

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

In re:

**MA LERIN HILLS HOLDER, LP,

Debtor.**

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**CHAPTER 11 CASE
CASE NO. 15-51424**

In re:

**L H DEVCO, INC.,

Debtor.**

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**CHAPTER 11 CASE
CASE NO. 15-51425**

In re:

**LERIN HILLS UTILITY EASEMENT
HOLDER, LLC,

Debtor.**

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**CHAPTER 11 CASE
CASE NO. 15 -51426

Joint Administration Pending**

JOINT CHAPTER 11 PLAN OF LIQUIDATION

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**ARTICLE I
INTRODUCTION**

1.1 *Introduction.*

MA Lerin Hills Holder, LP, L H Devco, Inc., and Lerin Hills Utility Easement Holder, LLC, as debtors and debtors in possession in these Chapter 11 Cases, and Putnam Bridge Funding III, LLC, as co-proponents respectfully propose the following *Joint Chapter 11 Plan of Liquidation*. The Debtors own a residential real estate development located in Boerne, Texas and more commonly known as Lerin Hills, which secures the repayment of over \$41 million in secured indebtedness owed to Putnam, which is by far the Debtors’ largest creditor. This Plan is proposed jointly by the Debtors and Putnam, and on behalf of each Debtor as its individual, separate plan under chapter 11 of the Bankruptcy Code. Reference is made to the Disclosure Statement accompanying the Plan for a discussion of the Debtors’ history, results of operations, historical financial information and properties, and for a summary and analysis of the Plan. All holders of Claims against or Interests in a Debtor are encouraged to read the Plan and the Disclosure Statement in their entirety before voting to accept or reject the Plan. **The Debtors and Putnam urge all Holders of Claims in Impaired Classes receiving Ballots to accept the Plan.**

This Plan constitutes a chapter 11 plan of liquidation for each of the Debtors. Except for Administrative Expenses and Priority Tax Claims, all Claims against and Interests in each Debtor are placed in Classes as described below. In accordance with § 1123(a)(1), the Debtors Putnam have not classified Administrative Expenses or Priority Tax Claims, as described below. Further, for purposes of voting and making Distributions only, creditors of all the Debtors will be combined in classes set forth below.

1.2 *Classification of Claims and Interests.*

The table below classifies Claims against and Interests of all Debtors for all purposes, including voting, confirmation and Distribution pursuant hereto and pursuant to §§ 1122 and 1123(a)(1). The Plan deems a Claim or Interest to be classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and a Claim or Interest shall be deemed classified in a different Class to the extent that any remainder of such Claim or Interest qualifies within the description of such different Class. A Claim or Interest is in a particular Class only to the extent that any such Claim or Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

<u>CLASS</u>	<u>STATUS</u>	<u>ENTITLED TO VOTE</u>
Class 1: DIP Claims	Impaired	Yes
Class 2: Prepetition Lender Claims	Impaired	Yes
Class 3: Other Secured Claims	Impaired	Yes
Class 4: Priority Non-Tax Claims	Not Impaired	No
Class 5: General Unsecured Claims	Impaired	Yes
Class 6: Subordinated Claims	Impaired	No
Class 7: Old Interests	Impaired	No

Administrative Expenses and Priority Tax Claims of the kinds specified in §§ 507(a)(1), 502(i) and 507(a)(8) have not been classified and are excluded from the following Classes in accordance with § 1123(a)(1).

ARTICLE II DEFINITIONS

2.1 Defined Terms

For the purposes of this Plan, the following terms (which appear in this Plan in capitalized form) shall have the meanings set forth below, and such meanings shall be equally applicable to the singular and to the plural form of the terms defined, unless the context otherwise requires. Unless otherwise provided in this Plan, all terms used herein shall have the meanings assigned to such terms in the Bankruptcy Code or the Bankruptcy Rules. Unless otherwise noted herein, section (§) references are to the Bankruptcy Code.

“**ACH**” shall mean an automated clearing house transaction through a domestic bank.

“**Administrative Budget**” shall mean the wind-down budget of the Debtors approved by the DIP Lender for the post-Effective Date wind-down and dissolution of the Debtors and their Estates, which shall be filed as part of the Plan Supplement.

“**Administrative Expense**” shall mean any Claim for costs and expenses of administration of these Chapter 11 Cases incurred or accrued during the period from and after the Petition Date up to and including the Effective Date with priority under § 507(a)(2), including costs and expenses allowed under § 503(b), the actual and necessary costs and expenses of preserving the Estates of the Debtors, any Claim arising under § 503(b)(9), any Claim relating to the right of reclamation to the extent afforded such priority under the Bankruptcy Code, any Professional Fee Claim, and any fees or charges assessed against the Estates of the Debtors under 28 U.S.C. §1930, with respect to which an Administrative Expense Request was filed on or prior to the Bar Date established for Claims or the Administrative Expense Request Deadline, as applicable.

“**Administrative Expense Request**” shall mean a request or application for allowance or payment of an Administrative Expense.

“**Administrative Expense Request Deadline**” shall mean the date set forth in the Confirmation Order as the deadline for filing Administrative Expense Requests (excluding Professional Fee Claims) that are not subject to the Bar Date Order, which deadline shall be thirty (30) days after the Effective Date unless otherwise ordered by the Bankruptcy Court.

“**Affiliate**” shall have the meaning set forth in § 101(2).

“**Allowed**” shall mean, when used with respect to a Claim or Interest, any Claim or Interest that: (a) has been allowed by a Final Order of the Bankruptcy Court; (b) has been Scheduled in a liquidated amount, other than a Claim that is scheduled as disputed, contingent or unliquidated; (c) is the subject of a timely Proof of Claim that has been filed as of the relevant Bar Date and as to which no objection thereto, or motion or proceeding to subordinate, disallow

or otherwise limit recovery, has been filed; or (d) is the subject of a timely Proof of Claim that has been filed as of the relevant Bar Date and (i) any objection or motion or proceeding to subordinate, disallow or otherwise limit recovery that has been filed has been resolved by a Final Order or (ii) the Responsible Person has reviewed the Claim and determined that the Claim is valid and no objection to such Claim will be filed. An Allowed Claim shall not include interest on the amount of any Claim except (1) with respect to an Allowed Claim filed pursuant to § 506(b), (2) as specifically provided in this Plan, or (3) as provided by Final Order of the Bankruptcy Court. If the Debtors or the Responsible Person object to any Claim in accordance with § 502(d), such Claim shall not be an Allowed Claim until the avoidable transfer is returned, a Final Order has been entered that no avoidable transfer exists, or an agreement or settlement is reached that is approved by the Bankruptcy Court or pursuant to provisions in the Plan.

“**APA**” shall mean the Asset Purchase Agreement between Prepetition Lender and the Debtors and provided as part of the Plan Supplement.

“**Assets**” shall mean all of the Property, all tangible and intangible assets, all real and personal property, and the rents, profits and proceeds thereof and anything else of value owned by the Debtors or any of them, including any Cash on hand or in Accounts owned by a Debtor or in which a Debtor has rights such that such rights may be sold, arising prior to or after the Petition Date, including any such Assets obtained or otherwise recovered by the Debtors after Confirmation of the Plan. For the sake of clarity, the Assets include all Executory Contracts on the Assumed Contracts Schedule, cash, personalty, stock in trade, inventories, supplies, equipment and fixtures, books and records, licenses and permits, Intellectual Property, goodwill and all other assets of the Debtors, and shall specifically exclude all Causes of Action.

“**Assumed Contracts Schedule**” shall mean the list of Executory Contracts to be assumed and assigned to the Prepetition Lender on the Effective Date, which list is included in the Plan Supplement as Exhibit [___] and shall include (a) Executory Contracts to be assumed and assigned to the Prepetition Lender pursuant to the Plan and (b) Executory Contracts previously assumed by the Debtors by order of the Bankruptcy Court.

“**Assumed Liabilities**” shall mean the liabilities assumed by the Prepetition Lender under the Plan and as set forth in the APA.

“**Avoidance Action**” shall mean any claim or Cause of Action arising under chapter 5 of the Bankruptcy Code.

“**Bankruptcy Code**” shall mean the Bankruptcy Reform Act of 1978, as amended and codified in Title 11 of the United States Code, as in effect on the Petition Date or thereafter amended and applicable to the Chapter 11 Cases, as the case may be.

“**Bankruptcy Court**” shall mean the United States District Court for the Western District of Texas with jurisdiction over the Chapter 11 Cases, the Debtors and their Estates and, to the extent of any reference made pursuant to 28 U.S.C. §157, the United States Bankruptcy Court for the Western District of Texas, or any court having competent jurisdiction to enter the Confirmation Order.

“**Bankruptcy Rules**” shall mean the Federal Rules of Bankruptcy Procedure effective in accordance with the provisions of 28 U.S.C. §2075, as in effect on the Petition Date or thereafter amended and applicable to the Chapter 11 Cases, as the case may be.

“**Bar Date**” shall mean [_____] at 4:00 p.m. prevailing Central time, and such other date(s) fixed by order(s) of the Bankruptcy Court, by which all Persons asserting a Claim must have filed a Proof of Claim or be forever barred from asserting such Claim.

“**Bar Date Order**” shall mean an order of the Bankruptcy Court establishing the Bar Date for filing Proofs of Claim, with only those exceptions permitted thereby.

“**Business Day**” shall mean a day other than Saturday, Sunday, a legal holiday as defined in Bankruptcy Rule 9006(a) or other day on which the Bankruptcy Court is authorized or required by law to close.

“**Cash**” shall mean cash and cash equivalents (including, but not limited to, bank deposits, security deposits paid by any Debtor that are maintained in a segregated or ear-marked account, checks, similar items and securities or instruments of the type permitted under § 345) in certified or immediately available funds.

“**Causes of Action**” shall mean any and all actions, proceedings, causes of action, obligations, suits, judgments, damages, demands, debts, accounts, controversies, agreements, promises, liabilities, powers to avoid transfers, legal remedies, equitable remedies, and claims (and any rights to any of the foregoing) belonging to a Debtor or its Estate, whether core or non-core, known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, known or unknown, foreseen or unforeseen, fixed, contingent, matured, unmatured, disputed, undisputed, then existing or thereafter arising, secured or unsecured, whether asserted or assertable directly or derivatively or as a defense, counterclaim or cross-claim, in law, equity or otherwise, including any claim for recharacterization or subordination, any Avoidance Action, and any other claim, power or right arising under or pursuant to § 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state or federal law. For the avoidance of doubt, the term “Causes of Action” shall include all Claims and Causes of Action listed on Appendix ___ to the Disclosure Statement, and any and all Causes of Action that the Receiver is authorized to retain in the Receivership pursuant to § 543(d).

“**Chapter 11 Cases**” shall mean the above-captioned chapter 11 cases of the Debtors pending in the Bankruptcy Court and jointly administered under Case No. 15-[_____].

“**Claim**” shall have the meaning set forth in § 101(5).

“**Class**” shall mean each category of Holders of Claims or Interests specified in Article IV of this Plan.

