notes Claim
Class 5 General Unsecured Claims

Acceptances of the Plan are being solicited only from those holders of Claims in Impaired Classes that will or may receive a distribution under the Plan. Accordingly, the Debtor is

soliciting acceptances from members of Class 3 Prepetition Lenders Claim, Class 4 Senior Subordinated Notes Claim and Class 5 General Unsecured Claims. Holders of Claims in Class 2 are not impaired and are therefore not entitled to vote on the Plan. The holders of Class 6 Interests are deemed to reject the Plan.

C. Voting Procedures and Requirements

VOTING ON THE PLAN BY EACH HOLDER OF AN IMPAIRED CLAIM ENTITLED TO VOTE ON THE PLAN IS IMPORTANT. IF YOU HOLD CLAIMS IN MORE THAN ONE CLASS, YOU MAY RECEIVE MORE THAN ONE BALLOT. YOU SHOULD COMPLETE, SIGN AND RETURN EACH BALLOT YOU RECEIVE.

1. Ballots

In voting for or against the Plan, please use only the Ballot or Ballots sent to you with this Disclosure Statement. If you are a member of Class 3, 4 or 5 and did not receive a Ballot, if your Ballot is damaged or lost, or if you have any questions concerning voting procedures, please call the Debtor's voting agent in this case, The Garden City Group, Inc. at telephone number 631-470-5000.

PLEASE FOLLOW THE DIRECTIONS CONTAINED ON THE ENCLOSED BALLOT(S) CAREFULLY.

2. Returning Ballots.

If you are a holder of a Class 3, 4 or 5 Claim entitled to vote, unless otherwise directed in your solicitation package, mail your completed and signed Ballot(s) in the enclosed envelope to: The Garden City Group, Inc., Attn.: KCMVNO, Inc. f/k/a Movida Communications, Inc., 105 Maxess Road, Melville, New York 11747. **DO NOT RETURN BALLOTS TO THE BANKRUPTCY COURT.** Ballots cast by facsimile, email or other electronic transmission will not be counted.

A Ballot that does not indicate acceptance or rejection of the Plan will not be counted either as a vote to accept or a vote to reject the Plan. If you cast more than one Ballot voting the same Claim before 4:00 p.m. (prevailing Eastern Time) on the voting deadline, the last Ballot received before the voting deadline will be deemed to reflect your intent and thus supersede any prior Ballot(s). Additionally, you may not split your votes for your Claims within a particular Class under the Plan either to accept or reject the Plan. Therefore, a Ballot or group of Ballots within a Plan Class received from a single creditor that partially rejects and partially accepts the Plan will not be counted. Unless the Bankruptcy Court permits you to do so after notice and a hearing to determine whether sufficient cause exists to permit the change, you may not change your vote after the voting deadline passes.

PLEASE PUT YOUR TAXPAYER IDENTIFICATION NUMBER ON YOUR BALLOT; THE DISBURSING AGENT MAY NOT BE ABLE TO MAKE DISTRIBUTIONS TO YOU WITHOUT IT.

D. Confirmation Hearing

The Bankruptcy Code requires the Bankruptcy Court, after notice, to conduct a hearing regarding whether the Plan and the Debtor has fulfilled the confirmation requirements of section 1129 of the Bankruptcy Code. The Confirmation Hearing has been scheduled for [REDACTED] at [REDACTED] (prevailing Eastern Time) before the Honorable Brendan Linehan Shannon in the United States Bankruptcy Court for the District of Delaware, 824 N. Market Street, 6th Floor, Courtroom #1, Wilmington, Delaware 19801. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement at the Confirmation Hearing of the date to which the Confirmation Hearing has been adjourned.

E. Confirmation

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for Confirmation are that the Plan (i) is accepted by the requisite holders of Claims and Interests or, if not so accepted, is “fair and equitable” and “does not discriminate unfairly” as to the non-accepting Class of Claims or Interests, (ii) is in the “best interests” of each holder of a Claim or Interest that does not vote to accept the Plan in each impaired Class under the Plan, (iii) is feasible, and (iv) complies with the applicable provisions of the Bankruptcy Code.

F. Acceptance of Plan

As a condition to confirmation, the Bankruptcy Code requires that each class of impaired claims or interests vote to accept the Plan, except under certain circumstances. See “Confirmation Without Acceptance of All Impaired Classes” below. A plan is accepted by an impaired class of claims if holders of at least two-thirds in dollar amount and more than one-half in number of claims of that class vote to accept the plan. A plan is accepted by an impaired class of interests if holders of at least two-thirds of the number of shares in such class vote to accept the plan. Only those holders of claims or interests who actually vote count in these tabulations. Holders of claims who fail to vote are not counted as either accepting or rejecting a plan.

In addition to this voting requirement, section 1129 of the Bankruptcy Code requires that a plan be accepted by each holder of a claim or interest in an impaired class or that the plan otherwise be found by the Bankruptcy Court to be in the best interests of each holder of a claim or interest in such class. See “Best Interests Test” below. In addition, each impaired class must accept the plan for the plan to be confirmed without application of the “fair and equitable” and “unfair discrimination” tests in section 1129(b) of the Bankruptcy Code discussed below. See “Confirmation Without Acceptance of All Impaired Classes” below.

G. Confirmation Without Acceptance of All Impaired Classes

The Bankruptcy Code contains provisions for confirmation of the Plan even if the Plan is not accepted by all Impaired Classes, as long as at least one Impaired Class of Claims has accepted it. These so-called “cramdown” provisions are set forth in section 1129(b) of the Bankruptcy Code.

A plan may be confirmed under the cramdown provisions if, in addition to satisfying all other requirements of section 1129(a) of the Bankruptcy Code, it (a) “does not discriminate unfairly” and (b) is “fair and equitable” with respect to each class of claims or interests that is impaired under, and has not accepted, the Plan. As used by the Bankruptcy Code, the phrases “discriminate unfairly” and “fair and equitable” have specific meanings unique to bankruptcy law.

In general, the cramdown standard requires that a dissenting class receive full compensation for its allowed claim or interests before any junior class receives any distribution. More specifically, section 1129(b) of the Bankruptcy Code provides that a plan can be confirmed under that section if: (a) with respect to a secured class, (i) the holders of such claims retain the liens securing such claims to the extent of the allowed amount of such claims and that each holder of a claim of such class receives deferred Cash payments equaling the allowed amount of such claim as of the Plan’s effective date or (ii) such holders realize the indubitable equivalent of such claims; (b) with respect to an unsecured claim, either (i) the impaired unsecured creditor must receive property of a value equal to the amount of its allowed claim, or (ii) the holders of claims and interests that are junior to the claims of the dissenting class may not receive any property under the plan; or (c) with respect to a class of interests, either (i) each holder of an interest of such class must receive or retain on account of such interest property of a value, equal to the greater of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled or the value of such interest, or (ii) the holder of any interest that is junior to the interest of such class may not receive or retain any property on account of such junior interest.

The “fair and equitable” standard, also known as the “absolute priority rule,” requires, among other things, that unless a dissenting unsecured class of claims or a class of interests receives full compensation for its allowed claims or allowed interests, no holder of claims or interests in any junior class may receive or retain any property on account of such claims or interests. With respect to a dissenting class of secured claims, the “fair and equitable” standard requires, among other things, that holders either (i) retain their liens and receive deferred Cash payments with a value as of the plan’s effective date equal to the value of their interest in property of the estate or (ii) otherwise receive the indubitable equivalent of these secured claims. The “fair and equitable” standard has also been interpreted to prohibit any class senior to a dissenting class from receiving under a plan more than 100% of its allowed claims. The requirement that a plan not “discriminate unfairly” means, among other things, that a dissenting class must be treated substantially equally with respect to other classes of equal rank.

AS CLASS 6 INTERESTS ARE DEEMED TO REJECT THE PLAN, THE DEBTOR INTENDS TO SEEK CONFIRMATION OF THE PLAN UNDER THE CRAMDOWN PROVISIONS OF SECTION 1129(b) OF THE BANKRUPTCY CODE WITH RESPECT TO SUCH CLASS. IN ADDITION, IF EITHER CLASS 3, CLASS 4 OR CLASS 5 VOTE TO REJECT THE PLAN, THE DEBTOR RESERVES THE RIGHT TO SEEK CONFIRMATION OF THE PLAN UNDER THE CRAMDOWN PROVISIONS OF THE BANKRUPTCY CODE WITH RESPECT TO SUCH CLASS OR CLASSES.

H. Best Interests Test

In order to confirm the Plan, the Bankruptcy Court must independently determine that the Plan is in the best interests of each holder of a Claim or Interest in any such impaired Class who has not voted to accept the Plan. Accordingly, if an impaired Class does not unanimously accept the Plan, the best interests test requires the Bankruptcy Court to find that the Plan provides to each member of such impaired Class a recovery on account of the Class member's Claim or Interest that has a value, as of the Effective Date, at least equal to the value of the distribution that each such member would receive if the Debtor was liquidated under chapter 7 of the Bankruptcy Code on such date.

I. Liquidation Analysis

In this case, the Debtor has begun the process of liquidating all of its assets, with the exception of the Debtor Causes of Action and the Litigation Trust Causes of Action, and the Plan proposes the distribution of proceeds therefrom to holders of Allowed Claims. There is the possibility of additional funds becoming available if certain contemplated litigation of the Debtor Causes of Action and the Litigation Trust Causes of Action is successful. If this case was to be converted to a Chapter 7 case, the Debtor's estate would incur the costs of payment of a statutorily allowed commission to the Chapter 7 trustee, as well as the costs of counsel and other professionals retained by the trustee. As of October 1, 2008, the Debtor had \$1,168,555.77 of Cash on hand. As of December 6, 2008, and as more fully set forth in the Liquidation Analysis attached hereto as Exhibit B, the Debtor estimates that it will have approximately \$1,116,129.00 of Cash on hand to fund the Plan and make distributions to holders of Allowed Claims in accordance with the Plan. The Debtor believes such amount would exceed the amount of Plan Administrator Expenses that will be incurred in implementing the Plan and winding up the affairs of the Debtor. The estate would also be obligated to pay all unpaid expenses incurred by the Debtor during this Chapter 11 Case (such as compensation for Professionals) that are allowed in the Chapter 7 case. The Debtor believes that holders of Allowed General Unsecured Claims in Class 5 will receive more under the Plan than they would receive if the Chapter 11 Case was converted to a Chapter 7 case. A hypothetical liquidation analysis (the "Liquidation Analysis") is attached hereto as Exhibit C.

J. Feasibility

Under section 1129(a)(11) of the Bankruptcy Code, the Debtor must show that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor (unless such liquidation or reorganization is proposed in the Plan). The Plan clearly complies with this requirement because all of the Debtor's remaining assets will be distributed to holders of Allowed Claims pursuant to the terms of the Plan and, provided that the Plan is confirmed and consummated, the Debtor's estate will no longer exist to be subject to future reorganization or liquidation.

K. Compliance with the Applicable Provisions of the Bankruptcy Code

Section 1129(a)(1) of the Bankruptcy Code requires that the Plan comply with the applicable provisions of the Bankruptcy Code. The Debtor has considered each of these issues in

the development of the Plan and believes that the Plan complies with all applicable provisions of the Bankruptcy Code.

VIII. ALTERNATIVE TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Debtor believes that the Plan affords holders of Claims the potential for the greatest realization on the Debtor's assets and, therefore, is in the best interests of such holders. If the Plan is not confirmed, the only viable alternatives are dismissal of the Chapter 11 Case or conversion to Chapter 7 of the Bankruptcy Code. Neither of these alternatives is preferable to confirmation and consummation of the Plan.

If the Chapter 11 Case was dismissed, holders of Claims would revert to a "race to the courthouse," the result being that claimants would not receive a fair and equitable distribution of the Debtor's remaining assets. As set forth in the Debtor's Liquidation Analysis, the Debtor believes this Plan provides a greater recovery to holders of Claims than would be achieved in a Chapter 7 case. Therefore, a Chapter 7 case is not an attractive or superior alternative to the Plan. Thus, the Plan represents the best available alternative for maximizing returns to creditors.

IX. RISK FACTORS

A. Allowed Claims May Exceed Estimates

The projected distributions set forth in this Disclosure Statement are based upon the Debtor's good faith estimate of the amount of Plan Administrator Expenses that will be incurred and the total amount of Claims that will ultimately be allowed. The actual amount of such expenses could be greater than expected for a variety of reasons, including greater than anticipated administrative and litigation costs associated with resolving disputed claims. Additionally, the actual amount of Allowed Claims in any class could be greater than anticipated, which will impact the distributions to be made to holders of Claims.

B. Plan May Not Be Accepted or Confirmed

While the Debtor believes the Plan is confirmable under the standards set forth in section 1129 of the Bankruptcy Code, there can be no guarantee that the Bankruptcy Court will agree.

X. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

A. General

A description of the United States federal income tax consequences of the Plan is provided below. This description is based on the Internal Revenue Code, Treasury Regulations issued thereunder, judicial decisions and Internal Revenue Service and administrative determinations, all as in effect on the date of this Disclosure Statement and all subject to change, possibly with retroactive effect. Changes in any of these authorities or in their interpretation

could cause the United States federal income tax consequences of the Plan to differ materially from the consequences described below.

The United States federal income tax consequences of the Plan are complex and in important respects uncertain. No ruling has been requested from the Internal Revenue Service; no opinion has been requested from the Debtor's or Committee's counsel concerning any tax consequence of the Plan; and no tax opinion is given by this disclosure statement.

The description that follows does not cover all aspects of United States federal income taxation that may be relevant to the Debtor or holders of Claims. For example, the description does not address issues of special concern to certain types of taxpayers, such as dealers in securities, life insurance companies, financial institutions, tax exempt organizations and non-United States taxpayers nor does it address tax consequences to holders of Interests in the Debtor. In addition, the description does not discuss state, local or non-U.S. tax consequences.

For these reasons, the description that follows is not a substitute for careful tax planning and professional tax advice based upon the individual circumstances of each holder of a Claim or Interest. Holders of Claims or Interests are urged to consult with their own tax advisors regarding the federal, state, local and non-United States tax consequences of the Plan.

B. United States Federal Income Tax Consequences of Payment of Allowed Claims Pursuant to Plan

The United States federal income tax consequences of Plan implementation to the holders of Allowed Claims will depend on, among other things, the consideration to be received by the holder, whether the holder reports income on the accrual or cash method, whether the holder receives distributions under the Plan in more than one taxable year, whether the holder's claim is allowed or disputed at the Effective Date, and whether the holder has taken a bad debt deduction or worthless security deduction with respect to its Claim.

1. Recognition of Gain or Loss

a. In General

In general, a holder of a Claim should recognize gain or loss equal to the amount realized under the Plan in respect of its Claim less the holder's basis in the Claim. Any gain or loss recognized in the exchange may be long-term or short-term capital gain or loss or ordinary income or loss, depending upon the nature of the Claim and the holder, the length of time the holder held the Claim and whether the Claim was acquired at a market discount. If the holder realizes a capital loss, its deduction of the loss may be subject to limitation. The holder's aggregate tax basis for any property received under the Plan generally will equal the amount realized. The holder's amount realized generally will equal the sum of the Cash and the fair market value of any other property received (or deemed received) by the holder under the Plan on the Effective Date or subsequent distribution date, less the amount (if any) allocable to Claims for interest, as discussed below.

b. Post-Effective Date Cash Distributions

Because certain holders of Allowed Claims, including Disputed Claims that ultimately become Allowed Claims, may receive Cash distributions subsequent to the Effective Date of the Plan, the imputed interest provisions of the Internal Revenue Code may apply to treat a portion of the subsequent distributions as imputed interest. Additionally, because holders may receive distributions with respect to an Allowed Claim in a taxable year or years following the year of the initial distribution, any loss and a portion of any gain realized by the holder may be deferred. All holders of Allowed Claims are urged to consult their tax advisors regarding the possible application of (or ability to elect out of) the “installment method” of reporting with respect to their claims.

c. Bad Debt and/or Worthless Securities Deduction

A holder who, under the Plan, receives in respect of a Claim an amount less than the holder’s tax basis in the claim may be entitled in the year of receipt (or in an earlier or later year) to a bad debt deduction under § 166(a) of the Internal Revenue Code or a worthless securities deduction under § 165(g) of the Internal Revenue Code. The rules governing the character, timing and amount of bad debt or worthless securities deductions place considerable emphasis on the facts and circumstances of the holder, the obligor and the instrument with respect to which a deduction is claimed. Holders of Claims, therefore, are urged to consult their tax advisors with respect to their ability to take such a deduction.

2. Pending Payments

Cash and other Liquidation Trust Assets that the Liquidation Trustee holds as a payment pending to the holder of an Allowed Claim (a “Pending Payment”) after the Effective Date should be deemed to have been paid to the holder of the Claim entitled to receive such Pending Payment on the date that the Liquidation Trust received it and to have been contributed by such holder to the Liquidation Trust as a grantor and beneficiary of the Liquidation Trust. Thus, the holder should recognize gain or loss based upon the amount deemed received and contributed to the Liquidation Trust on the Effective Date and any income subsequently realized by the Liquidation Trust with respect to such Pending Payment will be reported by the Liquidation Trustee as income of the grantor-beneficiary in the year realized. As a result, the holder of an Allowed Claim may be required to pay tax with respect to a Pending Payment prior to the actual distribution of the Pending Payment to the holder of the Allowed Claim. The actual receipt of the Pending Payments from the Liquidation Trust will not be a taxable event.

3. Payments Other than Pending Payments

If any payment other than a Pending Payment is to be made from the Liquidation Trust, such payment will not be deemed to have been made to any recipient until, and to the extent that, the amount to which the payee is entitled has been determined and distributed. Any income realized by the Liquidation Trust prior to such time will be reported by the Liquidation Trustee as income of and taxable to the Liquidation Trust.

C. Certain Other Tax Consequences for Holders of Claims

1. Receipt of Pre-Effective Date Interest

In general, a Claim holder that was not previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be required to take such amount into income as taxable interest. A Claim holder that was previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be entitled to recognize a deductible loss to the extent that such interest is not satisfied under the Plan. The Plan provides that all distributions to a holder of an Allowed Claim will be deemed to apply first to the principal amount of such Claim until such principal amount is paid in full, and then the remaining portion of such distributions, if any, will be deemed to apply to any prepetition accrued interest included in such Claim. There is no assurance, however, that the Internal Revenue Service will respect this treatment and will not determine that all or a portion of amounts distributed to Holders of Allowed Claims is properly allocable to prepetition interest. Each such Holder is urged to consult its tax advisor regarding the tax treatment of its distributions under the Plan and the deductibility of any accrued but unpaid interest for federal income tax purposes.

2. Installment Method

A holder of a Claim constituting an installment obligation for Tax purposes may be required to recognize currently any gain remaining with respect to the obligation if, pursuant to the Plan, the obligation is considered to be satisfied at other than its face value, distributed, transmitted, sold or otherwise disposed of within the meaning of § 453B of the Internal Revenue Code.

3. Information Reporting and Withholding

Under the Internal Revenue Code's backup withholding rules, the holder of an Allowed Claim may be subject to backup withholding with respect to distributions or payments made pursuant to the Plan unless the holder is exempt (corporations are generally exempt) and, when required, demonstrates that fact, or provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividend and interest income. Backup withholding is not an additional tax, but merely an advance payment that may be refunded to the extent it results in an overpayment of tax. Holders of Allowed Claims may be required to establish exemption from backup withholding or to make arrangements with respect to the payment of backup withholding.

D. Tax Consequences of the Plan to the Debtor

As a result of a preliminary non-finalized audit for 2007, the Debtor believes that it will have a net operating loss ("NOL") for taxable year 2007. This NOL will be available to offset taxable income or gain, if any, that may arise as a result of consummation of the Plan. Accordingly, the Debtor does not expect to incur a substantial tax liability as a result of the implementation of the Plan.

E. Importance of Obtaining Professional Tax Assistance

The foregoing discussion is intended only as a summary of certain United States federal income tax consequences of the Plan, and is not a substitute for careful tax planning with a tax professional. The above discussion is for information purposes only and is not tax advice. The tax consequences are in many cases uncertain and may vary depending on a holder's individual circumstances. Accordingly, holders are urged to consult with their tax advisors about federal, state, local and non-United States tax consequences of the Plan.

XI. RECOMMENDATION AND CONCLUSION

THE DEBTOR BELIEVES THAT CONFIRMATION AND CONSUMMATION OF THE PLAN IS IN THE BEST INTERESTS OF CREDITORS AND THAT THE PLAN SHOULD BE CONFIRMED. THE DEBTOR ALSO BELIEVES THAT CONFIRMATION OF THE PLAN IS PREFERABLE TO ALL OTHER ALTERNATIVES BECAUSE IT WILL PROVIDE RECOVERIES TO CREDITORS IN EXCESS OF THOSE WHICH WOULD OTHERWISE BE AVAILABLE IF THE CHAPTER 11 CASE WAS DISMISSED OR CONVERTED TO A CASE UNDER CHAPTER 7 OF THE BANKRUPTCY CODE. THE DEBTOR STRONGLY RECOMMENDS THAT ALL CREDITORS RECEIVING A BALLOT VOTE IN FAVOR OF THE PLAN.

Dated: November 24, 2008

Respectfully submitted,
KCMVNO, INC.

By: Steven Segaloff
Its: Secretary

EXHIBIT A

Plan

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----	X
In re:	: Chapter 11
	:
KCMVNO, INC., f/k/a Movida Communications, Inc.,	: Case No. 08-10600 (BLS)
a Delaware corporation, ¹	:
	:
Debtor.	:
-----	X

DEBTOR'S CHAPTER 11 PLAN OF LIQUIDATION

YOUNG CONAWAY STARGATT & TAYLOR, LLP

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Counsel for the Debtor and Debtor in Possession

Dated: November 24, 2008

¹ The last four digits of KCMVNO, Inc.'s (f/k/a Movida Communications, Inc.) federal tax identification number are 2263. The mailing address for KCMVNO, Inc. is 1855 Lakeland Drive, Suite D-20, Jackson, MS 39216.

INTRODUCTION

KCMVNO, Inc. (f/k/a Movida Communications, Inc.), the above-captioned debtor and debtor-in-possession (the “Debtor”) hereby proposes the Debtor’s Chapter 11 Plan of Liquidation pursuant to section 1121 of the Bankruptcy Code. Reference is made to the Disclosure Statement² for risk factors and a summary and analysis of the Plan and certain related matters. The Debtor is the proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code.

The Plan constitutes a liquidating chapter 11 plan for the Debtor. The Plan provides for the Debtor’s assets to be liquidated and for the proceeds of such liquidation to be distributed to holders of Allowed Claims in accordance with the terms of the Plan and the priority of claims provisions of the Bankruptcy Code. Except as otherwise provided by order of the Bankruptcy Court, distributions will occur on the Effective Date or as soon thereafter as is practicable and at various intervals thereafter. The Post-Confirmation Debtor will be dissolved as soon as practicable after the final distributions under the Plan.

Subject to the restrictions on modifications set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in Article XII of the Plan, the Debtor expressly reserves the right to alter, amend or modify the Plan, one or more times, before its substantial consummation.

ARTICLE I.

DEFINITIONS

1.1 **Scope of Definitions.** As used in the Plan, the following terms shall have the respective meanings specified below. Whenever the context requires, such terms shall include the plural as well as the singular number, the masculine gender shall include the feminine and the feminine gender shall include the masculine.

1.2 **“Administrative Claim”** shall mean a Claim under sections 503(b) and 1114(e)(2) of the Bankruptcy Code that is entitled to priority under section 507(a)(1) of the Bankruptcy Code, for costs or expenses of administration of the Chapter 11 Case including, without limitation, any actual and necessary expenses of operating the business of the Debtor or preserving the estate incurred after the Petition Date, and any and all fees and expenses of Professionals Filed under sections 330, 331 or 503 of the Bankruptcy Code.

1.3 **“Administrative Claim Bar Date”** shall have the meaning set forth in section 2.3 of the Plan.

1.4 **“Administrative Claims Reserve”** shall have the meaning set forth in section 10.2 of the Plan.

² All capitalized terms not defined in this introduction shall have the meanings set forth in Article I of the Plan.

1.5 **“Administrative Compensation Order”** shall mean the Administrative Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals Pursuant to Sections 331 and 105(a) of the Bankruptcy Code, dated as of May 20, 2008, which appears at Docket No. 145 in the Chapter 11 Case.

1.6 **“Allowed Claim”** or **“Allowed [] Claim”** shall mean: (a) any Claim, proof of which is/was filed with this Court or the Debtor on or before the date designated by the Court as the last date(s) for filing proofs of claim with respect to such Claim, or which has been or hereafter is scheduled by the Debtor as liquidated in amount and not disputed or contingent and which, in either case, is a Claim as to which no objection to the allowance thereof has been filed within the applicable period of limitation (if any) for objection to Claims fixed by the Court, or as to which any objection has been determined by an order or judgment of the Court (allowing such Claim in whole or in part) that is no longer subject to appeal or certiorari proceedings, and as to which no appeal or certiorari proceeding is pending, or (b) a Claim that is allowed (i) in any contract, instrument, or other agreement entered into in connection with the Plan, (ii) in a Final Order or (iii) pursuant to the terms of the Plan. In accordance with section 502(d) of the Bankruptcy Code, a Claim held by any party that is subject to an Avoidance Action shall not be an Allowed Claim until such time as the avoidable transfer is returned, a final determination is made by the Bankruptcy Court that no avoidable transfer exists, or an agreement or settlement is reached between the Plan Administrator or Liquidation Trustee, as applicable, and any party that is subject to an Avoidance Action.