“**Confirmation Date**” shall mean the date on which the Confirmation Order is entered on the docket in the Chapter 11 Cases by the Bankruptcy Court.

“**Confirmation Hearing**” shall mean the hearing at which the Bankruptcy Court considers confirmation of this Plan.

“**Confirmation Order**” shall mean the order of the Bankruptcy Court confirming this Plan and approving the transactions contemplated herein, pursuant to § 1129.

“**Creditor**” shall have the meaning set forth in § 101(10).

“**Cure Amount**” shall mean, with respect to any Executory Contract, the amount, if any, that must be paid in connection with the assumption of such contract or lease to satisfy the requirements of § 365(b)(1)(A).

“**Debtors**” shall mean, collectively, Landco, Devco and Pipeco.

“**Deed of Trust**” shall mean that certain *Deed of Trust, Collateral Assignment of Rents, Security Agreement, Financing Statement, and Fixture Filing*, dated June 28, 2012, executed by Devco and Landco for the benefit of the Prepetition Lender, encumbering, among other property, the Property.

“**Devco**” shall mean L H Devco, Inc., a Texas corporation.

“**Devco Loans**” shall mean, collectively, those certain loans made by Putnam to Devco pursuant to (i) that certain *Devco Loan Agreement*, dated June 28, 2012 (as amended thereafter, including as amended and restated pursuant to the Amended and Restated Devco Loan Agreement, dated February 7, 2014), (ii) that certain *Secured Promissory Note*, dated June 28, 2012, payable to the order of Prepetition Lender in the original principal amount of \$5,419,963.00, bearing interest and being payable as therein provided, (iii) that certain *Amended and Restated Secured Grid Promissory Note*, dated February 7, 2014, payable to the order of Prepetition Lender in the original principal amount of \$23,078,143.08, bearing interest and being payable as therein provided, and (iv) all other documents executed in connection therewith.

“**DIP Agreement**” shall mean the Amended and Restated Devco Loan Agreement, dated as of February 7, 2014, as amended by that certain Amendment to Amended and Restated Devco Loan Agreement, dated as of the Petition Date and approved pursuant to the DIP Orders, and as the same may be amended from time to time.

“**DIP Claim**” shall mean all Claims of the DIP Lender against any Debtor or its Estate arising from or relating to the DIP Agreement.

“**DIP Collateral**” shall mean all of the property of the Estates encumbered by a Lien in favor of the DIP Lender to secure the DIP Claims and the DIP Agreement pursuant to the DIP Orders.

“**DIP Lender**” shall mean Putnam, in its capacity as lender under the DIP Agreement, and any other lenders identified in the DIP Agreement.

“**DIP Orders**” shall mean the interim and final orders entered by the Bankruptcy Court approving the DIP Agreement.

“**Disallowed**” shall mean, when used with respect to any Claim, a Claim or any portion thereof that (a) has been disallowed by a Final Order, (b) is Scheduled as zero or as contingent,

disputed or unliquidated and as to which no Proof of Claim or Administrative Expense Request has been timely filed or deemed timely filed with the Bankruptcy Court, (c) is not Scheduled and as to which no Proof of Claim or Administrative Expense Request has been timely filed or deemed timely filed with the Bankruptcy Court, (d) has been withdrawn by agreement of the Holder thereof and the Debtors or the Responsible Person or (e) has been withdrawn by the Holder thereof.

“**Disclosure Statement**” shall mean the *Disclosure Statement in Support of Joint Chapter 11 Plan of Liquidation*, dated [____], 2015 and filed in connection with the Plan pursuant to § 1125 and approved by the Bankruptcy Court, including all exhibits thereto.

“**Disputed**” shall mean, when used with respect to any Claim, a Claim or any portion thereof that is neither an Allowed Claim nor a Disallowed Claim, including any Claim that (i) has been Scheduled as contingent, unliquidated, disputed or in an amount equal to zero or an unknown amount, and no Proof of Claim has been filed with respect to such Claim, or (ii) is the subject of an objection, Cause of Action or other challenge filed with the Bankruptcy Court, which has not been withdrawn or overruled by a Final Order of the Bankruptcy Court; *provided, however*, that a Claim shall not be a Disputed Claim to the extent it becomes an Allowed Claim or a Disallowed Claim.

“**Distribution**” shall mean any disbursement or transfer of Cash or other property in accordance with this Plan, or the Cash or other property as distributed.

“**Distribution Fund**” shall mean the fund which shall be established on the Effective Date by the Responsible Person in one or more accounts to make Distributions of Cash and negotiable securities to Holders of Allowed Claims.

“**Effective Date**” shall mean the earlier of (i) the first Business Day after the Confirmation Order has become a Final Order and (ii) the date that the Debtors file a notice with the Bankruptcy Court indicating that all conditions precedent to the Plan becoming effective have been satisfied or waived and that such date shall be the Effective Date.

“**Estate**” shall mean the estate of a Debtor created by § 541.

“**Executory Contract**” shall mean any executory contract or unexpired lease subject to § 365, as to which one or more of the Debtors is a party.

“**Final Decree**” shall mean the decree contemplated under Bankruptcy Rule 3022.

“**Final Order**” shall mean an order or judgment of the Bankruptcy Court as entered on the docket of the Chapter 11 Cases that has not been reversed, stayed, modified or amended and as to which the time to appeal, petition for certiorari, or to seek reargument, reconsideration, amended findings or conclusions, or rehearing has run or as to which any right to appeal, reargue, petition for certiorari or to seek rehearing, reconsideration, amended findings or conclusions, has been waived in writing or, if an appeal, petition for certiorari, request for reargument, reconsideration, amended findings or conclusions, or rehearing thereof has been pursued or granted then such appeal, reargument, reconsideration, request for amended findings or conclusions, petition for certiorari or rehearing has been denied or dismissed, and the time to

take any further appeal or to seek certiorari or further reargument, reconsideration, amended findings or conclusions, or rehearing has expired. Notwithstanding, and in lieu of the foregoing, insofar as the Confirmation Order confirming this Plan is concerned, Final Order means the Confirmation Order with respect to which no stay is in effect.

“**Governmental Bar Date**” shall mean [_____], 2015 at 4:00 p.m. prevailing Central time.

“**Holder**” shall mean the owner or holder of any Claim or Interest.

“**Impaired**” shall have the meaning set forth in § 1124.

“**Insider**” shall have the meaning set forth in § 101(31).

“**GUC Claim Fund**” shall mean the sum of \$[1,000,000], which sum shall be funded by Putnam on the Effective Date and distributed in accordance with the terms of the Plan.

“**Interest**” shall mean any “equity security,” as such term is defined in § 101(16), in a Debtor, including any stock, partnership, membership interest, warrant, option or other right to purchase or acquire any equity interest in a Debtor.

“**Interest Related Claims**” shall mean any Claim, including pursuant to § 510(b), against the Debtors arising from the purchase or sale of an Interest in the Debtors, or any Claim against the Debtors by a Person that asserts equitable or contractual rights of reimbursement, contribution or indemnification arising from such Claim.

“**IRS**” shall mean the Internal Revenue Service.

“**Landco**” shall mean MA Lerin Hills Holder, LP, a Texas limited partnership.

“**Landco Loans**” shall mean, collectively, those certain loans made by Putnam to Landco pursuant to (i) that certain *Landco Loan Agreement*, dated June 28, 2012 (as amended thereafter, including as amended and restated pursuant to the *Amended and Restated Landco Loan Agreement*, dated February 7, 2014), (ii) that certain *Secured Promissory Note*, dated June 28, 2012, payable to the order of Prepetition Lender in the original principal amount of \$6,819,000.00, bearing interest and being payable as therein provided, and (iii) all other documents executed in connection therewith.

“**Lien**” shall mean any lien, mortgage, hypothecation, charge, security interest, right of first refusal, option, nonexecutory purchase agreement, pledge or other encumbrance against or interest in property to secure payment or performance of a claim, debt or litigation.

“**Local Rules**” shall mean Local Rules of the United States Bankruptcy Court for the Western District of Texas.

“**Lerin Hills MUD**” shall mean the Lerin Hills Municipal Utility District, 1108 Lavaca Street, Suite 510, Austin, Texas 78701, together with any of its successors or assigns.

“**Newco**” means the Entity formed by Putnam, or its designee, which on and after the Effective Date shall hold, directly or indirectly, all of the Assets acquired pursuant to the Asset Purchase Agreement.

“**General Unsecured Claim**” shall mean any Claim that is not a Secured Claim, Administrative Expense, Priority Non-Tax Claim, Priority Tax Claim, or a Subordinated Claim.

“**Organization Documents**” shall mean any certificate filed with the Secretary of State of the State of Texas or the State of Delaware, as the case may be, prior to the Effective Date, including any certificate of incorporation or certificate of formation, and any amendments or restatements thereto, and the bylaws or limited liability company agreements, as applicable, and any amendments and restatements thereto, of each of the Debtors.

“**Secured Claim**” means a Claim secured by a Lien on identified collateral to the extent of the value of such collateral (a) as set forth in the Plan, (b) as agreed to by the Holder of such Claim and the Debtor or (c) as determined pursuant to a Final Order in accordance with § 506(a) or, in the event that such Claim is subject to setoff under § 553, to the extent of such setoff.

“**Old Interest**” shall mean the authorized, issued and outstanding Interests in a Debtor as of the Petition Date.

“**Other Secured Claim**” shall mean a Secured Claim other than a Priority Tax Claim, a Prepetition Lender Claim, or a DIP Claim.

“**Entity**” shall have the meaning set forth in § 101(15).

“**Person**” shall have the meaning set forth in § 101(41).

“**Petition Date**” shall mean [_____], 2015, the date the Debtors commenced the Chapter 11 Cases.

“**Pipeco**” shall mean Lerin Hills Utility Easement Holder, LLC, a Delaware limited liability company.

“**Pipeco Loans**” shall mean, collectively, those certain loans made by Putnam to Pipeco pursuant to (i) that certain *Pipeco Loan Agreement*, dated June 28, 2012 (as amended thereafter, including as amended and restated pursuant to the *Amended and Restated Pipeco Loan Agreement*, dated February 7, 2014), (ii) that certain *Secured Promissory Note*, dated June 28, 2012, payable to the order of Prepetition Lender in the original principal amount of \$1,962,125.33, bearing interest and being payable as therein provided, and (iii) all other documents executed in connection therewith.

“**Plan**” shall mean this *Joint Chapter 11 Plan of Liquidation* (as the same may be modified or amended in accordance with the Bankruptcy Code and the Bankruptcy Rules) and any exhibits hereto and any documents incorporated herein by reference.

“Plan Supplement” shall mean the supplement or supplements to the Plan containing certain documents relevant to the implementation of the Plan, including without limitation the Terms and Conditions of Sale and the Assumed Contracts Schedule.

“Post-Confirmation Expense” shall mean any fees, costs and expenses including fees due pursuant to 28 U.S.C. §1930, fees of the Responsible Person, attorneys’ fees and the fees of other professionals employed by the Responsible Person in connection with the post-Effective Date liquidation of the Debtors after the Effective Date.