1.7 **“Ballot”** shall mean the form or forms that will be distributed along with the Disclosure Statement to holders of Allowed Claims in classes that are Impaired under the Plan and entitled to vote, which the holders of Impaired Claims may use to vote to accept or reject the Plan.

1.8 **“Bankruptcy Code”** shall mean the Bankruptcy Reform Act of 1978, 11 U.S.C. §§ 101 et. seq., as now in effect or hereafter amended.

1.9 **“Bankruptcy Court”** shall mean the United States Bankruptcy Court for the District of Delaware.

1.10 **“Bankruptcy Rules”** shall mean the Federal Rules of Bankruptcy Procedure effective August 1, 1996 in accordance with the provisions of 28 U.S.C. § 2075, as now in effect or hereafter amended.

1.11 **“Bar Dates”** shall mean the General Bar Date, the Government Bar Date, and the Rejection Bar Date, collectively.

1.12 **“Business Day”** shall mean any day other than a Saturday, Sunday or legal holiday as such term is defined in Bankruptcy Rule 9006.

1.13 **“Cash”** shall mean cash and cash equivalents, including, but not limited to, wire transfers, checks and other readily marketable direct obligations of the United States of America and certificates of deposit issued by banks.

1.14 **“Causes of Action”** shall mean, except as provided otherwise in the Plan, the Confirmation Order or any document, instrument, release or other agreement entered into in connection with the Plan, all Claims, actions, choses in action, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, controversies, variances, trespasses, damages, judgments, third-party claims, counterclaims and cross that are or may be pending on the Effective Date or instituted by the Plan Administrator or Liquidation Trustee, as applicable, after the Effective Date against any Person based on law or equity, including, but not limited to, under the Bankruptcy Code, whether direct, indirect, derivative, or otherwise and whether asserted or unasserted, known or unknown, including, without limitation, the Liquidation Trust Causes of Action and the Debtor Causes of Action; provided, however, that any affirmative defense or crossclaim asserted with respect to a Claim shall not be deemed a Cause of Action to the extent that it seeks to disallow or reduce or is offset against such Claim.

1.15 **“Chapter 11 Case”** shall mean the above-captioned chapter 11 case pending for the Debtor.

1.16 **“Claim”** shall mean a claim against the Debtor, whether or not asserted, as defined in section 101(5) of the Bankruptcy Code, or any portion thereof.

1.17 **“Class”** shall mean a category of holders of Claims or Interests, which are substantially similar in nature to each other, as classified pursuant to Article III of the Plan.

1.18 **“Class 5 Distribution Fund”** shall have the meaning set forth in section 7.2(a) of the Plan.

1.19 **“Committee”** shall mean the Official Committee of Unsecured Creditors appointed by the Office of the United States Trustee on April 11, 2008, as reconstituted from time to time and existing as of the Confirmation Date.

1.20 **“Committee Reserve”** shall mean the amount of \$125,000 reserved for reasonable fees and expenses of the Committee.

1.21 **“Confirmation”** shall mean the entry of the Confirmation Order on the docket in the Chapter 11 Case.

1.22 **“Confirmation Date”** shall mean the date of entry of the Confirmation Order.

1.23 **“Confirmation Hearing”** shall mean the hearing to confirm the Plan.

1.24 **“Confirmation Order”** shall mean the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.25 **“Creditor”** shall mean any person or entity having a Claim against the Debtor, including without limitation a Claim that arose on or before the Petition Date or a Claim against the Debtor’s estate of any kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code.

1.26 **“Debtor”** shall mean KCMVNO, Inc. (f/k/a Movida Communications, Inc.).

1.27 **“Debtor Causes of Action”** shall mean any and all Causes of Action, other than the Liquidation Trust Causes of Action and Excepted Preference Actions.

1.28 **“Debtor-in-Possession”** shall mean the Debtor in the capacity, and with the status and rights, conferred by sections 1107 and 1108 of the Bankruptcy Code.

1.29 **“Disclosure Statement”** shall mean the disclosure statement with respect to the Plan, as approved by the Bankruptcy Court as containing adequate information in accordance with section 1125 of the Bankruptcy Code, including all exhibits and annexes thereto and any amendments or modifications thereof.

1.30 **“Disputed Claim” or “Disputed [] Claim”** shall mean any Claim (i) as to which an objection has been interposed as of the deadline fixed by the Plan, as may be extended in accordance with the Plan and (ii) which has not been allowed or disallowed pursuant to a Final Order.

1.31 **“Effective Date”** shall mean the date on which each of the conditions set forth in section 12.1 of the Plan have been satisfied or waived (if waivable).

1.32 **“Entity”** shall have the meaning set forth in section 101(15) of the Bankruptcy Code.

1.33 **“Excepted Preference Actions”** shall mean any and all Preference Actions against parties other than Brightstar US. Inc.

1.34 **“Fee Claim”** means a claim under sections 328, 330(a), 503 or 1103 of the Bankruptcy Code for the compensation of a Professional for services rendered or expenses incurred in the Chapter 11 Case on or prior to the Effective Date (including expenses of the members of the Committee).

1.35 **“Fee Claim Bar Date”** shall have the meaning set forth in section 2.4 of the Plan.

1.36 **“File”, “Filed”, or “Filing”** shall mean file, filed or filing with the Bankruptcy Court.

1.37 **“Final Order”** shall mean an order entered by the Bankruptcy Court or any other court exercising jurisdiction over the subject matter and the parties, as to which (i) no appeal, certiorari proceeding or other review or rehearing has been requested or is still pending, and (ii) the time for filing a notice of appeal or petition for certiorari or further review or rehearing has expired.

1.38 **“General Bar Date”** shall mean July 23, 2008.

1.39 **“General Unsecured Claim”** shall mean any Claim against the Debtor, other than an Administrative Claim, Fee Claim, Priority Tax Claim, Other Priority Claim, Miscellaneous Secured Claim, Prepetition Lenders Claim, Prepetition Lenders Deficiency Claim.

1.40 **“Government Bar Date”** shall mean September 29, 2008.

1.41 **“Impaired”** shall have the meaning set forth in section 1124 of the Bankruptcy Code.

1.42 **“Interest”** shall mean, with respect to the Debtor, any ownership interest or right to acquire any ownership interest in the Debtor.

1.43 **“Liens”** shall mean valid and enforceable liens, mortgages, security interests, pledges, charges, encumbrances, or other legally cognizable security devices of any kind.

1.44 **“Liquidation Trust”** shall mean the trust created pursuant to the Plan and Liquidation Trust Agreement.

1.45 **“Liquidation Trust Agreement”** shall mean the agreement governing, among other things, the retention and duties of the Liquidation Trustee, as described in Article VIII of the Plan, which shall be in form and substance reasonably satisfactory to the Committee and filed on or before five (5) Business Days prior to the Voting Deadline.

1.46 **“Liquidation Trust Assets”** shall mean all rights, title and interest in, including the Proceeds from (i) the Class 5 Distribution Fund and (ii) any unused funds of the Committee Reserve. The Liquidation Trust Assets shall be transferred by the Plan Administrator on the Effective Date free and clear of all liens, claims, charges, interests and encumbrances, except as set forth in, and consistent with, the Plan.

1.47 **“Liquidation Trust Causes of Action”** shall mean any and all causes of action provided under chapter 5 of the Bankruptcy Code excluding the Debtor Causes of Action and the Excepted Preference Actions.

1.48 **“Liquidation Trust Oversight Committee”** shall mean the three – member committee appointed to act in accordance with the terms and authority granted in the Plan and the Liquidation Trust Agreement. The initial members of the Liquidation Trust Oversight Committee shall be designated by the Prepetition Lenders, who may select two members, and the Committee, who may select one member.

1.49 **“Liquidation Trustee”** shall mean the Person or Entity initially designated by the Committee, in consultation with the Prepetition Lenders, and appointed by the Bankruptcy Court on the Confirmation Date to act in accordance with the terms and authority granted in the Plan and the Liquidation Trust Agreement, or any successor appointed by the Bankruptcy Court or pursuant to the Liquidation Trust Agreement.

1.50 **“Miscellaneous Secured Claims”** shall mean all Secured Claims against the Debtor, including, without limitation, any secured real estate tax claims that may be asserted by governmental taxing authorities, but excluding the Prepetition Lenders Claim.

1.51 **“Other Priority Claim”** shall mean any Claim against the Debtor other than an Administrative Claim or Priority Tax Claim entitled to priority in payment under section 507(a) of the Bankruptcy Code.

1.52 **“Person”** shall mean a natural person, or any legal entity or organization including, without limitation, any corporation, partnership (general or limited), limited liability company, business trust, unincorporated organization or association, joint stock company, trust, association, governmental body (or any agency, instrumentality or political subdivision thereof), or any other form of legal entity.

1.53 **“Petition Date”** shall mean March 31, 2008, the date upon which the Debtor filed its petition under Chapter 11 of the Bankruptcy Code.

1.54 **“Plan”** shall mean the Debtor’s Chapter 11 Plan of Liquidation, all exhibits hereto and any amendments or modifications hereof.

1.55 **“Plan Administration Agreement”** shall mean the agreement governing, among other things, the retention and duties of the Plan Administrator, as described in section 6.2 of the Plan, which shall be in form and substance reasonably satisfactory to the Debtor, the Prepetition Lenders and the Plan Administrator and filed on or before five (5) Business Days prior to the Voting Deadline..

1.56 **“Plan Administrator”** shall mean the Person or Entity designated pursuant to the Plan Administration Agreement to oversee the windup of the Debtor’s affairs following the Effective Date, administer the Plan and act in accordance with the terms and authority granted in the Plan Administration Agreement, or any Court approved successor.

1.57 **“Plan Administrator Expenses”** shall mean all actual and necessary costs and expenses incurred after the Effective Date in connection with winding-up the affairs of the Debtor and Post-Confirmation Debtor and the administration of the Plan, including, but not limited to, the Debtor’s and the Plan Administrator’s costs, expenses and legal fees incurred related to (i) filing and prosecuting the Debtor Causes of Action and any objections to Claims as authorized herein; (ii) investigating, litigating, settling, negotiating, pursuing or otherwise associated with the causes of action, including, but not limited to, attorneys’ fees, accounting fees, expert witness fees, and all cost relating to obtaining and distributing such recoveries; (iii) performing the duties set forth in section 6.2 of the Plan and the Plan Administration Agreement; and (iv) all fees payable pursuant to section 1930 of Title 28 of the United States Code.

1.58 **“Plan Administrator Expense Reserve”** shall have the meaning ascribed to that term in section 10.2 of the Plan.

1.59 **“Plan Supplement”** shall mean the supplemental appendix to the Plan filed with the Bankruptcy Court on or before five (5) business days prior to the Voting Deadline

that will contain, among other things, the Plan Administration Agreement and the Liquidation Trust Agreement.

1.60 **“Post-Confirmation Debtor”** shall mean the Debtor in its post-Confirmation Order status.

1.61 **“Preference Actions”** shall mean any and all claims and causes of action of the Debtors arising under section 547 of the Bankruptcy Code.

1.62 **“Prepetition Credit Agreements”** shall mean that certain Credit Agreement dated as of August 14, 2007, and all other agreements, documents and instruments related to the Credit Agreement, in each case as amended, restated, supplemented, and/or modified to date and from time to time.

1.63 **“Prepetition Lenders”** shall mean Plainfield Direct, Inc., Bay Harbour Master LTD, Trophy Hunter Investments, LTD. and Movida Investments LLC, in their capacity as lenders under the Prepetition Credit Agreement.

1.64 **“Prepetition Lenders Claim”** shall mean the claim against the Debtor arising under or relating to the Prepetition Credit Agreements in the scheduled amount of \$21,453,906.82.

1.65 **“Priority Tax Claim”** shall mean any Claim for taxes against the Debtor, including without limitation any interest and penalties due thereon, entitled to priority in payment pursuant to section 507(a)(8) of the Bankruptcy Code.

1.66 **“Proceeds”** shall mean the cash received from the sale, transfer, or collection of Property or the conversion of such Property to cash in some other manner as contemplated in the Plan, whether received before or after the Effective Date.

1.67 **“Professionals”** shall mean those Persons (i) employed pursuant to an order of the Bankruptcy Court in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330 and 331 of the Bankruptcy Code, or (ii) for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

1.68 **“Property”** means all property of the Debtor’s estate of any nature whatsoever, real or personal, tangible or intangible, previously or now owned by the Debtor, or acquired by the Debtor’s estate, as defined in section 541 of the Bankruptcy Code.

1.69 **“Pro Rata”** means, as of any distribution date, with respect to any Allowed Claim in any Class, the proportion that such Allowed Claim bears to the aggregate amount of all Claims, including Disputed Claims, in such Class.

1.70 **“Rejection Bar Date”** shall have the meaning set forth in section 11.2 of the Plan.

1.71 **“Remaining Assets”** shall mean all assets of the Debtor of any nature whatsoever, including, without limitation, Property of the estate pursuant to section 541 of the Bankruptcy Code, Debtor Causes of Action, claims of right, interests, Property, real and personal, tangible, and intangible, including, but not limited to accounts receivables or other rights to receive Proceeds, but excluding, Excepted Preference Actions and Claims and causes of action released and/or assigned pursuant to the Plan and/or the Confirmation Order.

1.72 **“Schedules”** shall mean the Debtor’s Schedules of Assets and Liabilities Filed pursuant to Bankruptcy Rule 1007 as they may be amended from time to time.

1.73 **“Secured Claim”** shall mean all or a portion of a debt existing on the Petition Date, as finally allowed and approved by the Bankruptcy Court, to the extent that such debt is not greater than the value of the assets of the Debtor securing such debt.

1.74 **“Senior Subordinated Notes”** shall mean the 7% Senior Subordinated Convertible Notes issued by the Debtor pursuant to a Note Purchase Agreement dated November 29, 2006.

1.75 **“Senior Subordinated Notes”** shall mean the claims arising from ownership of the Senior Subordinated Notes.

1.76 **“Subject Preference Actions”** shall mean any Preference Action filed against Brightstar US. Inc.

1.77 **“Unimpaired”** shall mean any Claim that is not Impaired within the meaning of section 1124 of the Bankruptcy Code.

1.78 **“Voting Deadline”** shall mean the deadline established by Order of the Bankruptcy Court for receipt of Ballots voting to accept or reject the Plan.

1.79 All terms not expressly defined herein shall have the respective meanings given to such terms in section 101 of the Bankruptcy Code or as otherwise defined in applicable provisions of the Bankruptcy Code.

1.80 Unless otherwise specified herein, any reference to an Entity as a holder of a Claim or Interest includes that Entity's successors, assigns and affiliates.

1.81 The rules of construction set forth in section 102 of the Bankruptcy Code shall apply.

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

ARTICLE II.

METHOD OF CLASSIFICATION OF CLAIMS AND INTERESTS AND GENERAL PROVISIONS

2.1 **General Rules of Classification.** Generally, a Claim is classified in a particular Class for voting and distribution purposes only to the extent the Claim qualifies within the description of that Class, and is classified in another Class or Classes to the extent any remainder of the Claim qualifies within the description of such other Class or Classes. Unless otherwise provided, to the extent a Claim qualifies for inclusion in a more specifically defined Class and a more generally-defined Class, it shall be included in the more specifically defined Class.

2.2 **Administrative Claims, Priority Tax Claims, Fee Claims.** Administrative Claims, Priority Tax Claims, and the Fee Claims are not classified in the Plan. The treatment of and consideration to be received by holders of Allowed Administrative Claims, Allowed Priority Tax Claims, and Allowed Fee Claims pursuant to Article IV of the Plan shall be in full and complete satisfaction, settlement, release and discharge of such Claims. The Debtor's obligations in respect of such Allowed Administrative, Priority Tax Claims, and Fee Claims shall be satisfied in accordance with the terms of the Plan.

2.3 **Bar Date for Administrative Claims.** Unless otherwise ordered by the Bankruptcy Court, requests for payment of Administrative Claims (except for Fee Claims), for the period from March 31, 2008 through and including the Effective Date, must be filed and served on the Debtor, counsel to the Debtor, counsel to the Liquidation Trustee, counsel to the Plan Administrator and the Plan Administrator no later than thirty (30) days after the Effective Date (the "Administrative Claim Bar Date"). Any Person that is required to file and serve a request for payment of an Administrative Claim and fails to timely file and serve such request, shall be forever barred, estopped and enjoined from asserting such Claim or participating in distributions under the Plan on account thereof. Objections to requests for payment of Administrative Claims (except for Fee Claims) must be filed and served on Post-Confirmation Debtor, counsel to the Post-Confirmation Debtor, the Plan Administrator, counsel to the Plan Administrator, the Liquidation Trustee, counsel to the Liquidation Trustee and the requesting party within ninety (90) days after the Effective Date, unless extended by the Bankruptcy Court.

2.4 **Bar Date for Fee Claims.** Unless otherwise ordered by the Bankruptcy Court, requests for payment of Fee Claims incurred through the Effective Date, must be filed and served on the Post Confirmation Debtor, counsel to the Post Confirmation Debtor, counsel to the Liquidation Trustee, the United States Trustee, the Plan Administrator and counsel to the Plan Administrator no later than forty-five (45) days after the Effective Date (the "Fee Claim Bar Date"). Any Person that is required to file and serve a request for payment of a Fee Claim and fails to timely file and serve such request, shall be forever barred, estopped and enjoined from asserting such Fee Claim or participating in distributions under the Plan on account thereof. Objections to Fee Claims must be filed and served on the Debtor, counsel to the Debtor, counsel to the Committee, the United States Trustee, the Plan Administrator, counsel to the Plan Administrator, the Liquidation Trustee, counsel to the Liquidation Trustee and the requesting

party by within forty-five (45) days after the filing of such Fee Claim, unless extended by the Bankruptcy Court.

ARTICLE III.

CLASSIFICATION OF CLAIMS AND INTERESTS

3.1 The following is the designation of the Classes of Claims and Interests under the Plan.

3.2 Class 1 Claims shall consist of all Other Priority Claims.

3.3 Class 2 Claims shall consist of all Miscellaneous Secured Claims.

3.4 Class 3 Claims shall consist of the Prepetition Lenders Claim.

3.5 Class 4 Claims shall consist of the Senior Subordinated Note Claim.

3.6 Class 5 Claims shall consist of all General Unsecured Claims.

3.7 Class 6 Interests shall consist of all Interests in the Debtor.

ARTICLE IV.

TREATMENT OF UNIMPAIRED CLAIMS

4.1 Administrative Claims. Administrative Claims are not classified under the Plan. Except to the extent the holder of an Allowed Administrative Claim agrees otherwise, each holder of an Allowed Administrative Claim shall be paid in respect of such Allowed Claim (i) the full amount thereof in Cash, as soon as practicable after the later of (a) the Effective Date and (b) the date on which such Claim becomes an Allowed Claim, or upon other agreed terms, or (ii) such lesser amount as the holder of an Allowed Administrative Claim and the Debtor, the Post-Confirmation Debtor, the Plan Administrator or the Liquidation Trustee, as applicable, might otherwise agree, as soon as practicable after the later of (a) the Effective Date and (b) the date upon such parties' agreement.

4.2 Priority Tax Claims. Priority Tax Claims are not classified under the Plan. Except to the extent the holder of an Allowed Priority Tax Claim agrees otherwise, each holder of an Allowed Priority Tax Claim shall be paid in respect of such Allowed Claim either (i) the full amount thereof, without post-petition interest or penalty, in Cash, as soon as practicable after the later of (a) the Effective Date and (b) the date on which such Claim becomes an Allowed Claim or upon other agreed terms, or (ii) such lesser amount as the holder of an Allowed Priority Tax Claim and the Debtor, the Post-Confirmation Debtor, the Plan Administrator, or the Liquidation Trustee might otherwise agree, as soon as practicable after the later of (a) the Effective Date and (b) the date upon such parties' agreement.

4.3 Fee Claims. Fee Claims are not classified under the Plan. Except to the extent the holder of an Allowed Fee Claim agrees otherwise, each holder of an Allowed Fee

Claim shall receive payment in full in Cash of such Fee Claim, as approved by the Bankruptcy Court on the later of the Effective Date and the first Business Day after the date that is five (5) Business Days after the date on which such Fee Claim is approved by the Bankruptcy Court.

4.4 Class 1 Other Priority Claims. Class 1 Other Priority Claims are Unimpaired. Each holder of an Allowed Other Priority Claim shall be paid in respect of such Allowed Claim (i) the full amount thereof in Cash, as soon as practicable after the later of (a) the Effective Date and (b) the date on which such Claim becomes an Allowed Claim or upon other agreed terms, or (ii) such lesser amount as the holder of an Allowed Other Priority Claim and the Post-Confirmation Debtor, the Plan Administrator, or the Liquidation Trustee might otherwise agree.

ARTICLE V.

TREATMENT OF IMPAIRED CLAIMS AND INTERESTS

5.1 Class 2 Miscellaneous Secured Claims. The Debtor believes that there are no valid Miscellaneous Secured Claims in this Class. To the extent there are any Allowed Secured Claims in this Class, each such Claim shall be deemed to be a separate subclass. At the option of the Debtor, holders of Class 2 Claims shall receive either (i) the return of the collateral securing such Claim, (ii) the net proceeds from the disposition of the collateral securing such Claim without representation or warranty by or recourse against the Debtor, or (iii) such other treatment as shall be agreed to between the holder of a Class 2 Miscellaneous Secured Claim and the Debtor. Any alleged Class 2 Miscellaneous Secured Claim not specifically addressed in the Plan and the Confirmation Order as a Secured Claim shall be disallowed as a Secured Claim and shall be treated for all purposes under the Plan as a Class 5 General Unsecured Claim if and to the extent allowed. The holder of a Claim in this Class is not Impaired and, therefore, not entitled to vote.

5.2 Class 3 Prepetition Lenders Claim. The Class 3 Prepetition Lenders Claim is Impaired. The holders of the Class 3 Prepetition Lenders Claim shall receive the Cash on hand after all distributions have been made pursuant to the Plan, plus the Proceeds of the Causes of Action, less (i) the aggregate distributions to holders of Allowed Administrative Claims, Allowed Fee Claims, Allowed Priority Claims, Allowed Other Priority Claims, and Allowed Miscellaneous Secured Claims, (ii) the Class 5 Distribution Fund, and (iii) the funds transferred to the Post-Confirmation Debtor Reserve. Upon the closing of the Chapter 11 Case, the Plan Administrator shall distribute any balance remaining in the Post-Confirmation Debtor Reserve to the holder of the Allowed Class 3 Prepetition Lenders Claim in accordance with the terms of the Plan and the Settlement described in Article VII. The holders of the Class 3 Prepetition Lenders Claim are entitled to vote.

5.3 Class 4 Senior Subordinated Notes Claim. The Class 4 Senior Subordinated Notes Claims are Impaired. In connection with the Settlement described in Article VII, the Class 4 Senior Subordinated Notes Claims shall be treated pari passu with the Class 5 General Unsecured Claims. The holders of the Class 4 Subordinated Notes Claims are entitled to vote.

5.4 Class 5 General Unsecured Claims. Class 5 General Unsecured Claims are Impaired. The holders of Allowed Class 5 General Unsecured Claims against the Debtor shall receive their Pro Rata share of the Class 5 Distribution Fund. The holders of the Class 5 General Unsecured Claims are entitled to vote.

5.5 Class 6 Interests. Class 6 Interests are Impaired. The holders of Class 6 Interests shall receive no distribution. On the Effective Date, all Class 6 Interests shall be deemed canceled, null and void and of no force and effect. Accordingly, the holders of Class 6 Interests are deemed to reject the Plan and are not entitled to vote.

ARTICLE VI.

MEANS FOR IMPLEMENTATION OF THE PLAN

6.1 Corporate Action. On the Effective Date and automatically and without further action (except as otherwise necessary pursuant to applicable non-bankruptcy law), (i) each existing member of the board of directors of the Debtor will be deemed to have resigned, (ii) the new board members shall be those identified on Exhibit A of this Plan, and (iii) the Plan Administrator and the Post-Confirmation Debtor shall be authorized and empowered to take all such actions and measures necessary to implement and administer the terms and conditions of the Plan.

6.2 Plan Administrator.

(a) Transfer of Powers.

- (i) On the Effective Date, the authority, power and incumbency of the persons then acting as officers of the Debtor shall be terminated and such officers shall be deemed to have resigned.
- (ii) On the Effective Date, the Plan Administrator, shall be deemed appointed and shall succeed to such powers as would have been applicable to the Debtor's officers. Other than the Liquidation Trust Assets, all property of the Post-Confirmation Debtor not distributed to holders of Allowed Claims on the Effective Date, including the Plan Administrator Expense Reserve and any moneys held in escrow or separate segregated accounts during the pendency of the Chapter 11 Case, shall be managed by the Plan Administrator, as the sole officer of the Post-Confirmation Debtor, and shall be held in the name of the Post-Confirmation Debtor free and clear of all Claims and Interests in the Debtor. To the extent necessary, the Plan Administrator or the Post-Confirmation Debtor shall be deemed to be a judicial substitute for the Debtor as the party-in-interest in the Chapter 11 Case, under the Plan or

in any judicial proceeding or appeal to which the Debtor is a party, consistent with section 1123(b)(3)(B) of the Bankruptcy Code.