“Putnam” means Putnam Bridge Funding III, LLC, or its designee.

“Prepetition Lender” shall mean Putnam in its capacity as lender under the Prepetition Loans.

“Prepetition Loans” shall mean, collectively, the Devco Loans, the Landco Loans and the Pipeco Loans.

“Prepetition Lender Claims” shall mean the Claims of the Prepetition Lender arising under the Prepetition Loans.

“Priority Non-Tax Claim” shall mean any Claim entitled to priority pursuant to § 507 that is not an Administrative Expense or a Priority Tax Claim.

“Priority Tax Claim” shall mean any Claim of the kind specified in § 507(a)(8), including any such Claim afforded secured status pursuant to § 506.

“Professional” shall mean any Entity (i) retained pursuant to a Final Order in accordance with §§ 327, 363 or 1103 and to be compensated for services rendered before or on the Effective Date in accordance with §§ 328, 329, 330, 331 and 363, or (ii) awarded compensation and reimbursement by the Bankruptcy Court pursuant to § 503(b)(4). This term excludes Persons that may be selected and employed by the Responsible Person on and after the Effective Date.

“Professional Fee Claim” shall mean any Claim asserted by a Professional or other Entity for compensation for legal, financial advisory, accounting and other services and reimbursement of expenses Allowed pursuant to §§ 328, 330(a), 331, 363, 503(b) or 1103 or otherwise for the period commencing on the Petition Date and through the Effective Date, including any Claim by a Professional for fees or expenses incurred subsequent to the Effective Date in connection with the prosecution or resolution of any dispute regarding or objecting to any final application for fees and expenses.

“Proof of Claim” shall mean a proof of claim filed in the Chapter 11 Cases pursuant to § 501 or any order of the Bankruptcy Court, together with supporting documents.

“Property” shall mean that certain real property, together with all land, development, improvements, rights, easements and licenses associated therewith, more commonly known as Lerin Hills residential real estate development located in Boerne, Texas and more particularly described in the Deed of Trust.

“**Protected Party**” shall mean any of the Debtors, the Responsible Person, the Prepetition Lender, the DIP Lender, the Estates, and each of their respective officers, directors, current (but not former) employees, members, shareholders, advisors, attorneys, investment bankers, financial advisers, representatives, professionals and other agents; *provided, however*, that in no event shall the term “Protected Party” include any of (a) Abel Godines, Stephen Petuck, Peter Tzelios, Phil Milton, Sequel Holdings, LLC, Makamah Associates, LLC, Joe F. Godines Investments, LLC, Petuck Capital Corp., Rafael Rios, Martin Rios, Apolinar Zepeda, DC Civil Construction LLC, or (b) any officers, directors, managers, project managers, agents, representatives, controlling persons or parties, shareholders or members of any of the foregoing.

“**Receiver**” shall mean the receiver appointed in the lawsuit styled *Putnam Bridge Funding III, LLC v. MA Lerin Hills Holder LP, et al.*, Cause No. 15-108, and pending in the District Court of Kendall County, Texas, 216th Judicial District (the “**Receiver Action**”), including any successor or replacement receiver appointed in that action. On the Petition Date, the Receiver is Andrew Cohen, who was appointed pursuant to the *Order Immediately Appointing Temporary Receiver and Granting Temporary Injunction*, dated April 7, 2015 (as amended by the *Agreed Amended Order Immediately Appointing Temporary Receiver and Granting Temporary Injunction*, dated June 8, 2015, the “**Receivership Order**”) and entered in the Receiver Action.

“**Released Party**” means each of (in each case solely in their respective capacities) (i) the directors and officers of the Debtors who are directors or officers of the Debtors immediately prior to the Effective Date; (ii) the DIP Lender; (iii) the Prepetition Lender; (iv) the Debtors’ agents, financial advisers, accountants, investment bankers, consultants, attorneys, employees, partners and representatives; and (v) with respect to each of the foregoing Entities in clauses (i) through (iv), such Entities’ subsidiaries, affiliates, members, officers, directors, agents, financial advisers, accountants, investment bankers, consultants, attorneys, employees, partners and representatives, in each case, only in their capacity as such; *provided, however*, that in no event shall the term “Released Party” include any of (a) Abel Godines, Stephen Petuck, Peter Tzelios, Phil Milton, Sequel Holdings, LLC, Makamah Associates, LLC, Joe F. Godines Investments, LLC, Petuck Capital Corp., Rafael Rios, Martin Rios, Apolinar Zepeda, DC Civil Construction LLC, or (b) any officers, directors, managers, project managers, agents, representatives, controlling persons or parties, shareholders or members of any of the foregoing.

“**Responsible Person**” shall have the meaning set forth under the Internal Revenue Code Section 6672. On the Effective Date, the Responsible Person shall be the Receiver or such other person that may be identified in the Confirmation Order.

“**Sale**” shall mean the sale, transfer, and assignment of the Assets on the Effective Date to the Prepetition Lender.

“**Scheduled**” with respect to any Claim shall mean listed on the Schedules.

“**Schedules**” shall mean the Statements of Financial Affairs and Schedules of Assets and Liabilities filed by the Debtors with the Bankruptcy Court in the Chapter 11 Cases under Bankruptcy Rule 1007, as such Statements of Financial Affairs and Schedules of Assets and Liabilities have been or may be amended or supplemented from time to time.

“**Secretary of State**” shall mean the Secretary of State of the State of Delaware or the State of Texas, as applicable.

“**Subordinated Claim**” means any Unsecured Claim which by its terms or by Final Order of the Bankruptcy Court is subordinated to the payment of any other Unsecured Claim, including any Claim which is subordinated to the payment of another Claim pursuant to any applicable provision of the Bankruptcy Code (including, without limitation, § 510 thereof) or applicable non-bankruptcy law.

“**Unsecured Claim**” means a Claim that is not a Secured Claim.

2.2 *Rules of Interpretation*

For purposes of the Plan, (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, lease, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been filed or to be filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented; (d) unless otherwise specified, all references herein to “Article ___” and “Section ___” are references to articles or sections hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in § 102 shall apply; and (h) any immaterial effectuating provisions may be interpreted by the Debtors in a manner that is consistent with the overall purpose and intent of the Plan all without further Bankruptcy Court order.

2.3 *Computation of Time*

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

2.4 *Exhibits*

All Exhibits to this Plan and the Plan Supplement are incorporated by reference into and are made a part of this Plan as if set forth in full herein.

ARTICLE III TREATMENT OF CERTAIN UNCLASSIFIED CLAIMS

Pursuant to § 1123(a)(1), Administrative Expenses and Priority Tax Claims are classified for the purposes of voting or receiving Distributions under this Plan. Rather, all such Claims are treated separately as unclassified Claims in accordance with the terms set forth in this Article III.

3.1 *Administrative Expenses*

(a) General. The Responsible Person shall pay each Holder of an Allowed Administrative Expense (excluding Professional Fee Claims) the full amount of such Allowed Administrative Expense, without interest, in Cash, within ten (10) days after the later to occur of (i) the Effective Date and (ii) the date such Claim becomes an Allowed Claim. All Administrative Expenses against the Debtors which are not due and payable on or before the Effective Date and are not Assumed Liabilities shall be paid when due in the ordinary course of business and shall be provided for in the Administrative Budget. Notwithstanding anything herein to the contrary, a Holder of an Allowed Administrative Expense may be paid on such other date and upon such other terms as may be agreed upon by such Holder and the Responsible Person. Allowed Administrative Expenses must be paid in full or fully reserved for in Cash pending allowance by the Bankruptcy Court before any Distribution may be made to any other Holder of an Allowed Claim.

(b) Statutory Fees. All outstanding fees payable to the Office of the United States Trustee under 28 U.S.C. §1930 that have not been paid as of the Effective Date shall be paid by the Responsible Person no later than thirty (30) days after the Effective Date or when due in the ordinary course.

(c) Bar Date for Administrative Expenses. Each Holder of an Administrative Expense other than the DIP Lender must file an Administrative Expense Request requesting payment of such Administrative Expense with the Bankruptcy Court by no later than the Administrative Expense Request Deadline for all Administrative Expenses that are not subject to the Bar Date Order; *provided, however*, that any such Administrative Expense Request need not be filed with a hearing date; and *provided, further*, that the foregoing requirement to file an Administrative Expense Request shall not apply to Holders of Administrative Expenses arising under §§ 503(b)(1)(B) or (C). Nothing herein shall extend any Bar Date established in the Bar Date Order.

(d) Professional Fee Claims.

(i) The Responsible Person shall pay Professional Fee Claims, in Cash, in the amount awarded to such Professionals by interim fee application order or Final Order of the Bankruptcy Court, as soon as practicable after the Effective Date in accordance with the terms of any order entered by the Bankruptcy Court governing the payment of fees and expenses during the course of the Chapter 11 Cases or in accordance with any trial Order issued by the Bankruptcy Court, but in any event within five (5) Business Days of the Bankruptcy Court's approval of such fees and expenses following the Effective Date.

(ii) The Plan Supplement shall include an estimate of fees and expenses for Professionals, including all retainers, holdbacks, fees and expenses accrued through the Effective Date and any reductions in fees and expenses agreed upon by the respective Professionals. The Administrative Budget shall set forth the estimated fees and expenses to be incurred by Professionals from the

Effective Date through the close of the Chapter 11 Cases, which post-Effective Date fees and expenses shall be paid without further order of the Court.

(iii) Any final application for allowance of a Professional Fee Claim for services rendered and costs incurred through the Effective Date must be filed with the Bankruptcy Court and served on counsel for the Debtors, Putnam, and Responsible Person at the addresses listed in Section 11.15 of the Plan and on the Office of the United States Trustee so that it is received no later than thirty (30) days after the Effective Date, unless otherwise extended by agreement of the Claimant and the Responsible Person, or such Professional Fee Claim shall be forever barred and shall not be enforceable against the Debtors and their Estates, and their successors and assigns. Allowed Professional Fee Claims must be paid in full or reserved in full in Cash pending allowance by the Bankruptcy Court prior to any payment to Holders of Allowed Claims.

3.2 *Priority Tax Claims*

The Responsible Person shall pay, at the Responsible Person's discretion, each Holder of an Allowed Priority Tax Claim against any Debtor in full in Cash within ten (10) days after the later to occur of (i) the Effective Date and (ii) the date such Claim becomes an Allowed Claim. All Allowed Priority Tax Claims against the Debtors which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof. The Responsible Person can prepay any Allowed Priority Tax Claim at any time after the Effective Date without any penalty or charge.

Holders of Allowed Priority Tax Claims will not be entitled to receive any payment on account of any penalty arising with respect to or in connection with such Claims. Any Claim for any such penalty, or demand for any such penalty, will be deemed disallowed by confirmation of this Plan.

ARTICLE IV TREATMENT OF CLAIMS AND INTERESTS

The categories of Claims and Interests listed below classify Claims and Interests in or against the Debtors for all purposes, including voting, Confirmation, and Distribution, pursuant to the Plan and pursuant to §§ 1122 and 1123(a)(1). A Claim or Interest shall be deemed classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class. A Claim or Interest is in a particular Class only to the extent that such Claim or Interest is Allowed and has not been paid or otherwise satisfied prior to the Effective Date.