- (iii) The Plan Administrator shall not be liable for any action he takes or omits to take that he believes in good faith to be authorized or within his rights or powers unless it is ultimately and finally determined by a court of competent jurisdiction that such action or inaction was the result of gross negligence or willful misconduct.

(b) Compensation and Duties. The terms of the Plan Administrator's employment, including the Plan Administrator's duties and compensation, to the extent not set forth in the Plan, shall be set forth in the Plan Administration Agreement. The Plan Administrator shall act for the Post-Confirmation Debtor in a fiduciary capacity, as applicable to a corporate officer, subject to the provisions hereof and the Plan Administration Agreement. The duties and powers of the Plan Administrator shall include the following, in all cases without further approval of the Bankruptcy Court, and otherwise consistent with and subject to the terms and conditions of the Plan and the Plan Administration Agreement:

- (i) To exercise all power and authority that may be exercised, commence all proceedings that may be commenced and take all actions that may be taken by any officer of the Post-Confirmation Debtor, including consummating the Plan and all transfers thereunder on behalf of the Post-Confirmation Debtor and prosecuting any Debtor Causes of Actions;
- (ii) To sell, dispose, litigate, settle or otherwise transfer, resolve for value or abandon, as appropriate, the Remaining Assets;
- (iii) To maintain accounts, make distributions and take other actions consistent with the Plan and the implementation hereof, including the establishment, evaluation, adjustment and maintenance of reserves for Disputed Claims, other than Disputed General Unsecured Claims, and reasonable reserves for the payment of unpaid Administrative Claims, Fee Claims, Priority Tax Claims, Other Priority Claims, Miscellaneous Secured Claims, any other unpaid liabilities or obligations of the Post-Confirmation Debtor and the expenses of administering and liquidating the Post-Confirmation Debtor and otherwise performing the obligations of the Plan Administrator under the Plan and the Plan Administration Agreement, in the name of the Post-Confirmation Debtor or the Plan Administrator;

- (iv) To sell, dispose or otherwise transfer for value the Real Property Interests, if any;
- (v) To maintain all accounts, make distributions and take other actions consistent with the Plan, including the maintenance of appropriate reserves, in the name of the Debtor or Post-Confirmation Debtor;
- (vi) To take all steps necessary to terminate the corporate existence of the Debtor;
- (vii) To take all steps to file tax returns;
- (viii) To prosecute objections to Claims, other than General Unsecured Claims, and to compromise or settle any Claims, other than General Unsecured Claims (Disputed or otherwise);
- (ix) To make decisions regarding the retention or engagement of professionals or other Persons by the Post-Confirmation Debtor and to pay, without court order, all reasonable fees and expenses accruing after the Effective Date;
- (x) To perform any act authorized, permitted or required under any agreement, instrument or other document to which the Post-Confirmation Debtor is a party, whether in the nature of an approval, consent, demand or notice thereunder or otherwise;
- (xi) To purchase or create and carry all insurance policies, pay all insurance premiums and costs and recover all insurance proceeds as the Plan Administrator deems necessary or advisable;
- (xii) To investigate, prosecute, defend, commence or continue litigation or arbitration, compromise or settle any and all Debtor Causes of Action and to assert any claims, defenses, offsets or privileges related thereto other than any rights to the Liquidation Trust Assets;
- (xiii) To transfer the Liquidation Trust Assets to the Liquidation Trust;
- (xiv) To provide the Liquidation Trustee with access to the books and records of the Post-Confirmation Debtor to enable the Liquidation Trustee to prosecute, compromise, and settle the Liquidation Trust Causes of Action, and prosecute, compromise, or settle objections to Claims; and

- (xv) To implement and/or enforce all provisions of the Plan and to take all other actions not inconsistent with the provisions of the Plan which the Plan Administrator deems reasonably necessary or desirable with respect to administering the Plan, including executing any documents, instruments, contracts and agreements necessary and appropriate to carry out the powers and duties of the Plan Administrator.

6.3 Investments. All Cash held by the Plan Administrator in any accounts or otherwise shall be invested in accordance with section 345 of the Bankruptcy Code or as otherwise permitted by a Final Order of the Bankruptcy Court.

6.4 Resignation, Death or Removal. The Plan Administrator may be removed by the Bankruptcy Court upon application for good cause shown. In the event of the resignation or removal, death or incapacity of the Plan Administrator, the Board of Directors of the Post-Confirmation Debtor shall designate another Person to become Plan Administrator and thereupon the successor Plan Administrator, upon approval by the Bankruptcy Court, shall become fully vested with all of the rights, powers, duties and obligations of his predecessor.

6.5 Winding Up Affairs. Following the Confirmation Date, the Post-Confirmation Debtor shall not engage in any business activities or take any actions, except those necessary to effectuate the Plan and wind up the affairs of the Debtor. On and after the Effective Date, the Plan Administrator may, in the name of the Debtor or Post-Confirmation Debtor, take such actions without supervision or approval by the Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than any restrictions expressly imposed by the Plan or the Confirmation Order. Without limiting the foregoing, the Plan Administrator may, without application to or approval of the Bankruptcy Court, pay the reasonable charges that it incurs after the Effective Date for professional's fees and expenses.

6.6 Release of Liens. Except as otherwise provided in the Plan or in any contract, instrument or other agreement or document created in connection with the Plan, on the Effective Date, all mortgages, deeds of trust, liens or other security interests against the property of the Debtor's estate shall be released, and all the right, title and interest of any holder of such mortgages, deeds of trust, liens or other security interests shall revert to the Post-Confirmation Debtor.

ARTICLE VII.

SETTLEMENT AND COMPROMISE

7.1 Application for Approval of Settlement. The Plan implements a compromise and settlement with respect to the Prepetition Lenders Claim and the Prepetition Lenders Deficiency Claim (the "Settlement"). Pursuant to section 1123(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9019, and consistent with section 1129 of the Bankruptcy Code, the Plan constitutes an application for approval of, and the Confirmation Order may authorize and constitute approval of, the Settlement.

7.2 The Settlement. The following terms and conditions set forth the Settlement by and among the Debtor, the Committee and the Prepetition Lenders:

- (a) A fund (the “Class 5 Distribution Fund”) shall be established for holders of Allowed General Unsecured Claims. The Class 5 Distribution Fund shall consist of eleven-percent (11%) of the net Proceeds of the Causes of Action, subject to an aggregate cap of \$1,000,000 (the “Class 5 Distribution Fund Cap”). In the event that the Class 3 Prepetition Lenders Claim is paid in full, the Class 5 Distribution Fund Cap shall be removed and holders of Allowed General Unsecured Claims shall receive a Pro Rata share in any additional net Proceeds from the Causes of Action.
- (b) The Prepetition Lenders waive their rights to receive their Pro Rata share of the Class 5 Distribution Fund on of account their Class 3 Prepetition Lenders Claim; provided, however, that Allowed Claims held by the Prepetition Lenders relating to the Class 4 Senior Subordinated Notes Claims shall receive a Pro Rata share of the Class 5 Distribution Fund.
- (c) In consideration for, among other things, waiving the right to receive their Pro Rata share of the Class 5 Distribution Fund, subject to and upon the occurrence of the Effective Date, the Committee, the Liquidation Trustee, the Liquidation Trust, the Plan Administrator and the Debtor’s estate shall waive and be deemed to have released all claims against the Prepetition Lenders, including any claims on account of section 506(c) of the Bankruptcy Code, existing as of the occurrence of the Effective Date (subject to the preservation of any claims relating to the Prepetition Lenders’ obligations in connection with the implementation of this Plan) without need for further action or Bankruptcy Court approval.
- (d) Subject to and upon the occurrence of the Effective Date, the Committee, the Liquidation Trustee, the Liquidation Trust, and the Debtor’s estate shall waive and be deemed to have released all claims against the Prepetition Lenders, including any claims on account of section 506(c) of the Bankruptcy Code, existing as of the occurrence of the Effective Date (subject to the preservation of any claims relating to Prepetition Lender obligations in connection with the Plan, if any) without need for further action or Bankruptcy Court approval. The deadline by which the Committee shall bring an action against the Prepetition Lenders is extended through and including the Effective Date. The Committee shall not seek discovery or commence any actions against the Prepetition Lenders from May 16, 2008 through the Effective Date, so long as the Plan is confirmed within 240 days of May 16, 2008. The 240-day

confirmation deadline may be extended by mutual agreement of the Committee, the Debtor and the Prepetition Lenders or by order of the Bankruptcy Court for cause shown.

- (e) The Liquidation Trust will be created pursuant to the terms of the Plan and the Liquidation Trust Agreement.
- (f) Subject to and upon the occurrence of the Effective Date, the Plan Administrator will transfer and assign to the Liquidation Trust all rights, title and interest in the Liquidation Trust Assets free and clear of all liens, claims and encumbrances. The Liquidation Trust Assets shall be used to fund the operations of the Liquidation Trust and the fees and expenses of the Liquidation Trustee.
- (g) The Prepetition Lenders have agreed that on the Effective Date, consistent with the terms of the Final Cash Collateral Order, \$1,250,000 of Cash (net of the Committee Reserve) shall be available for the Post-Confirmation Debtor and the Plan Administrator for the purposes set forth in section 10.2 of the Plan and the Plan Administration Agreement. On or around the 15th day of each month and the last day of each month, all Cash in excess of \$1,250,000 (net of the Committee Reserve) shall be remitted to the Prepetition Lenders on account of the Class 3 Prepetition Lenders Claim.

ARTICLE VIII.

LIQUIDATION TRUST

8.1 Appointment. On the Confirmation Date, the Bankruptcy Court shall enter an order approving the Liquidation Trust Agreement and appointing the Liquidation Trustee who shall serve from and after the Effective Date until completion of his responsibilities or his resignation or discharge and appointment of a successor Liquidation Trustee.

8.2 Transfer by the Plan Administrator to Liquidation Trust. On the Effective Date, the Plan Administrator shall transfer to the Liquidation Trust all rights, title and interest in the Liquidation Trust Assets free of all liens, claims, charges, interests and encumbrances.

8.3 Ratification. On the Effective Date, each holder of a Class 5 General Unsecured Claim will be deemed to have ratified and become bound by the terms of the Liquidation Trust Agreement.

8.4 Liquidation of Liquidation Trust Assets. The Liquidation Trustee shall pursue, litigate or settle the Liquidation Trust Causes of Action in accordance with the Plan and the Liquidation Trust Agreement and pay all associated costs associated therewith from the Class 5 Distribution Fund.

8.5 Funding of Liquidation Trust. On the Effective Date, the Plan Administrator shall transfer to the Liquidation Trust the Liquidation Trust Assets to be used by the Liquidation Trustee to, among other things, (i) fund operations of the Liquidation Trust, (ii) make distributions in accordance with the Plan to holders of Allowed Class 5 General Unsecured Claims, (iii) prosecute, compromise, and settle objections to Claims, and (iv) prosecute, compromise, and settle Liquidation Trust Causes of Action.

8.6 Powers. The rights, powers and duties of the Liquidation Trustee are set forth in the Liquidation Trust Agreement, which is incorporated herein by reference and shall include, but not be limited to, (i) prosecution, collection, compromise and settlement of Liquidation Trust Causes of Action, (ii) prosecution, compromise and settlement of objections to Claims, and (iii) distributing the Class 5 Distribution Fund in accordance with the terms of the Plan. Such rights, powers and duties granted to the Liquidation Trustee as set forth in the Liquidation Trust Agreement shall vest without the need to obtain further Bankruptcy Court approval.

8.7 Retention of Counsel. The Liquidation Trustee shall be authorized to retain counsel, which may be, but is not required to be, counsel for the Committee and other professionals as he deems appropriate without application to or approval of the Bankruptcy Court.

8.8 Compensation. The Liquidation Trustee and its retained professionals shall be compensated for all fees and expenses incurred in connection with its services under the Liquidation Trust Agreement from Liquidation Trust Assets without application to or approval of the Bankruptcy Court.

8.9 Appointment of Successor. In the event of the death, resignation or discharge of the Liquidation Trustee, the Bankruptcy Court shall appoint a successor to the Liquidation Trustee upon motion by counsel for the Liquidation Trustee. Any such successor to the Liquidation Trustee shall be bound by the provisions of the Plan, the Liquidation Trust Agreement and the order appointing the Liquidation Trustee.

8.10 Termination of Liquidation Trustee. After the Effective Date, and upon the final distribution of the Liquidation Trust Assets in accordance with the terms of the Plan, the Liquidation Trustee shall so inform the Bankruptcy Court or such other persons and shall be relieved of further responsibility.

8.11 Liquidation Trust Oversight Committee. After the Effective Date, Liquidation Trust Oversight Committee shall come into existence for the purposes more fully set forth in the Liquidation Trust Agreement. The members of the Liquidation Trust Oversight Committee shall not be entitled to any fees or expenses under the Plan.

ARTICLE IX.

SALE AND DISPOSITION OF REMAINING ASSETS

9.1 On or after the Confirmation Date, the Debtor intends to consummate any necessary transactions regarding the sale or other disposition of the Remaining Assets. With

respect to any sale or disposition of the Real Property Interests, if any, on or subsequent to the date of the entry of the Confirmation Order, if any, the Confirmation Order shall serve as an order granting a waiver of all stamp and/or transfer taxes pursuant to section 1146(c) of the Bankruptcy Code, if applicable.

9.2 The Cash on hand on the Effective Date and the Proceeds from the sale or other disposition of the Remaining Assets shall be distributed to the holders of Allowed Claims in accordance with the terms of the Plan and the priorities of the Bankruptcy Code.

ARTICLE X.

DISTRIBUTIONS UNDER THE PLAN

10.1 Distributions for Claims Allowed as of the Effective Date. Except as otherwise provided herein or as ordered by the Bankruptcy Court, distributions to be made on account of Claims that are Allowed Claims as of the Effective Date shall be made on the Effective Date or as soon thereafter as is practicable. Any distribution to be made on the Effective Date pursuant to the Plan shall be deemed as having been made on the Effective Date if such distribution is made on the Effective Date or soon as thereafter is practicable. Any payment or distribution required to be made under the Plan on a day other than a Business Day shall be made on the next preceding Business Day.

10.2 Reserve Accounts. On the Effective Date or as soon as practicable after the Effective Date, the Plan Administrator shall establish and maintain a reserve (the "Plan Administrator Expense Reserve") in the amount of \$1,250,000 (net of the Committee Reserve) to be used to (i) pay fees and expenses of the Post-Confirmation Debtor and Plan Administrator, including their professionals in connection with the Post-Confirmation Debtor's operations, (ii) pay the costs, fees and expenses of prosecuting the Debtor Causes of Action, and (iii) fund the reserves set forth in the following subsections. On or around the 15th day of each month and the last day of each month, all Cash in excess of \$1,250,000 (net of the Committee Reserve) shall be remitted to the Prepetition Lenders on account of the Class 3 Prepetition Lenders Claim. Upon the closing of the Chapter 11 Case, the Plan Administrator shall distribute any balance remaining in the Post-Confirmation Debtor Reserve to the holder of the Allowed Class 3 Prepetition Lenders Claim in accordance with the terms of the Plan and the Settlement.

(a) Reserve for Administrative Claims. On or as soon as practicable after the Effective Date, the Plan Administrator, shall establish and maintain a reserve (the "Administrative Claims Reserve") from the Cash on hand on the Effective Date for Administrative Claims that may be asserted prior to or on the Administrative Claims Bar Date. As soon as practicable after the Administrative Claims Bar Date, the Plan Administrator shall release and distribute to holders of Allowed Claims the portion of the Administrative Claims Reserve not required to either (i) pay such Allowed Administrative Claims or (ii) be set aside as part of the Reserve for Disputed Administrative Claims under section 10.2(d) of the Plan.

(b) Reserve for Fee Claims. On the Effective Date, the Plan Administrator, shall establish and maintain reserves for payment of estimated unpaid Fee Claims. For purposes of establishing a reserve for Fee Claims, Cash will be set aside from the Cash on

hand on the Effective Date in an amount equal to the amount that the Debtor and Committee anticipate will be incurred for fees and expenses by Professionals retained in the Chapter 11 Case up to and including the Effective Date. If, when, and to the extent any such Fee Claims become Allowed Claims by Final Order, the relevant portion of the Cash held in reserve therefor shall be distributed by the Plan Administrator to the Professional in a manner consistent with distributions to similarly situated Allowed Claims or as set forth in such Final Order approving the Fee Claim. The balance of such Cash, if any remaining after all Fee Claims have been resolved and paid, shall be distributed to the holders of Allowed Claims pursuant to the terms of the Plan. No payments or distributions shall be made with respect to a Fee Claim until such Fee Claim is Allowed by Final Order.

(c) Reserves for Disputed Class 5 General Unsecured Claims and Certain Costs. Prior to any distributions to the holders of Allowed Class 5 General Unsecured Claims, the Liquidation Trustee shall establish and maintain reserves for all Disputed Class 5 General Unsecured Claims. Notwithstanding anything else in the Plan, the Liquidation Trustee shall not be required to make distributions to holders of Allowed Class 5 General Unsecured Claims until the objections to Disputed Class 5 General Unsecured Claims have been resolved and the Causes of Action have been fully litigated, settled, collected and/or abandoned.

(d) Reserves for Disputed Administrative, Priority Tax and Other Priority Claims. On or as soon as practicable after the Effective Date, the Plan Administrator shall establish and maintain reserves for all Disputed Administrative, Priority Tax, and Other Priority Claims. With respect to such Disputed Administrative, Priority Tax, and Other Priority Claims, if, when, and to the extent any such Disputed Administrative, Priority Tax, and Other Priority Claims become an Allowed Administrative, Priority Tax, and Other Priority Claim by Final Order or by agreement of the parties, the relevant portion of the Cash held in reserve therefor shall be distributed by the Plan Administrator to the Claimant in a manner consistent with distributions to similarly situated Allowed Administrative, Priority Tax, and Other Priority Claims. The balance of such Cash, if any, remaining after all Disputed Administrative, Priority Tax, and Other Priority Claims have been resolved and the costs of the Plan Administrator have been fully paid, shall be distributed in accordance with the terms of the Plan. No payments or distributions shall be made with respect to a Claim that is a Disputed Administrative, Priority Tax, and Other Priority Claim pending the resolution of the dispute, provided however, that the Plan Administrator may in his discretion pay any undisputed portion of a Disputed Administrative, Priority Tax, and Other Priority Claim.

10.3 Objections to Claims. Objections to Claims shall be filed with the Court and served upon each affected Creditor no later than one-hundred-twenty (120) days after the Effective Date, provided, however, that this deadline may be extended by the Court upon motion of the Plan Administrator or the Liquidation Trustee, as applicable, without notice to Creditors. Notwithstanding the foregoing and except as otherwise provided in the Plan, unless an order of the Court specifically provides for a later date, any proof of claim filed after the Confirmation Date shall be automatically disallowed as a late filed claim, without any action by the Plan Administrator or Liquidation Trustee, as applicable, unless and until the party filing such Claim obtains the written consent of the Plan Administrator and the Liquidation Trustee to file such Claim late or obtains an order of the Court upon notice to the Plan Administrator and Liquidation Trustee that permits the late filing of the Claim. In the event any proof of claim is permitted to

be filed after the Confirmation Date, the Plan Administrator and Liquidation Trustee shall have one-hundred-twenty (120) days from the date of such carve-out for final rejection claims, written consent or order to object to such Claim, which deadline may be extended by the Court upon motion of the Plan Administrator or Liquidation Trustee, as applicable, without notice to Creditors.

10.4 Settlement of Disputed Claims and Causes of Actions. Objections to Claims may be litigated to judgment or withdrawn, and may be settled with the approval of the Bankruptcy Court, except to the extent that such approval is not necessary as provided in this section. After the Effective Date, and subject to the terms of the Plan, the Plan Administrator and the Liquidation Trustee may settle any Disputed Claim or Cause of Action where the asserted amount of the Disputed Claim or Cause of Action is \$500,000 or less without providing any notice or obtaining an order from the Bankruptcy Court; provided, however, that the Plan Administrator receives notice of any settlement proposed by the Liquidation Trustee and does not oppose the same within ten (10) days of receipt of such notice and that the Liquidation Trustee receives notice of any settlement proposed by the Plan Administrator and does not oppose the same within ten (10) days of receipt of such notice. Notices to the Plan Administrator and the Liquidation Trustee described in the preceding sentence can be accomplished by electronic mail. All proposed settlements of Disputed Claims or Causes of Action where the asserted amount of the Disputed Claim or Cause of Action exceeds \$500,000 shall be subject to the approval of the Bankruptcy Court, which may be requested under certification of counsel, without notice to Creditors.

10.5 Unclaimed Property. If any interim distribution remains unclaimed for a period of ninety (90) days after it has been delivered (or attempted to be delivered) in accordance with the Plan to the holder entitled thereto, such unclaimed property, along with any subsequent distribution to be made in accordance with the Plan, shall be forfeited by such holder whereupon all right, title and interest in and to the unclaimed property shall be held in reserve by the Plan Administrator or Liquidation Trustee, as applicable, to be distributed to other holders of Allowed Claims in accordance with the terms of the Plan and this paragraph. Distributions from the Class 5 Distribution Fund which remain unclaimed for a period of ninety (90) days after they have been delivered (or attempted to have been delivered) in accordance with the Plan to the holders entitled thereto that: (i) are intended to be final distributions; and (ii) do not exceed \$10,000 in the aggregate, shall, as soon thereafter as practicable, be donated to an organization officially recognized by the Internal Revenue Service as a charitable organization, a contribution to which would be deductible for federal income tax purposes, in the name of the unsecured creditors of the Debtor to an organization designated by the Liquidation Trustee; provided, however, that if the giving over of such unclaimed property under this Section would result in a donation exceeding \$10,000 in the aggregate, then such unclaimed property shall not be eligible for donation under this Section, and the unclaimed property shall be held in reserve by the Liquidation Trustee to be distributed to other holders of Allowed Class 5 General Unsecured Claims in accordance with the Plan. The Post-Confirmation Debtor shall be entitled to any tax or other benefits associated with any donation made under this Section.

10.6 Withholding from Distributions. Any federal, state, or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from distributions hereunder. All Persons holding Claims shall be required to provide any information

necessary to effect the withholding of such taxes. The Plan Administrator and Liquidation Trustee may withhold from amounts distributable to any Entity any and all amounts, determined in the Plan Administrator's or Liquidation Trustee's reasonable, sole discretion, to be required by any law, regulation, rule, ruling, directive, or other governmental requirement.

10.7 Fractional Cents. Any other provision of the Plan to the contrary notwithstanding, no payment of fractions of cents will be made. Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding down of such fraction to the nearest whole cent.

10.8 Payments of Less than Ten Dollars. If a cash payment otherwise provided for by the Plan with respect to an Allowed Claim would be less than ten (\$10.00) dollars (whether in the aggregate or on any payment date provided in the Plan), notwithstanding any contrary provision of the Plan, the Plan Administrator and the Liquidation Trustee shall not be required to make such payment and such funds shall be otherwise distributed to holders of Allowed Claims in accordance with Article IV and Article V of the Plan.

10.9 Setoffs. Except as otherwise provided for herein, the Post-Confirmation Debtor, Plan Administrator or Liquidation Trustee, as applicable, may, but shall not be required to, set off against any Claim and the payments to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever the Debtor or its estate may have against the Creditor, but neither the failure to do so nor the allowance of a Claim hereunder shall constitute a waiver or release by the Debtor or its estate of any Claim they may have against the Creditor.

ARTICLE XI.

UNEXPIRED LEASES AND EXECUTORY CONTRACTS

11.1 Any and all pre-petition leases or executory contracts not previously rejected by the Debtor, unless specifically assumed pursuant to orders of the Bankruptcy Court prior to the Confirmation Date or the subject of a motion to assume or assume and assign pending on the Confirmation Date, shall be deemed rejected by the Debtor effective as of the Confirmation Date, but subject to the occurrence of the Effective Date.

11.2 All proofs of claim with respect to claims arising from the rejection of executory contracts or leases shall, unless another order of the Bankruptcy Court provides for an earlier date, be Filed with the Bankruptcy Court within thirty (30) days after the mailing of notice of entry of the Confirmation Order (the "Rejection Bar Date"). Unless otherwise permitted by Final Order, any proof of claim that is not Filed prior to the Confirmation Date (other than those claims arising from the rejection of executory contracts or leases which may be Filed within thirty (30) days after mailing of the notice of entry of Confirmation Order as set forth above) shall automatically be disallowed as a late filed claim, without any action by the Post-Confirmation Debtor, the Plan Administrator or the Liquidation Trustee, as applicable, and the holder of such Claim shall be forever barred from asserting such Claim against the Debtor, its estate or property or the Post-Confirmation Debtor.

ARTICLE XII.

CONDITIONS PRECEDENT TO EFFECTIVENESS OF THE PLAN

12.1 Conditions to Effectiveness of the Plan. The Plan shall not become effective unless and until each of the following conditions has been satisfied or waived:

- (a) The Bankruptcy Court shall have entered the Confirmation Order;
- and
- (b) The Confirmation Order shall have become a Final Order.

12.2 Waiver of Conditions. The Debtor, with the consent of the Prepetition Lenders and the Committee, may at any time, without notice or authorization of the Bankruptcy Court, waive the conditions set forth in section 12.1(b). The failure of the Debtor to satisfy or waive such condition may be asserted by the Debtor regardless of the circumstances giving rise to the failure of such condition to be satisfied (including any action or inaction by the Debtor). The Debtor reserves the right to assert that any appeal from the Confirmation Order shall be moot after consummation of the Plan.