As more specifically set forth in, and without any way limiting, Section ____ of this Plan, the Distribution to a Holder provided in this Article IV is in full settlement, release and discharge of each such Holder's Claim or Interest.

4.1 *Treatment of Allowed Class 1 Claims (DIP Claims)*

(a) Class 1 consists of all DIP Claims, which Claims are Allowed in full for all purposes of the Chapter 11 Cases and this Plan.

(b) In full and final satisfaction of the DIP Claims, on the Effective Date, Putnam shall receive an assignment of 100% of the proceeds of the Causes of Action. The transfer and assignment to the DIP Lender of the proceeds of the Causes of Action shall be deemed to constitute full and final satisfaction of the DIP Claims, regardless of whether the total amount of such net proceeds is greater or less than the Allowed amount of the DIP Claims. The transfer and assignment to the DIP Lender of the proceeds of the Causes of Action shall be free and clear of all Claims, Liens, and Interests.

(c) Class 1 is Impaired. Holders of Allowed DIP Claims shall be entitled to vote to accept or reject the Plan.

4.2 *Treatment of Allowed Class 2 Claims (Prepetition Lender Claims)*

(a) Class 2 consists of all Prepetition Lender Claims, which Claims are Allowed in full for all purposes of the Chapter 11 Cases and this Plan.

(b) In full and final satisfaction of the Prepetition Lender Claims, on the Effective Date, all of the Assets shall be transferred to the Prepetition Lender (or its designee). From and after the conveyance of the Assets on the Effective Date, the Debtors and their Affiliates shall have no legal, equitable, or other interest, right, claim, or participation in such Assets. The transfer of the Assets to the Prepetition Lender (or its designee) pursuant to the terms described herein shall be deemed to constitute full and final satisfaction of the Prepetition Lender Claims. As described in detail in the Plan, the transfer of the Assets to the Prepetition Lender shall be free and clear of all Claims, Liens, and Interests.

(c) Class 2 is Impaired. Holders of Allowed Prepetition Lender Claims shall be entitled to vote to accept or reject the Plan.

4.3 *Treatment of Allowed Class 3 Claims (Other Secured Claims)*

(a) Class 3 consists of all Other Secured Claims. The Debtors believe there are no Class 3 Claims. To the extent there are Holders of more than one Class 3 Claim, each such Claim shall be deemed to be classified in a separate sub-class of Class 3, and each such sub-class shall be deemed to be a separate Class under the Plan.

(b) On or as soon as practicable after the Effective date, in full satisfaction, discharge, exchange, and release of its Allowed Class 3 Claim, each Holder of an Allowed Other Secured Claim will receive, at the election of Putnam, either (i) payment in full in cash, without interest, of its Allowed Other Secured Claim, or (ii) the Distribution to such Holder of the property securing such Allowed Other Secured Claim as the indubitable equivalent of such Holder's interest in such property, in which event such Holder shall be entitled to file a proof of claim for any deficiency entitled to treatment under this Plan or be forever barred from asserting such deficiency against the Debtors.

(c) Class 3 is Impaired. Holders of Allowed Other Secured Claims, if any, shall be entitled to vote to accept or reject the Plan.

4.4 *Treatment of Allowed Class 4 Claims (Priority Non-Tax Claims)*

(a) Class 4 consists of all Priority Non-Tax Claims. The Debtors believe there are no Claims in Class 4.

(b) The Responsible Person shall pay each Holder of an Allowed Priority Non-Tax Claim, Allowed in relative order of priority pursuant to § 507, in full, in Cash, without interest, as soon as practicable but not later than thirty (30) days after the Effective Date.

(c) Class 4 is not Impaired. Holders of Allowed Priority Non-Tax Claims, if any, shall be deemed to have accepted the Plan.

4.5 *Treatment of Allowed Class 5 Claims (General Unsecured Claims)*

(a) Class 5 consists of all General Unsecured Claims.

(b) Each Holder of an Allowed General Unsecured Claim shall receive payment in Cash, without interest, of the lesser of (i) the Allowed amount of such Claim, and (ii) such Holder's *pro rata* share of the GUC Claim Fund, within ten (10) days after the later to occur of (i) the Effective Date and (ii) the date such Claim becomes an Allowed Claim. The Debtors anticipate that the GUC Claim Fund will be sufficient to pay all anticipated Allowed General Unsecured Claims in full; however, to the extent any Claims designated under the Plan as Subordinated Claims are ultimately Allowed as General Unsecured Claims, the payment of such claims may dilute the potential recovery to other Holders of Allowed General Unsecured Claims.

(c) Class 5 is Impaired. Holders of Allowed General Unsecured Claims, if any, shall be entitled to vote to accept or reject the Plan.

4.6 *Treatment of Allowed Class 6 Claims (Subordinated Claims)*

(a) Class 6 consists of all Subordinated Claims, including the Claims, if any, of Abel Godines, Stephen Petuck, Phil Milton, Peter Tzelios, Petuck Capital Corp., Sequel Holdings, LLC, Makamah Associates, LLC, Joe J. Godines Investments, LLC, Rafael Rios, Martin Rios, Apolinar Zepeda, DC Civil Construction LLC, and any of their respective direct or indirect Affiliates, officers, directors, agents, or representatives.

(b) The holders of Subordinated Claims shall receive no Distribution of any kind under the Plan, nor or retain any Property in respect of such Subordinated Claim.

(c) Class 6 is Impaired under the Plan. Holders of Allowed Subordinated Claims are deemed to reject the Plan, and are therefore not entitled to vote to accept or reject the Plan.

4.7 *Treatment of Allowed Class 7 Interests (Old Interests)*

(a) The Holders of Old Interests shall receive no Distribution of any kind under the Plan, nor or retain any Property in respect of such Old Interests. On the Effective Date, all Interests in any of the Debtors shall be deemed canceled, null and void, and of no force and effect.

(b) Class 7 is Impaired under the Plan. Holders of Allowed Subordinated Claims are deemed to reject the Plan, and are therefore not entitled to vote to accept or reject the Plan.

**ARTICLE V
ACCEPTANCE OR REJECTION OF THIS PLAN**

5.1 *Impaired Classes of Claims Entitled to Vote*

Except as otherwise provided in an order of the Bankruptcy Court pertaining to solicitation of votes on this Plan, Classes 1, 2, 3, and 5 are Impaired under the Plan and, pursuant to § 1126(c), Holders of Claims in Classes 1, 2, 3, and 5 are entitled to vote to accept or reject this Plan. If and to the extent any other Class identified as “not Impaired” is determined to be Impaired (whether as a result of the terms of this Plan or any modification or amendment thereto), upon such determination, such Class shall then be entitled to vote to accept or reject this Plan.

5.2 *Classes Deemed to Accept this Plan*

Class 4 is not Impaired under the Plan and, pursuant to § 1126(f), is conclusively presumed to have accepted this Plan.

5.3 *Classes Deemed to Reject this Plan*

Classes 6 and 7 are Impaired and not entitled to receive any Distribution under this Plan. Pursuant to § 1126(g), therefore, Holders of Claims and Interests in Classes 6 and 7 are conclusively presumed to have rejected this Plan, and the votes of Holders of Claims and Interests in Classes 6 and 7 therefore will not be solicited.

5.4 *Nonconsensual Confirmation*

To the extent necessary, the Debtors intend to request that the Bankruptcy Court confirm this Plan pursuant to § 1129(b).

**ARTICLE VI
MEANS FOR IMPLEMENTATION OF THE PLAN**

6.1 *Implementation of Plan*

Prior to the Effective Date, the Debtors shall continue to operate their businesses subject to all applicable requirements of the Bankruptcy Code and the Bankruptcy Rules. This Plan

contemplates and is predicated upon the transfer of the Assets to the Prepetition Lender, the assignment of all proceeds from the Causes of Action to the DIP Lender; the dissolution of the Debtors; and the liquidation of the Estates.

6.2 *The Sale*

The transfer of the Assets to the Prepetition Lender (or its designee) pursuant to Section 4.2 of the Plan shall be treated as a private sale to the Prepetition Lender in consideration of a credit bid of the full amount of the Prepetition Lender Claims. The Sale shall be consummated on the Effective Date pursuant to the Plan as contemplated by §§ 363 and 1123(a)(5)(D).

6.3 *Funding of the Plan*

All consideration necessary for the payment or tender of Distributions under the Plan and the funding of the Administrative Budget will be derived from (i) Cash on hand on the Effective Date and (ii) amounts funded by the DIP Lender under and subject to the DIP Agreement, including the GUC Claim Fund and amounts necessary to pay Allowed Administrative Expenses and Allowed Priority and Priority Tax Claims. All such amounts contributed by the DIP Lender pursuant to the DIP Agreement to fund Distributions under the Plan shall be deemed to have been contributed by Putnam directly to the recipients of such Distributions in exchange for the injunctions and releases provided in Sections 9.5 and 9.6 of the Plan.

To the extent not otherwise provided for herein or ordered by the Court, the Responsible Person shall estimate appropriate reserves of Cash to be set aside in order to pay or reserve for Disputed Claims, accrued expenses and for the payment of prospective expenses and liabilities of the Estates after the Effective Date. Without limitation, these reserves shall include funds for any Claim not paid immediately on or after the Effective Date, including Professional Fee Claims, Administrative Expenses, Priority Tax Claims, Priority Non-Tax Claims, Disputed Claims and all amounts due pursuant to 28 U.S.C. §1930. Any funds left remaining after the payment in full of all Allowed Claims subject to the DIP Agreement by the Responsible Person shall be refunded to Putman, as the DIP Lender.

Notwithstanding any contrary provision contained herein, the Responsible Person shall not be obligated to physically segregate and maintain separate accounts for reserves or for the Distribution Fund. Separate reserves and funds may be merely bookkeeping entries or accounting methodologies, which may be revised from time to time, to enable the Responsible Person to determine reserves and amounts to be paid to parties in interest.

6.4 *Other Issues*

Entry of the Confirmation Order shall constitute the approval, pursuant to §§ 105(a), 1123(a)(5)(B), and 1123(a)(5)(D), effective as of the Effective Date, of the transfer of the Assets to the Prepetition Lender and of the Causes of Action to the DIP Lender. Each of the DIP Lender and the Prepetition Lender shall be entitled to the protections afforded pursuant to § 363(m), which protections shall be expressly set forth in the Confirmation Order.

Notwithstanding the reorganization provided for herein, the Debtors shall remain severally responsible for the payment of quarterly fees pursuant to 28 U.S.C. §1930 to the Office

of the United States Trustee until such time as a particular case is closed pursuant to a Final Decree or other order of the Bankruptcy Court, dismissed or converted to Cash under another chapter of the Bankruptcy Code.

6.5 *Causes of Action*

All Causes of Action, including all Avoidance Actions, shall be vest fully in the Receiver, as the Responsible Person and representative of the estate appointed for the purpose of retaining, enforcing, and settling Causes of Action pursuant to § 1123(b)(3). Pursuant to § 1123, the Responsible Person shall be substituted for the Debtors or the Receiver, as applicable, as the estate representative, in each such Cause of Action, and shall be authorized authorized to commence or continue all Causes of Action on behalf of all of the Debtors or their Estates (except for any Cause of Action that may be released pursuant to this Plan); *provided, however*, that any proceeds from such Causes of Action, whether by final judgment, settlement, or otherwise, shall be payable solely to Putnam pursuant to Section 4.1 of the Plan. The authorization shall be approved without limitation, notwithstanding any other applicable law that could restrict any such transfer or authorization, all of which shall be determined by the Bankruptcy Court in the Confirmation Order to be void as against public policy. The Causes of Action retained by the Debtor and vested in the Responsible Person as of the Effective Date include all Claims and Causes of Action listed on Appendix ___ to the Disclosure Statement.

The Responsible Person shall succeed, on the Effective Date, in all respects to all of the rights, privileges and immunities of the Debtors, including without limitation, the attorney-client privileges and any other evidentiary privileges of the Debtors.

Nothing in this Plan or the Confirmation Order shall limit, impair or otherwise restrict the rights of the Responsible Person to bring any Claim or Cause of Action, except for those actions otherwise released pursuant to this Plan, against any Person for any reason whatsoever, including the failure of this Plan to identify or describe any such potential Claim or Cause of Action with specificity. No Person may rely on the absence of a specific reference in the Plan or Disclosure Statement to any Cause of Action against them as an indication that the Responsible Person will not pursue any and all available Causes of Action against them. Except as otherwise specifically released pursuant to the Confirmation Order, it is the Responsible Person's intent not to waive any Cause of Action.

Except to the extent a Cause of Action or Avoidance Action against a Person is expressly waived, relinquished, exculpated, released, compromised or settled in the Plan or pursuant to a Bankruptcy Court order, the Responsible Person expressly reserves all Causes of Action for later adjudication. Therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, Claim preclusion, estoppel (judicial, equitable or otherwise), or laches shall apply to such Causes of Action or Avoidance Actions upon, after, or as a consequence of the Confirmation Order. In accordance with § 1123(b)(3), all Causes of Action and Avoidance Actions that a Debtor may hold against a Person shall vest in the Responsible Person pursuant to the terms of this Plan.

6.6 *Appointment and Term of the Responsible Person*

On the Effective Date, the Receiver shall become the Responsible Person for all purposes under the Plan. To the extent that the Responsible Person becomes incapacitated or is otherwise unable or unwilling to assume and carry out his duties under the Plan, a Responsible Person shall be selected by mutual agreement of the Debtors, the Prepetition Lender and the DIP Lender or, if after the Effective Date, by Putnam; provided, however, that the appointment of any successor Receiver who may become the Responsible Person will also be subject to approval in the Receiver Action. The terms of the Responsible Person's employment, including the compensation of the Responsible Person and the appointment of any successor to the Responsible Person, will be set forth in a separate agreement to be filed as part of the Plan Supplement.

6.7 *Duties of the Responsible Person*

In addition to the duties as set forth elsewhere in this Plan, the Responsible Person shall have the following duties:

(a) to implement the Administrative Budget and establish such accounts as may be necessary or appropriate for the maintenance of the Administrative Budget and the Distribution Fund.

(b) to file any and all reports, pleadings and other documents necessary to carry out the provisions of this Plan;

(c) to make any and all Distributions required or permitted to be made under this Plan;

(d) to make and file tax returns and final tax returns for any of the Debtors;

(e) to request the entry of a Final Decree;

(f) to take any and all actions, including any action set forth herein necessary to dissolve and cancel the existence of each of the Debtors in the State of Delaware or the State of Texas, as applicable, and in any other jurisdiction in which any Debtor is organized or qualified to do business;

(g) to determine reserve amounts for Post-Confirmation Expenses and Disputed Claims; and

(h) to take any and all other actions necessary or appropriate to implement this Plan and the liquidation of the Debtors in accordance with applicable law.

In connection with the execution of his duties under this Plan, the Responsible Person shall be authorized:

(a) to execute such documents and to take such other actions as are necessary to effectuate this Plan and perform his duties as responsible person of and for the Estates;

(b) to open, close and manage bank accounts, and to enter into business transactions within or without the ordinary course of business;

(c) to authorize, renew, extend and benefit from any of the Debtors' insurance policies and rights of indemnification;

(d) to retain and pay professionals or other Persons to assist the Responsible Person in the liquidation of the Estates, without prior Bankruptcy Court approval, and to designate, with Putnam's consent, another Person to be the Responsible Person;

(e) to incur any reasonable and necessary expenses (up to the amounts set forth in the Administrative Budget) in the performance of his duties as Responsible Person of and for the Debtors;

(f) to object to the allowance of, and settle, any Disputed Claim;

(g) to employ such other procedures, not inconsistent with this Plan, necessary for the Responsible Person to perform his duties hereunder.

The Responsible Person shall be deemed the Estates' representative in accordance with the provisions of the Bankruptcy Code, including § 1123, and shall have all powers, authority and responsibilities specified in this Plan, including the powers of a trustee under §§ 108 and 704 and Bankruptcy Rules 1106 and 2004, to the extent not inconsistent with this Plan.

6.8 *Intentionally Omitted*

6.9 *Discharge of Debtors' Professionals*

On the Effective Date, the Debtors' Professionals and agents shall be released and discharged from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code, except with respect to: (i) obligations arising under confidentiality agreements, joint interest agreements and protective orders entered during the Chapter 11 Cases which shall remain in full force and effect according to their terms; (ii) applications for Professional Fee Claims; (iii) requests for compensation and reimbursement of expenses pursuant to § 503(b) for making a substantial contribution in any of the Chapter 11 Cases; and (iv) any pending motions, or any motions or other actions seeking enforcement or implementation of the provisions of this Plan or the Confirmation Order. The Professionals retained by the Debtors shall not be entitled to compensation and reimbursement of expenses for services rendered to or on behalf of the Debtors after the Effective Date, except for services rendered in connection with applications for allowance of compensation and reimbursement of expenses pending on the Effective Date or filed after the Effective Date. Notwithstanding the foregoing, nothing contained herein shall prohibit the Debtors or the Responsible Person from engaging any of the Debtors' Professionals for the purpose of rendering services to the Debtors or the Responsible Person, as applicable, on and after the Effective Date, and any such fees and

expenses incurred in connection with such post-Effective Date services may be paid by the Debtors or Responsible Person, as applicable, without further order of the Bankruptcy Court.

6.10 *Employee Matters*

Consistent with the Receivership Order and other actions taken before the filing of the Chapter 11 Cases, there are no officers, directors, managers, employees, or agents of any Debtor other than the Receiver, who was the sole remaining officer and person in control of each of the Debtors as of the Petition Date in accordance with the terms of the Receivership Order. To the extent not earlier terminated in accordance with their terms or otherwise (including by operation of the Receivership Order) or assumed by the Debtors pursuant to Section 7.2 of the Plan, all employee arrangements or programs, including but not limited to any contractual or other arrangements, retirement plans or agreements and health benefits and disability plans (other than in connection with the Receiver) are deemed terminated as of the Petition Date with no further action required by the Debtors, the Receiver or the Responsible Person. To the extent any such employee arrangement or program constitutes an Executory Contract (other than in connection with the Receiver), such contract is deemed rejected on the Petition Date unless otherwise listed on the Assumed Contracts Schedule. The Responsible Person is authorized to take any actions to permit the termination of such arrangements or programs and discharge all benefit liabilities to participants and beneficiaries of such arrangements or programs. The transactions contemplated by the Plan shall not require notice or give rise to any Claim under the Worker Adjustment and Retraining Notification Act or other comparable applicable law.

6.11 *Corporate and Limited Liability Company Action*

On the Effective Date, the matters under this Plan involving or requiring corporate or limited liability company action of the Debtors, including, but not limited to, actions requiring a vote or other approval of the board of directors, partners, members or shareholders, as applicable, and execution of all documentation incident to this Plan, notwithstanding any otherwise applicable non-bankruptcy law or the Organizational Documents of the Debtors, shall be deemed to have been authorized by the Confirmation Order and to have occurred and be in effect from and after the Effective Date without any further action by the Bankruptcy Court or the officers, directors, members or shareholders, as applicable, of the Debtors. To the extent necessary, the Responsible Person shall be vested with authority to execute any document necessary to effectuate such action.

6.12 *Dissolution of the Debtors*

As soon as practical after the Effective Date, the Responsible Person shall file any documents necessary and proper pursuant to applicable law to dissolve each of the Debtors, and the Debtors shall dissolve and cease to exist.

6.13 *Saturday, Sunday or Legal Holiday*

If any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day.

**ARTICLE VII
TREATMENT OF EXECUTORY CONTRACTS**

7.1 Rejection of Remaining Executory Contracts

On the Effective Date, all Executory Contracts shall be deemed rejected pursuant to §§ 365 and 1123, effective as of the Effective date, except for any Executory Contract that (i) previously expired or terminated by its own terms, (ii) was previously assumed or rejected by an order of the Bankruptcy Court pursuant to § 365, (iii) is identified on the Assumed Contracts Schedule as an Executory Contract to be assumed and assigned to Putnam pursuant to the Plan or (iv) is the subject of a pending motion to assume or assume and assign as of the Confirmation Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejection pursuant to §§ 365 and 1123 as of the Effective Date.

7.2 Assumption and Cure of Executory Contracts

The Assumed Contracts Schedule, which will be filed as part of the Plan Supplement, shall identify Executory Contracts to be assumed and assigned to Putnam in connection with the transfer of Assets to the Prepetition Lender pursuant to the Plan. Putnam reserves the right to amend the Assumed Contracts Schedule at any time up to three (3) Business Days before the Confirmation Hearing to delete any Executory Contract listed therein or, with the consent of the affected counterparty, to add any Executory Contract to the Assumed Contracts Schedule. The Debtors will provide notice of any amendment to the Assumed Contracts Schedule to the parties to the Executory Contracts added or removed. The Assumed Contracts Schedule shall include a designation of the Cure Amount, if any, proposed by the Debtors to be paid in connection with the assumption and assignment of each Executory Contract listed therein.

On the Effective Date, each Executory Contract that is identified in the Assumed Contracts Schedule shall be deemed assumed in accordance with the provisions and requirements of §§ 365 and 1123, and all defaults, if any, shall be deemed cured by the payment of the Cure Amount, if any, corresponding to such Executory Contract.

Except as provided elsewhere in this Plan, any Person objecting to the proposed assumption or assignment of an Executory Contract, including on the basis of any objection to (i) the amount of the proposed Cure Amount, if any, to be paid in connection with such assumption and assignment, (ii) the ability of Putnam to provide “adequate assurance of future performance” of such Executory Contract (within the meaning of § 365), or (iii) any other matter pertaining to the assumption or assignment of such Executory Contract, shall file an serve such objection on or before the deadline for the filing of objections to Confirmation of the Plan. To the extent any such objections are filed, the hearing on such objections shall be scheduled for the same date as the Confirmation Hearing. Failure to timely file an objection to the proposed assumption and assignment of an Executory Contract, including any proposed Cure Amount associated therewith, shall constitute consent to the assumption and assignment of such Executory Contract, including the Cure Amount, if any, payable in connection therewith, and an acknowledgment that such assumption and assignment satisfies all requirements of §§ 365(b), (c) and (f).