12.3 Effect of Failure of Condition. In the event that the condition specified in section 12.1(b) of the Plan has not occurred or been waived on or before sixty (60) days after the Confirmation Date, the Confirmation Order may be vacated upon order of the Court after motion made by the Debtor or any party in interest and an opportunity for parties in interest, including the Committee, to be heard.

ARTICLE XIII.

RETENTION OF JURISDICTION

13.1 Following the Confirmation Date and until such time as all payments and distributions required to be made and all other obligations required to be performed under the Plan have been made and performed by the Plan Administrator and/or Liquidation Trustee and a final decree has been entered closing this Chapter 11 Case, the Bankruptcy Court shall retain jurisdiction as is legally permissible, including, without limitation, for the following purposes:

- (a) Claims. To determine the allowance, classification, or priority of Claims against the Debtor upon objection by the Post-Confirmation Debtor, Plan Administrator, Liquidation Trustee, or any other party in interest;
- (b) Injunction, etc. To issue injunctions or take such other actions or make such other orders as may be necessary or appropriate to restrain interference with the Plan or its execution or implementation by any Person, to construe and to take any other action to enforce and execute the Plan, the Confirmation Order, or any other order of the Bankruptcy Court, to issue such orders as may be necessary for the implementation, execution, performance and consummation of the Plan and all matters referred to herein, and to determine all matters that

may be pending before the Bankruptcy Court in the Chapter 11 Case on or before the Effective Date with respect to any Entity;

(c) Professional Fees. To determine any and all applications for allowance of compensation and expense reimbursement of Professionals for periods before the Effective Date, as provided for in the Plan;

(d) Certain Priority Claims. To determine the allowance and classification of any Priority Tax Claims, Other Priority Claims, Administrative Claims or any request for payment of an Administrative Claim;

(e) Dispute Resolution. To resolve any dispute arising under or related to the implementation, execution, consummation or interpretation of the Plan and/or Confirmation Order and the making of distributions hereunder and thereunder, including, without limitation, any dispute concerning payment of professional fees and expenses of the Plan Administrator;

(f) Executory Contracts and Unexpired Leases. To determine any and all motions for the rejection, assumption, or assignment of executory contracts or unexpired leases, and to determine the allowance of any Claims resulting from the rejection of executory contracts and unexpired leases;

(g) Actions. To determine all applications, motions, adversary proceedings, contested matters, actions, and any other litigated matters instituted in the Chapter 11 Case by or on behalf of the Debtor, Post-Confirmation Debtor, the Plan Administrator or the Liquidation Trustee, including, but not limited to, the Causes of Action commenced by the Debtor, Post-Confirmation Debtor, the Plan Administrator, or Liquidation Trustee, as applicable, and any remands;

(h) General Matters. To determine such other matters, and for such other purposes, as may be provided in the Confirmation Order or as may be authorized under provisions of the Bankruptcy Code or as may be requested by the Plan Administrator or Liquidation Trustee, as applicable;

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

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

(k) Protect Property. To protect the Property of the Debtor and Post-Confirmation Debtor from adverse Claims or interference inconsistent with the Plan, including to hear actions to quiet or otherwise clear title to such property based upon the terms and provisions of the Plan or to determine a purchaser's exclusive ownership of claims and causes of actions retained under the Plan;

(l) Abandonment of Property. To hear and determine matters pertaining to abandonment of Property of the Debtor's estate;

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

(n) Final Order. To enter a final decree closing the Chapter 11 Case.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS

14.1 Pre-Confirmation Modification. On notice to and opportunity to be heard by the United States Trustee, counsel to Prepetition Lenders and the Committee, the Plan may be altered, amended or modified by the Debtor before the Confirmation Date as provided in section 1127 of the Bankruptcy Code.

14.2 Post-Confirmation Immaterial Modification. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in section 1101(2) of the Bankruptcy Code, the Debtor may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect of omission or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan and such proceedings do not materially adversely affect the treatment of holders of the Claims under the Plan; provided, however, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

14.3 Withdrawal or Revocation of the Plan. The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Debtor revokes or withdraws the Plan, then the Plan shall be deemed null and void.

14.4 Payment of Statutory Fees. All fees payable pursuant to section 1930 of Title 28 of the United States Code shall be paid on the Effective Date (if due) or by the Plan Administrator when otherwise due out of the Post-Confirmation Debtor Reserve set aside on the Effective Date.

14.5 Role of the Committee. Upon the Effective Date, the appointment and existence of the Committee shall terminate for all purposes.

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

14.7 Termination of 401(k) Plan. Any section 401(k) savings plans maintained by the Debtor for its employees shall be terminated by the Debtor and the Plan Administrator in accordance with applicable law.

14.8 **Exculpation.** Except as otherwise provided by the Plan or the Confirmation Order, on the Effective Date, the Debtor, the Committee and its members, and their respective present and former officers, directors, members, managers, employees, representatives, counsel and other agents, successors and assigns shall be deemed released by each of them against the other, and by all holders of Claims or Interests, of and from any claims, obligations, rights, causes of action and liabilities for any act or omission in connection with, or arising out of, the Chapter 11 Case, including, without limiting the generality of the foregoing, all sales of Property, assets, the Disclosure Statement, the pursuit of approval of the Disclosure Statement, the pursuit of confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan, except for acts or omissions which constitute willful misconduct or gross negligence, and all such Persons, in all respects, shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan and under the Bankruptcy Code. For the avoidance of any doubt, the exculpation provided herein does not affect any cause of action the Debtors or its estate may have against any of the foregoing parties on account of any prepetition payments received by such parties or prepetition actions taken by such parties.

14.9 **Injunction.** Except as otherwise provided in the Plan or an order of the Court, on and after the Confirmation Date, all Entities who have held, hold or may hold Claims against or Interests in the Debtor are, with respect to any such Claims or Interests, permanently enjoined from and after the Confirmation Date from: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Post-Confirmation Debtor, any of its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Entities, or any property of any such transferee or successor; (b) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means whether directly or indirectly, of any judgment, award, decree or order against the Post-Confirmation Debtor, any of its property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to any of the foregoing Entities; (c) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Post-Confirmation Debtor, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to any of the foregoing Entities or against any property of the foregoing Entities; (d) asserting any right of setoff, subrogation, or recoupment of any kind, directly or indirectly, against any obligation due the Post-Confirmation Debtor, any of its property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Entities; and (e) taking any actions in any place and in any manner whatsoever that do not conform to or comply with the provisions of the Plan.

14.10 **Releases Pursuant to the Settlement.** Subject to and upon the occurrence of the Effective Date, the Committee, the Liquidation Trustee, the Liquidation Trust, and the Debtor's estate shall waive and be deemed to have released all claims against the Prepetition Lenders, including any claims on account of section 506(c) of the Bankruptcy Code, existing as of the occurrence of the Effective Date (subject to the

preservation of any claims relating to Prepetition Lender obligations in connection with the Plan, if any) without need for further action or Bankruptcy Court approval. The deadline by which the Committee shall bring an action against the Prepetition Lenders is extended through and including the Effective Date.

14.11 Preservation of Insurance. The Debtor's discharge and release from and payment of all Claims as provided in the Plan shall not diminish or impair the enforceability of any insurance policy that may cover Claims against the Debtor (including, without limitation, their officers or directors) or any other person or entity.

14.12 Cramdown. To the extent any Impaired Class of Claims or Interest holders entitled to vote on the Plan votes to reject the Plan, the Debtor reserves the right to request confirmation of the Plan under section 1129(b) of the Bankruptcy Code with respect to such Class(es).

14.13 Governing Law. Except to the extent that the Bankruptcy Code is applicable, the rights and obligations arising under the Plan shall be governed by and construed and enforced in accordance with the laws of the State of Delaware.

14.14 Notices. Any notice required or permitted to be provided under the Plan shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) reputable overnight courier service, freight prepaid, to be addressed as follows:

If to the Debtor or the Post-Confirmation Debtor:

KCMVNO, Inc. (f/k/a Movida Communications, Inc.)
855 Lakeland Drive, Suite D-20
Jackson, MS 39216
Attn: Bradley E. Scher

with a copy to:

YOUNG CONAWAY STARGATT & TAYLOR, LLP
The Brandywine Building
1000 West Street, 17th Floor
P.O. Box 391
Wilmington, DE 19899-0391
(302) 571-6600
Attn: Michael R. Nestor, Esq.
Edward J. Kosmowski, Esq.

Prior to the Effective Date,
if to the Committee:

BLANK ROME LLP
1201 Market Street, Suite 800
Wilmington, DE 19801
Attn: Michael B. Schaedle, Esq.
David W. Carickhoff, Esq.

14.15 Saturday, Sunday or Legal Holiday. If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

14.16 Section 1146 Exemption. Pursuant to section 1146(c) of the Bankruptcy Code, the issuance, transfer or exchange of any security under the Plan or the making or delivery of any instrument of transfer pursuant to, in implementation of, or as contemplated by, the Plan or the revesting, transfer or sale of any real or personal property of the Debtor or Post-Confirmation Debtor pursuant to, in implementation of, or as contemplated by, the Plan shall not be taxed under any state or local law imposing a stamp tax or similar tax or fee.

14.17 Severability. If any term or provision of the Plan is held by the Bankruptcy Court prior to or at the time of Confirmation to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as so altered or interpreted. In the event of any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan may, at the Debtor's option remain in full force and effect and not be deemed affected. However, the Debtor reserves the right not to proceed to Confirmation or consummation of the Plan if any such ruling occurs. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

14.18 Headings. The headings used in the Plan are inserted for convenience only and neither constitutes a portion of the Plan nor in any manner affect the provisions of the Plan.

ARTICLE XV.

CONFIRMATION REQUEST

15.1 The Debtor hereby requests confirmation of the Plan pursuant to sections 1129(a) and (b) of the Bankruptcy Code.

Dated: November 24, 2008

Respectfully submitted,
KCMVNO, INC.

By: Steven Segaloff
Its: Secretary

EXHIBIT A

Board Members

[To Be Provided]

EXHIBIT B

Order Approving Disclosure Statement

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----	X
In re:	: Chapter 11
	:
KCMVNO, INC.,	: Case No. 08-10600 (BLS)
a Delaware corporation, ¹	:
	: Ref. Docket No. _____
Debtor.	:
-----	X

**ORDER (I) APPROVING THE DISCLOSURE STATEMENT;
(II) ESTABLISHING PROCEDURES FOR SOLICITATION AND
TABULATION OF VOTES TO ACCEPT OR REJECT THE PLAN, INCLUDING (A)
APPROVING FORM AND MANNER OF SOLICITATION PACKAGES, (B) APPROVING
THE FORM AND MANNER OF NOTICE OF THE CONFIRMATION HEARING, (C)
ESTABLISHING RECORD DATE AND APPROVING PROCEDURES FOR
DISTRIBUTION OF SOLICITATION PACKAGES, (D) APPROVING FORMS OF
BALLOTS, (E) ESTABLISHING DEADLINE FOR RECEIPT OF BALLOTS, AND (F)
APPROVING PROCEDURES FOR VOTE TABULATIONS; (III) ESTABLISHING
DEADLINE AND PROCEDURES FOR FILING OBJECTIONS TO CONFIRMATION
OF THE PLAN; AND (IV) GRANTING RELATED RELIEF**

Upon consideration of the motion (the “Motion”)² of the above-captioned debtor and debtor in possession (the “Debtor”) for the entry of an order, pursuant to sections 1125 and 1126 of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq. (the “Bankruptcy Code”), Rules 2002, 3016, 3017 and 3020 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Rules 3017-1(a) and 3017-1(b) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), (i) approving the Disclosure Statement Pursuant to Section 1125 of the Bankruptcy Code With Respect to the Debtor’s Chapter 11 Plan of Liquidation (including all exhibits thereto and as amended, modified or supplemented from time to time, the “Disclosure

¹ The last four digits of KCMVNO, Inc.’s (f/k/a Movida Communications, Inc.) federal tax identification number are 2263. The mailing address for KCMVNO, Inc. is 1855 Lakeland Drive, Suite D-20, Jackson, MS 39216.

² Unless otherwise defined in herein, all capitalized terms shall have the respective meanings ascribed to them in the Motion.