If any Person files an objection to the proposed assumption or assignment of an Executory Contract, the Debtors reserve the right to delete such contract or lease from the Assumed Contracts Schedule and declare such contract or lease to be rejected pursuant to Section 7.1 hereof.

7.3 *Cure of Defaults of Assumed Executory Contracts*

Cure Amounts, if any, to be paid in connection with the assumption and assignment of Executory Contracts to Putnam pursuant to the Plan shall be paid by Putnam not more than ten (10) days after the occurrence of the Effective Date.

7.4 *Effect of Assumption and Assignment*

Each Executory Contract assumed or assumed and assigned pursuant to this Article VII (or pursuant to Bankruptcy Court order) shall remain in full force and effect and be fully enforceable by Putnam in accordance with its terms, except as modified by the provisions of the Plan, or any order of the Bankruptcy Court authorizing and providing for its assumption or assignment and assignment. To the extent applicable, all Executory Contracts assumed during the Chapter 11 Cases (a) shall be deemed modified as needed such that the transactions contemplated by the Plan shall not be a “change of control,” however such term may be defined in the relevant Executory Contract; and (b) shall not constitute a breach of any anti-alienation provision thereof. Any consents required in connection with the assignment to Putnam of any Executory Contract on the Assumed Contracts Schedule shall be deemed satisfied upon entry of the Confirmation Order.

This Plan shall not affect any Executory Contract that was assumed, rejected or assumed and assigned pursuant to an order of the Bankruptcy Court entered prior to the Confirmation Date.

7.5 *Rejection Damages Bar Date*

Except to the extent another bar date applies pursuant to an order of the Bankruptcy Court, any Proof of Claim with respect to a Claim arising from the rejection of an Executory Contract under this Plan must be filed with Court, with a copy served on counsel for Putnam and counsel for the Debtors or the Responsible Person, as applicable, within thirty (30) days after the entry of the Confirmation Order, or such Claim shall be forever barred and shall not be entitled to a Distribution or be enforceable against the Debtors, their Estates, Putnam or any of their successors and their assigns. Any Claim arising from the rejection of an Executory Contract shall be treated as a Class 5 General Unsecured Claim. Nothing in this Plan extends or modifies the Bar Date, except as specifically provided herein.

ARTICLE VIII DISPUTED CLAIMS; DISTRIBUTIONS

8.1 *General Provisions Concerning Distributions*

Unless otherwise designated by the Responsible Person, the Responsible Person shall make all Distributions required to be made to Holders of Allowed Claims under this Plan.

At the written request of the Responsible Person, any creditor holding multiple Allowed Claims shall provide the Responsible Person a single address to which any Distributions shall be sent.

In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day.

The Debtors and the Responsible Person may, but shall not be required to, setoff against or recoup from any Claim and the payments to be made pursuant to the Plan in respect of such Allowed Claim, any Claims or Causes of Action of any nature whatsoever that the Debtors or the Responsible Person may have asserted against the Claimant, but neither the failure to do so nor the allowance of any Disputed Claim hereunder shall constitute a waiver or release by the Debtors or the Responsible Person of any such Claim or Cause of Action against such Claimant.

To the extent applicable, Distributions shall be allocated first to the principal amount of the Claim (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claim, to interest and such other amounts comprising a part of the Claim.

8.1 *Distributions on Account of Disputed Claims.*

No Distribution will be made on account of a Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim. In determining the amount of Distributions to be made under the Plan to the Holders of Allowed Claims, the appropriate Distributions shall be made as if all the Disputed Claims as of such Distribution Date were Allowed Claims in the full amount claimed by the holders thereof, unless otherwise ordered or estimated by the Bankruptcy Court.

8.2 *Time and Manner of Distributions*

Distributions of Cash and negotiable instruments to Holders of Allowed Claims shall be made solely from the Distribution Fund.

The Responsible Person shall make all Distributions under the Plan on account of Allowed Claims within ten (10) days after the later to occur of (i) the Effective Date and (ii) the date such Claim becomes an Allowed Claim, except as otherwise ordered by the Bankruptcy Court or as otherwise set forth herein. Amounts withheld may be placed in an interest-bearing account, which interest shall be used by the Responsible Person to fund ongoing expenses and costs relating to such reserves, including taxes in respect of Disputed Claims, if any.

At the option of the Responsible Person, any Cash Distribution under this Plan may be made either in Cash, by check drawn on a domestic bank, by wire transfer or by ACH. Notwithstanding any other provisions of this Plan to the contrary, no payment of fractional cents will be made under this Plan. Cash will be issued to Holders entitled to receive a Distribution of Cash in whole cents (rounded to the nearest whole cent when and as necessary).

8.3 *Delivery of Distributions*

Except as otherwise provided in this Plan, Distributions to Holders of Allowed Claims shall be made by the Responsible Person (i) at the addresses set forth on the Proofs of Claim filed by such Holder (or at the last known addresses of such Holder if no motion requesting payment or Proof of Claim is filed or the Debtors or the Responsible Person or the Voting and Claims Agent have been notified in writing of a change of address), (ii) at the addresses set forth in any written notices of address changes delivered to the Responsible Person after the date of any related Proof of Claim, or (iii) at the addresses reflected in the Schedules if no Proof of Claim has been filed and the Responsible Person has not received a written notice of a change of address.

8.4 *Undeliverable Distributions*

If a Distribution to a Holder of a Claim is returned as undeliverable, no further Distributions to such Holder of a Claim shall be made unless and until the Responsible Person is notified of the then-current address of such Holder, at which time (subject to the terms of the penultimate sentence of this Section 8.4) all missed Distributions shall be made to such Holder without interest. Amounts in respect of undeliverable Distributions shall be returned to the Responsible Person until such Distributions are Claimed. All funds or other undeliverable Distributions returned to the Responsible Person in respect of any Claim and not Claimed within four (4) months of return shall be forfeited and remain with and vest in the Distribution Fund for Distribution to other Holders of Allowed Claims. Any unclaimed funds held in Distribution Fund and aggregating less than \$10,000 is entered may be donated to a charity selected by the Responsible Person without further order of the Court upon entry of a Final Decree.

8.5 *Objections.*

From and after the Effective Date, an objection to the allowance of a Claim (other than an Administrative Expense) or Interest shall be in writing and may be filed only by Putnam, on behalf of the Debtors, at any time on or before the Claims Objection Deadline. Putnam, on behalf of the applicable Debtor, will prosecute any such objection until determined by a Final Order unless Putnam (i) compromises and settles such objection to a Claim or Interest by written stipulation subject to Bankruptcy Court approval, if necessary, or (ii) withdraws such objection.

Unless a Claim is expressly described as an Allowed Claim pursuant to or under this Plan, or otherwise becomes an Allowed Claim prior to the Effective Date, all objections to the allowance and payment of any Claim or Interest are expressly reserved, including any objection to the validity or amount of any such Claim, Interest, Lien or security interest, whether under the Bankruptcy Code, other applicable law or contract.

8.6 *Amendments to Claims; Claims Filed After the Confirmation Date.*

Except as otherwise provided in the Plan, after the Confirmation Date, a Claim may not be filed or amended without the authorization of the Bankruptcy Court and, even with such Bankruptcy Court authorization, may be amended by the Holder of such Claim solely to decrease, but not to increase, the face amount of such Claim. Except as otherwise provided in

the Plan, any new or amended Claim Filed after the Confirmation Date shall be deemed Disallowed in full and expunged without any further action by the Court or any other party.

8.7 *Procedures for Treating and Resolving Disputed and Contingent Claims*

(a) No Distributions Pending Allowance

No payment or Distribution will be made with respect to any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled, withdrawn, determined by a Final Order, and the Disputed Claim has become an Allowed Claim. Any Proof of Claim filed with all of the dollar amounts listed as contingent, unknown or otherwise containing unliquidated amounts shall be deemed to be a Disputed Claim and shall be treated as such for Distribution purposes in accordance with the terms of this paragraph.

(b) Claim Estimation

The Debtors and the Responsible Person, as applicable, may request estimation or liquidation of any Disputed Claim that is contingent or unliquidated pursuant to § 502(c).

8.8 *Setoffs and Recoupment*

Pursuant to §§ 502(d), 553 and 558 or applicable non-bankruptcy law, Putnam may, but shall not be required to, setoff against or recoup from any Claim on which payments are to be made pursuant to this Plan, any Claims or Causes of Action of any nature whatsoever that any Debtor or its Estate may have or have had against the Holder of such Claim; *provided, however*, that neither the failure to effect such offset or recoupment nor the allowance of any Claim shall constitute a waiver or release by Putnam or the Debtors of any setoff or recoupment the Debtors may have against the Holder of such Claim, nor of any other Claim or Cause of Action.

8.9 *Allowance and Disallowance of Claims Subject to § 502*

Allowance and disallowance of Claims shall be in all respects subject to the provisions of § 502, including subsections (b), (d), (e), (g), (h) and (i) thereof.

8.10 *Cancellation of Instruments and Agreements*

Upon the occurrence of the Effective Date, except as otherwise provided herein, all promissory notes, shares, certificates, instruments, indentures, stock or agreements evidencing, giving rise to or governing any Claim or Interest shall be deemed canceled and annulled without further act or action under any applicable agreement, law, regulation, order or rule; the obligations of the Debtors under such promissory notes, share certificates, instruments, indentures or agreements shall be discharged and the Holders thereof shall have no rights against the Debtors, Putnam, the Responsible Person or the Estates; and such promissory notes, share certificates, instruments, indentures or agreements shall evidence no such rights, except the right to receive the Distributions provided for in this Plan.

8.11 *No Interest on Claims*

Unless otherwise specifically provided for in this Plan, the Confirmation Order or a post-petition agreement in writing between the Debtors and a Holder of a Claim that has been approved by an order of the Bankruptcy Court, post-petition interest shall not accrue or be paid on any Claim, and no Holder of a Claim shall be entitled to receive any Distribution on account of interest accruing on or after the Petition Date, nor shall any interest accrue on and after the Effective Date on account of any Disputed Claim that subsequently becomes Allowed and paid under the terms of the Plan after the Effective Date.

8.12 *Withholding Taxes*

The Responsible Person shall be entitled to deduct any federal, state or local withholding taxes from any payments under this Plan. As a condition to making any Distribution under this Plan, the Responsible Person may require that the Holder of an Allowed Claim provide such Holder's taxpayer identification number and such other information and certification as the Responsible Person may deem necessary to comply with applicable tax reporting and withholding laws.

8.13 *Reports*

From the Effective Date, until a Final Decree is entered, the Responsible Person shall submit quarterly reports to the United States Trustee setting forth all receipts and disbursements as required by the United States Trustee guidelines.

**ARTICLE IX
EFFECT OF CONFIRMATION**

9.1 *Vesting of Assets*

On the Effective Date, pursuant to §§ 1141(b) and (c), the Assets and the Causes of Action shall be released from the custody and jurisdiction of the Bankruptcy Court and vest in the Prepetition Lender and the DIP Lender, respectively, free and clear of all Claims, Liens (except that Liens that run with the land shall continue to encumber and benefit the Property), encumbrances, charges and other interests, including any tax Liens or Claims, except as provided in the Plan. On the Effective Date, all other property of the Estates not vesting in Prepetition Lender or the DIP Lender shall vest in the Responsible Person, free and clear of all Claims, Liens, encumbrances, charges and other interests, including any tax Liens or Claims, except as provided in the Plan.

9.2 *Binding Effect*

On and after the Confirmation Date, the provisions of the Plan shall bind any Holder of a Claim against or Interest in any Debtor, including such Holder's respective successors and assigns, regardless of whether the Claim or Interest is Impaired under the Plan, whether such Holder has accepted the Plan, and whether such Holder is entitled to a Distribution under the Plan.

9.1 *No Assumption of Liabilities; Transfer Free and Clear*

Neither Putnam nor any of its designees, assignees, or transferees (as a successor entity, successor employer or otherwise) has acquired or assumed, will acquire or assume, nor will be deemed to have acquired or assumed, any obligation or liability of any Debtor, asserted or unasserted, known or unknown, including employee related claims, payroll taxes, employee contracts, and successor liability, and all Persons and Entities are hereby permanently enjoined and restrained from asserting or prosecuting any claim against Putnam or its affiliates or designees or agents, to recover on any such Claim such Person or Entity has or may have against any Debtor, Estate, or asset of any Debtor or Estate, relating to the ownership, use or operation of the Property or any other Asset, including, any present or future right of first refusal or right of set-off or recoupment or under or on account of any theory of successor liability.

Neither Putnam nor any of its designees, assignees, or transferees shall be obligated or liable, either directly or indirectly, as successor, transferee or otherwise, for any liability or interest of any Debtor, or any Debtor's Affiliate, as a result of the transfer of the Assets and the Causes of Action. Neither Putnam nor any of its designees, assignees, or transferees shall be or be deemed to be a successor or successor in interest or responsible person or potentially responsible person to any Debtor or any current or former creditor, employee, equity holder or other party in interest with respect to any liability or interest, nor shall have any liability for successor liability, including with respect to any liability or interest arising from or under product liability, tax, environmental, employment or other state or federal law.

Under no circumstances shall Putnam or its designee be deemed a successor of or to any Debtor for any interest against or in any Debtor, the Assets, or the Property of any kind or nature whatsoever. The sale, transfer, assignment and delivery of the Assets to Putnam shall not be subject to any Interests, and all Interests of any kind or nature. All persons holding Interests against or in the Debtor or the Assets or Properties of any kind or nature whatsoever shall be, and hereby are, forever barred, estopped, and permanently enjoined from asserting, prosecuting, or otherwise pursuing such Interests of any kind or nature whatsoever against Putnam and its designee(s), their respective property, their respective successors, assigns and transferees, or the Assets with respect to any Interest of any kind or nature whatsoever such person or entity had, has, or may have against or in the Debtor, their estates, officers, directors, shareholders, or the Assets. Following the transfer of the Assets to Putnam or its designee(s), no holder of an Interest in the Debtor shall interfere with Putnam's or its designee(s) title to or use and enjoyment of the Assets and Properties based on or related to such Interest, or any actions that the Debtor may take in the Bankruptcy Case.

The transfer of the Properties and Assets to Putnam or its designee(s) will not subject Putnam or its designee(s) to any liability whatsoever with respect to the operation of the Properties and Assets or employment of the Debtor's current or former employees prior to the transfer to Putnam or its designee(s) by reason of such transfer under applicable state or federal law based, in whole or in part, directly or indirectly, on any theory of law or equity, including, without limitation, any theory of equity or law, including, without limitation, any theory of antitrust or successor or transferee liability with regard to severance obligations that may be due and owing by the Debtor.

The transfer of the Properties and Assets to Putnam or its designee(s) will be a legal and effective conveyance of the Assets. Any and all parties are enjoined and restrained from taking any action, including without limitation, the assertion or exercise of any alleged rights, including any right of first refusal, offset, recoupment, or the assertion of any Claim, Interest, and/or Lien against any of the Assets transferred to the Putnam, its affiliates, agents, successors, designees or assigns, or against any of the property of the foregoing, including, without limitation, against any real or personal property transferred to Putnam or its designee(s) through the Plan.

9.2 *Discharge*

The Plan is a plan of liquidation. Accordingly, Confirmation of the Plan shall not operate as a discharge, pursuant to § 1141(d), of any and all debts of or Claims against the Debtor that arose at any time prior to Confirmation.

9.3 *Injunction*

Except as otherwise expressly provided in this Plan or in the Confirmation Order and except in connection with the enforcement of the terms of this Plan (including the payment of Distributions hereunder and Putnam's obligation to fund such Distributions) or any documents provided for or contemplated in this Plan, all Entities who have held, hold or may hold Claims against or Interests in the Debtors or the Estates that arose prior to the Effective Date are permanently enjoined from: (a) commencing or continuing in any manner, directly or indirectly, any action or other proceeding of any kind against any Protected Party or any property of any Protected Party with respect to any such Claim or Interest; (b) the enforcement, attachment, collection or recovery by any manner or means, directly or indirectly, of any judgment, award, decree or order against any Protected Party or any property of any Protected Party with respect to any such Claim or Interest; (c) creating, perfecting or enforcing, directly or indirectly, any lien or encumbrance of any kind against any Protected Party or any property of any Protected Party with respect to any such Claim or Interest; (d) effecting, directly or indirectly, any setoff or recoupment of any kind against any obligation due to any Protected Party or any property of any Protected Party with respect to any such Claim or Interest, unless approved by the Bankruptcy Court; and (e) any act, in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan with respect to such Claim or Interest. Nothing contained in this Section 9.4 of the Plan shall prohibit the Holder of a Claim or Interest with respect to which a Proof of Claim was timely filed from litigating its right to seek to have such Claim or Interest declared an Allowed Claim or Interest and paid in accordance with the Distribution provisions of this Plan, or enjoin or prohibit the interpretation or enforcement by the Holder of such Claim or Interest of any of the obligations of the Debtors or the Responsible Person under this Plan.

9.4 *Term of Injunctions or Stays*

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under §§ 105 or 362, this Plan or otherwise, and extant on the Confirmation Date, shall remain in full force and effect until the entry of the Final Decree.

9.5 *Exculpation and Releases*

None of the Protected Parties shall have or incur any liability for, and each Protected Party is hereby released from, any Claim, Cause of Action, liability to any other Protected Party, to any Holder of a Claim or an Interest only in their capacity as such, for any act or omission taken in connection with, arising from or relating to the Chapter 11 Cases, the formulation, negotiation and/or pursuit of confirmation of this Plan, the consummation of this Plan, the administration of this Plan and/or the property to be distributed under this Plan, except for the gross negligence, willful misconduct or fraud of any Protected Party, in each case subject to determination of such by Final Order of a court of competent jurisdiction and provided that any Protected Party shall be entitled to reasonably rely upon the advice of counsel with respect to its duties and responsibilities (if any) under this Plan and such reasonable reliance shall form an absolute defense to any such Claim, cause of action or liability. Without limiting the generality of the foregoing, each Protected Party shall be entitled to and granted the protections and benefits of § 1125(e).

Each party to which this section applies shall be deemed to have granted the releases set forth in this section notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any statute or common law principle, which would limit the effect of such releases to those Claims or Causes of Action actually known or suspected to exist at the time of execution of the release.

Notwithstanding anything set forth above or elsewhere in this Plan, nothing in this Plan discharges, releases, precludes, or enjoins: (i) any environmental liability to any governmental unit that is not a Claim; (ii) any environmental Claim of any governmental unit arising on or after the Confirmation Date; (iii) any environmental liability to any governmental unit that any Entity would be subject to as the owner or operator of property after the Confirmation Date; or (iv) any environmental liability to the United States on the part of any Person other than the Debtor or Reorganized Debtor.

Notwithstanding anything set forth in this Section 9.5 or elsewhere in the Plan, nothing contained in this Section 9.5 or elsewhere in the Plan shall operate to release or exculpate any Entity from or against its obligations under the Plan, including Putnam's obligation to fund Distributions to be made under the Plan.

9.6 *Releases by Holders of Claims and Interests*

As of the Effective Date, for good and valuable consideration, including the contributions of the Released Parties to facilitate the expeditious reorganization of the Debtors and the implementation of the restructuring contemplated by the Plan and the other contracts, instruments, releases, agreements or documents executed and delivered in connection with the Plan, each Holder of a Claim or an Interest shall be deemed to have conclusively, absolutely, unconditionally, irrevocably and forever, released and discharged the Debtors and the Released Parties from any and all Claims, Interests, Claims obligations, rights, suits, damages, causes of action, remedies and liabilities whatsoever, including any derivative Claims or Claims asserted

on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, liquidated or unliquidated, fixed or contingent, matured or unmatured, existing or hereafter arising, in law, equity or otherwise, that such Entity would have been legally entitled to assert (whether individually or collectively), based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Released Parties, the Chapter 11 Cases, the Plan, the Disclosure Statement, the DIP Agreement and related documentation, and other related agreements, other than Claims, Claims or liabilities to the extent arising out of or relating to any act or omission of a Released Party that constitutes gross negligence, fraud or willful misconduct as determined by a Final Order; *provided, however*, that nothing herein shall be deemed a waiver or release of a Releasing Party's right to receive a Distribution pursuant to the terms of the Plan. For the avoidance of doubt, this Release by Holders of Claims and Interests is not and shall not be deemed a waiver of the Debtors' rights or Claims against the holders of General Unsecured Claims, including to the Debtors' rights to assert setoffs, recoupments or counterclaims, or to object or assert defenses to any General Unsecured Claim, and all such rights and Claims are expressly reserved.

9.7 *Reservation of Causes of Action/Reservation of Rights*

Unless otherwise set forth herein, nothing contained in the Plan shall be deemed to be a waiver or the relinquishment of any rights or Causes of Action or Avoidance Actions that the Debtors, the Responsible Person or the Estates may have or may choose to assert against any Person.

**ARTICLE X
CONDITIONS PRECEDENT**

10.1 *Conditions Precedent to Effective Date*

This Plan shall not become effective unless and until each of the following conditions shall have been satisfied in full in accordance with the provisions specified below:

(a) The Confirmation Order shall be in form and substance acceptable to the Debtors and Putnam in their absolute discretion;

(b) The Confirmation Order shall have been entered by the Bankruptcy Court and shall not be subject to any stay of effectiveness; the Confirmation Date shall have occurred and no request for revocation of the Confirmation Order under § 1144 shall have been made, or, if made, shall remain pending;

(c) Putnam shall have consented in all respects to, and agreed to be bound by, the terms of the Plan.