Statement”); (ii) establishing procedures for solicitation and tabulation of votes to accept or reject the Debtor’s Chapter 11 Plan of Liquidation (including all exhibits thereto and as the same may be further amended, modified or supplemented from time to time, the “Plan”) including (a) approving the form and manner of the solicitation packages, (b) approving the form and manner of notice of the Confirmation Hearing, (c) establishing a record date and approving procedures for distributing solicitation packages, (d) approving the forms of ballots, (e) establishing the deadline for the receipt of ballots, and (f) approving procedures for tabulating acceptances and rejections of the Plan; (iii) establishing the deadline and procedures for filing objections to confirmation of the Plan; and (iv) granting related relief; and it appearing that adequate and sufficient notice of the Motion has been given under the circumstances; and it further appearing that adequate and sufficient notice pursuant to Bankruptcy Rule 2002(b) of the hearing to approve the Disclosure Statement has been given; and after due deliberation and upon the Court’s determination that the relief requested in the Motion is in the best interests of the Debtor, its estate and creditors and other parties in interest; and sufficient cause appearing thereof, it is

HEREBY ORDERED THAT:

1. The Motion is granted.
2. The Disclosure Statement is approved as containing adequate information within the meaning of section 1125 of the Bankruptcy Code.
3. The Debtor shall mail or caused to be mailed to holders of Claims entitled to vote on the Plan no later than **[INSERT DATE]**, 2009 a solicitation package containing: (a) written notice (the “Confirmation Hearing Notice”), substantially in the form attached hereto as Exhibit A, of (i) the Court’s approval of the Disclosure Statement, (ii) the deadline for voting on the Plan, (iii) the date of the Confirmation Hearing, and (iv) the deadline and procedures for

filing objections to the confirmation of the Plan, which Confirmation Hearing Notice is approved; (b) a copy of the Plan and the Disclosure Statement, substantially in the form approved by the Court; (c) the appropriate ballot (substantially in the form attached hereto as Exhibits B-1 through B-3) and ballot return envelope; and (d) such other information as the Court may direct or approve (collectively, the "Solicitation Package"). The Solicitation Package and the manner of service of the Solicitation Package satisfies the requirements of Bankruptcy Rule 3017(d).

4. Pursuant to Bankruptcy Rule 3017(d), the Debtor is not required to transmit a Solicitation Package to the Non-Voting Parties. The Debtor shall mail or cause to be mailed to each Non-Voting Party within fifteen (15) days after the entry of this Order the Non-Voting Creditor Notice, substantially in the form attached hereto as Exhibit C.

5. January 5, 2009 is established as the record date (the "Record Date") for purposes of determining the creditors and interest holders entitled to receive the Solicitation Package or the Non-Voting Creditor Notice and to vote on the Plan, provided, however, that with respect to transfers of claims filed pursuant to Bankruptcy 3001, the holder of a claim as of the Record Date shall be the transferor of such claim unless the documentation evidencing such transfer was docketed by the Bankruptcy Court on or before twenty (20) days prior to the Record Date and no timely objection with respect to such transfer was filed by the transferor.

6. The Garden City Group, Inc. ("Garden City" or the "Balloting Agent") shall tabulate the ballots and certify to the Court the results of the balloting.

7. The Debtor is permitted to dispense with the mailing of Solicitation Packages or Non-Voting Creditor Notices to addresses and entities to which the notice of the

Disclosure Statement hearing was returned by the United States Postal Service as undeliverable, unless the Debtor is provided with an accurate address.

8. The Ballots, substantially in the form attached hereto as Exhibits B-1 through B-3, are hereby approved.

9. All Ballots must be properly executed, completed and delivered to the Balloting Agent by (i) first class mail in the return envelope provided with the Ballots to The Garden City Group, Inc., Attn.: KCMVNO, Inc., f/k/a Movida Communications, Inc., 105 Maxess Road, Melville, New York 11747 or (ii) overnight mail or hand delivery to The Garden City Group, Inc., Attn.: KCMVNO, Inc., f/k/a Movida Communications, Inc., 105 Maxess Road, Melville, New York 11747, so that the Ballots are received on or before [INSERT DATE], 2009 at 4:00 p.m. (prevailing Eastern Time) (the "Voting Deadline"), unless extended by the Debtor. Ballots cast by facsimile, email or other electronic transmission will not be counted unless approved in advance by the Debtor in writing.

10. For purposes of voting on the Plan, the amount of a claim held by a creditor or the number of any interests held by an interest holder shall be determined pursuant to the following guidelines:

- a. The claim listed in the Debtor's schedule of liabilities, provided that (i) such claim is not scheduled as contingent, unliquidated, undetermined or disputed and (ii) no proof of claim has been timely filed (or otherwise deemed timely filed by the Court under applicable law);
- b. The noncontingent and liquidated amount specified in a proof of claim timely filed with the Court or Garden City (or otherwise deemed timely filed by the Court under applicable law) to the extent the proof of claim is not the subject of an objection filed no later than [INSERT DATE], 2009 (or, if such claim has been resolved pursuant to a stipulation or order entered by the Court, or otherwise resolved by the Court, the amount set forth in such stipulation or order);

- c. The amount temporarily allowed by the Court for voting purposes, pursuant to Bankruptcy Rule 3018(a), provided that a motion is brought, notice is provided and a hearing is held prior to the Confirmation Hearing, in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules;
- d. Except as otherwise provided in subsection (c) hereof, with respect to ballots cast by alleged creditors whose claims (i) are not listed on the Debtor's schedule of liabilities or (ii) are listed as disputed, contingent and/or unliquidated on the Debtor's schedule of liabilities, but who have timely filed proofs of claim in unliquidated or unknown amounts that are not the subject of an objection filed before the commencement of the Confirmation Hearing, such ballots shall be counted in determining whether the numerosity requirement of section 1126(c) of the Bankruptcy Code has been met, but shall not be counted in determining whether the aggregate claim amount requirement has been met.

11. The Debtor may object to any claim (as defined in section 101(5) of the Bankruptcy Code) solely for Plan voting purposes by filing a determination motion (the "Determination Motion") no later than eighteen (18) days prior to the Voting Deadline with the Court. Responses, if any, to the Determination Motion shall be filed no later than five (5) business days prior to the hearing on the Determination Motion. The Court will conduct a hearing on any Determination Motion at the Confirmation Hearing or such earlier time as may be scheduled by the Court. If a Determination Motion is filed, the ruling by the Court on the Determination Motion shall be considered a ruling with respect to the allowance of the claim(s) under Bankruptcy Rule 3018 and such claim(s) shall be counted, for voting purposes only, in the amount determined by the Court. The filing of a Determination Motion or a ruling by the Court thereon shall not affect the Debtor's, or the Liquidation Trustee's upon the Effective Date of the Plan, right or ability to later object to such claim(s) for any other purposes, including distribution under the Plan.

12. Creditors seeking to have a claim temporarily allowed for purposes of voting to accept or reject the Plan pursuant to Bankruptcy Rule 3018(a) must file a motion (the “Claims Estimation Motion”) for such relief no later than ten (10) days prior to the Voting Deadline. The Court will schedule a hearing on such motion for a date prior to the Confirmation Hearing.

13. The following voting procedures and standard assumptions shall be used in tabulating the Ballots:

- a. For purposes of the numerosity requirement of section 1126(c) of the Bankruptcy Code, separate claims held by a single creditor in a particular class will be aggregated as if such creditor held one claim against the Debtor in such class, and the votes related to such claims will be treated as a single vote to accept or reject the Plan.
- b. Creditors or interest holders must vote all of their claims or interests within a particular class either to accept or reject the Plan and may not split their vote. Accordingly, a ballot (or multiple ballots with respect to multiple claims within a single class) that partially rejects and partially accepts the Plan will not be counted.
- c. Ballots that fail to indicate an acceptance or rejection of the Plan or that indicate both acceptance and rejection of the Plan, but which are otherwise properly executed and received prior to the Voting Deadline, will not be counted.
- d. Only ballots that are timely received with signatures will be counted. Unsigned ballots will not be counted.
- e. Ballots postmarked prior to the Voting Deadline, but received after the Voting Deadline, will not be counted.
- f. Ballots which are illegible, or contain insufficient information to permit the identification of the creditor, will not be counted.
- g. Whenever a creditor or interest holder casts more than one ballot voting the same claim or interest prior to the Voting Deadline, the last valid ballot received prior to the Voting Deadline shall be deemed to reflect the voter’s intent and supersede any prior ballots.
- h. If a creditor simultaneously casts inconsistent duplicate ballots with respect to the same claim, such ballots shall not be counted.

- i. Each creditor shall be deemed to have voted the full amount of its claim. Unless otherwise ordered by the Court, questions as to the validity, form, eligibility (including time of receipt), acceptance, and revocation or withdrawal of ballots shall be determined by the Balloting Agent and the Debtor, which determination shall be final and binding.

14. Any objection, comment or response to confirmation of the Plan (including any supporting memoranda) must be in writing, served on the parties identified below, and filed with the Court, together with proof of service, such that the foregoing are received by such parties and the Court on or before [INSERT DATE], 2009 at 4:00 p.m. (prevailing Eastern Time). The Court shall consider only timely filed written objections. All objections not timely filed and served in accordance with the provisions of this Motion are hereby deemed waived. Objections to confirmation of the Plan should provide proposed language to remedy such objections and shall be served on the following parties: (i) Young Conaway Stargatt & Taylor, LLP, The Brandywine Building, 1000 West Street, Wilmington, Delaware 19801 (Attn.: Michael R. Nestor and Edward J. Kosmowski), counsel for the Debtor; (ii) Ocean Ridge Capital Advisors, LLC, 56 Harrison Street, Suite 203A, New Rochelle, New York 10801 (Attn.: Bradley E. Scher); (iii) Blank Rome LLP, 1201 Market Street, Suite 800, Wilmington, Delaware 19801 (Attn.: Michael B. Schaedle and David W. Carickhoff), counsel for the Committee; and (iv) the United States Trustee for the District of Delaware, 844 King Street, Suite 2313, Lockbox #35, Wilmington, Delaware 19801 (Attn.: Mark S. Kenney).

15. Any party supporting the Plan shall be afforded an opportunity to file a response to any objection to confirmation of the Plan, prior to the Confirmation Hearing.

16. A hearing shall be held before this Court on [INSERT DATE], 2009 at [INSERT TIME] (prevailing Eastern Time) before the Honorable Brendan Linehan Shannon at

the United States Bankruptcy Court for the District of Delaware, 824 N. Market St., 6th Floor, Courtroom #1, Wilmington, Delaware 19801, or as soon thereafter as counsel can be heard, to consider confirmation of the Plan (the "Confirmation Hearing").

17. The Confirmation Hearing may be adjourned from time to time without further notice to creditors and other parties-in-interest by an announcement of the adjourned date at the Confirmation Hearing of any adjournment thereof or an appropriate filing with the Court.

18. Prior to mailing the Disclosure Statement, Solicitation Packages, or Non-Voting Creditor Notices, the Debtor may fill in any missing dates and other information, correct any typographical errors and make such other non-material, non-substantive changes as it deems appropriate.

19. This Court shall retain jurisdiction over all matters related to or arising from the Motion or the interpretation or implementation of this Order.

Dated: Wilmington, Delaware
January _____, 2009

Brendan Linehan Shannon
United States Bankruptcy Judge

EXHIBIT C

Liquidation Analysis

Chapter 7 Liquidation Analysis^c

	Projected Net Book Value a/o 12/6/08	Hypothetical Liquidation Recovery		Hypothetical Liquidation Value	
		Low	High	Low	High
Cash and Cash Equivalents	\$ 1,116,129	100%	100%	\$ 1,116,129	\$ 1,116,129
Other Assets					
Accounts receivable	284,515	5%	75%	14,226	213,386
Sales proceeds receivable ^a	1,308,000	100%	100%	1,308,000	1,308,000
Inventories	3,800,000	15%	45%	570,000	1,710,000
Unapplied retainers	162,740	100%	100%	162,740	162,740
Litigation actions	Unknown				
	<u>\$ 6,671,384</u>	<u>48%</u>	<u>68%</u>	<u>\$ 3,171,095</u>	<u>\$ 4,510,256</u>
Post Petition Accruals					
U.S. Trustee Fees				(5,000)	(5,000)
Miscellaneous				(15,000)	(15,000)
				(20,000)	(20,000)
Administrative & Post Petition Fee Claims & Priority Claims					
Administrative Claims				(150,000)	(100,000)
Fee Claims				(125,000)	(75,000)
Priority Tax Claims				(320,000)	(280,000)
Other Priority Claims				(10,000)	(10,000)
				(605,000)	(455,000)
Chapter 7 Administrative Costs			3%	(95,133)	(135,388)
				(150,000)	(150,000)
				(245,133)	(285,308)
Total Proceeds Available to Secured Claims				\$ 2,300,962	\$ 3,749,976
Secured Claims					
Miscellaneous Secured Claims				\$ -	\$ -
Prepetition Lenders' Claim ^b				\$ 18,158,838	\$ 18,158,838
%ge Recovery				13%	21%
Total Proceeds Available to Unsecured Claims				\$ -	\$ -

Notes:

^a Subject to adjustment pursuant to the Stipulation by and between the Debtor and the Cozac Parties for Settlement of the Adversary Proceeding ordered August 5, 2008

^b Net of \$3.3mm paid to prepetition lenders during bankruptcy case

^c This analysis has been prepared based upon the view by the Debtor that certain claims filed as either administrative, priority or secured claims, will ultimately be treated as general unsecured claims.