(d) The appointment of the Responsible Person shall have been approved by order of the Bankruptcy Court; and

(e) All necessary documents relating to the sale of the Assets shall be in form and substance acceptable to the Debtors and Putnam and shall be executed.

10.2 *Revocation, Withdrawal or Non-Consummation of Plan*

If, after the Confirmation Order is entered, each of the conditions precedent to the Effective Date have not been satisfied or duly waived on or by ninety (90) days after the Confirmation Date, then upon motion by the Debtors or Putnam, the Confirmation Order may be vacated by the Bankruptcy Court; *provided, however*, that notwithstanding the filing of such a motion, the Confirmation Order shall not be vacated if each of the conditions precedent to the Effective Date is either satisfied or duly waived before the Bankruptcy Court enters an order granting the relief requested in such motion. A condition precedent to the Effective Date may only be waived by a writing executed by both the Debtors and Putnam. If the Confirmation Order is vacated pursuant to this Section 10.2, this Plan shall be null and void in all respects, and nothing contained in this Plan shall (i) constitute a waiver or release of any Claims against or Interests in the Debtors, (ii) prejudice in any manner the rights of the Holder of any Claim against or Interest in the Debtors, (iii) prejudice in any manner the rights of the Debtors in the Chapter 11 Cases, or (iv) constitute a release, indemnification or exculpation by the Debtors, the Estates or any other party pursuant to this Plan.

**ARTICLE XI
ADMINISTRATIVE PROVISIONS**

11.1 *Retention of Jurisdiction by the Bankruptcy Court*

This Plan shall not in any way limit the Bankruptcy Court's post-confirmation jurisdiction as provided under the Bankruptcy Code. Pursuant to §§ 105(a) and 1142, the Bankruptcy Court shall retain and have exclusive jurisdiction (to the extent granted by applicable law, including any provisions permitting mandatory or discretionary withdrawal of such jurisdiction) over any matter arising out of or related to the Chapter 11 Cases and this Plan, including the following:

- (a) all matters relating to the assumption or rejection or the assumption and assignment of Executory Contracts, or Claims or disputes relating thereto;
- (b) all matters relating to the ownership of a Claim or Interest;
- (c) all matters relating to the Distribution to holders of Allowed Claims and to the determination of Claims;
- (d) any and all matters involving the Responsible Person;
- (e) all matters relating to or arising in connection with the allowance or estimation of Claims filed, both before and after the Confirmation Date, including any objections to the classification of any Claim;
- (f) to enter and implement such orders as may be appropriate if the Confirmation Order is for any reason stayed, revoked, modified and/or vacated;

(g) all matters relating to the construction and implementation of this Plan and the provisions thereof, and to hear and determine all requests for orders in aid of execution, implementation or consummation of this Plan;

(h) all matters relating to disputes arising in connection with the interpretation, implementation or enforcement of this Plan or the Confirmation Order, including disputes arising under agreements, documents or instruments executed in connection with this Plan;

(i) to consider any modifications of this Plan, to cure any defect or omission or to reconcile any inconsistency in any order of the Bankruptcy Court, including the Confirmation Order;

(j) all applications for allowance of compensation and reimbursement of Professional Fee Claims;

(k) to hear and determine all motions or requests for the payment of Claims entitled to priority under § 507(a)(2), including compensation and reimbursement of expenses of parties entitled thereto;

(l) all Causes of Action, Avoidance Actions and other suits and adversary proceedings to recover assets for Putnam, as successor-in-interest to any of the Debtors and property of the Estates, wherever located, and to adjudicate any and all other Causes of Action, Avoidance Actions, suits, adversary proceedings, motions, applications and contested matters that may be commenced or maintained pursuant to the Chapter 11 Cases or this Plan, proceedings to adjudicate the allowance of Disputed Claims, and all controversies and issues arising from or relating to any of the foregoing;

(m) all matters concerning state, local and federal taxes in accordance with §§ 346, 505 and 1146;

(n) any other matter not inconsistent with the Bankruptcy Code;

(o) all disputes involving the existence, nature or scope of the Debtors' discharge, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee benefit program, regardless of whether such termination occurred prior to or after the Effective Date;

(p) to enter the Final Decree closing the Chapter 11 Cases; and

(q) to enforce all orders previously entered by the Bankruptcy Court.

11.2 *Payment of Statutory Fees*

All fees incurred pursuant to 28 U.S.C. §1930 on or prior to the Effective Date shall be paid on or before the Effective Date consistent with the requirements of 28 U.S.C. § 1930 and Section 3.1(b) of the Plan. All fees incurred pursuant to 28 U.S.C. §1930 after the Effective Date

shall be paid by the Responsible Person from the Distribution Fund consistent with the requirements of 28 U.S.C. § 1930.

11.3 *Headings*

The headings of the articles, paragraphs and sections of this Plan are inserted for convenience only and shall not affect the interpretation hereof.

11.4 *Binding Effect of Plan*

Except as otherwise provided in § 1141(d)(3) on and after the Effective Date, the provisions of this Plan shall bind any Holder of a Claim against, or Interest in, the Debtors, the Estates, the Responsible Person and their respective successors or assigns, whether or not the Claim or Interest of such Holders is Impaired under this Plan and whether or not such Holder has accepted this Plan. The rights, benefits and obligations of any Entity named or referred to in this Plan, whose actions may be required to effectuate the terms of this Plan, shall be binding on and shall inure to the benefit of any heir, executor, administrator, successor or assign of such Entity (including the Responsible Person and any trustee appointed for the Debtors under chapters 7 or 11 of the Bankruptcy Code).

11.5 *Final Order*

Except as otherwise expressly provided in this Plan, any requirement in this Plan for a Final Order may be waived by the Debtors, with the prior written consent of Putnam, and upon written notice to the Bankruptcy Court, provided that the Effective Date shall occur within 48 hours of the effectiveness of such waiver. No such waiver shall prejudice the right of any party in interest to seek a stay pending appeal of any order that is not a Final Order.

11.6 *Withholding and Reporting Requirements*

In connection with this Plan and all instruments issued in connection herewith and Distributions hereunder, the Responsible Person shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Distributions hereunder shall be subject to any such withholding and reporting requirements.

Notwithstanding the above, each holder of an Allowed Claim or Interest that is to receive a Distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such Holder by any governmental unit, including income, withholding and other tax obligations, on account of such Distribution. Any party issuing any instrument or making any Distribution under the Plan has the right, but not the obligation, to not make a Distribution until such Holder has made arrangements satisfactory to such issuing or disbursing party for payment of any such tax obligations.

11.7 *Tax Exemption and Expedited Tax Determination*

Pursuant to § 1146, any and all transfers of real or personal property owned by the Debtors shall be free of any and all federal, state and local stamp taxes and similar taxes pursuant to § 1146(a).

The Debtors and Responsible Person are authorized to request an expedited determination of taxes under § 505(b) for any or all returns filed for, on or behalf of, the Debtors for any or all taxable periods (or portions thereof) ending after the Petition Date through and including the Effective Date.

11.8 *Governing Law*

Except to the extent a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless specifically stated, the rights, duties and obligations arising under this Plan, any agreements, documents and instruments executed in connection with this Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreements shall control), and corporate and limited liability company governance matters shall be governed by, and construed and enforced in accordance with the laws of the applicable State of formation, without giving effect to conflicts of law principles.

11.9 *Plan Supplement*

The Plan Supplement and the documents contained therein shall be in form, scope and substance satisfactory to the Debtors and Putnam and shall be filed with the Bankruptcy Court no later than ten (10) days before the deadline for voting to accept or reject the Plan, provided that the documents included therein may thereafter be amended and supplemented prior to execution, so long as no such amendment or supplement materially affects the rights of holders of Claims or Interests, and provided further that amendment of the Assumed Contracts Schedule shall be governed by Section 7.2 of this Plan. The Plan Supplement and the documents contained therein are incorporated into and made a part of the Plan as if set forth in full herein.

11.10 *Severability*

After the Effective Date, should the Bankruptcy Court or any other court of competent jurisdiction determine that any provision in this Plan is either illegal on its face or illegal as applied to any Claim, such provisions shall be unenforceable either as to all Holders of Claims or as to the Holder of such Claim as to which the provision is illegal, respectively. Such a determination of unenforceability shall in no way limit or affect the enforceability and operative effect of any other provision of this Plan.

11.11 *Revocation*

The Debtors and Putnam reserve the right to revoke and withdraw this Plan prior to the Confirmation Date. If the Debtors revoke or withdraw this Plan, then this Plan shall be null and void and, in such event, nothing contained herein shall be deemed to constitute a waiver or release of any Claims by or against the Debtors or any other Person or to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors, or be deemed an admission by the Debtors.

11.12 *Substantial Consummation*

On the Effective Date, for purposes of § 1127(b) and other applicable sections of the Bankruptcy Code, the Plan shall be deemed to be substantially consummated as such term is defined in § 1101.

11.13 *Conflict*

In the event and to the extent any provision of this Plan is inconsistent with any provision of the Disclosure Statement, the provisions of this Plan shall control and take precedence. The terms of the Confirmation Order shall govern in the event of any inconsistency with the Plan or the summary of the Plan set forth in the Disclosure Statement.

11.14 *Amendments and Modifications*

The Debtors and Putnam jointly may agree to alter, amend or modify this Plan under § 1127(a) at any time prior to the Confirmation Hearing. After the Confirmation Date and prior to “substantial consummation” (as such term is defined in § 1101(2) and Section 11.12 of the Plan), any Debtor or the Responsible Person may institute proceedings in the Bankruptcy Court pursuant to § 1127(b) to remedy any defect or omission or reconcile any inconsistencies in this Plan, the Disclosure Statement or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of this Plan, by the filing of a motion on notice to those parties set forth in Bankruptcy Rule 2002, and the solicitation of all Creditors and other parties-in-interest shall not be required. Prior to the Effective Date, the Debtors may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Bankruptcy Court, provided that such technical adjustments and modifications do not adversely affect in a material way the treatment of Holders of Claims or Interests.

11.15 *Notices*

Any notices required under this Plan or any notices or requests by parties in interest under or in connection with this Plan shall be in writing and served either by (i) certified mail, return receipt requested, postage prepaid, (ii) hand delivery, or (iii) reputable overnight delivery service, all charges prepaid, and shall be deemed to have been given when received by the following parties:

- (a) To the Debtors:

Dykema Cox Smith
112 E. Pecan Street, Suite 1800
San Antonio, TX 78205
Attn: Deborah Williamson, Esq.
Telephone: (210) 554-500
Facsimile: (210) 226-8395

- (b) To Putnam:

Akin Gump Strauss Hauer & Feld, LLP
1700 Pacific Avenue, Suite 4100
Dallas, TX 75201
Attn: Michael P. Cooley, Esq.
Telephone: (214) 969-2800
Facsimile: (214) 969-4343

- and -

Triton Equity Partners, LLC
81 Newtown Lane #351
East Hampton, New York 11937
Attn: Robert L. Pressman
Telephone: (631) 613-6657
Facsimile: (631) 613-6659

(c) To the Responsible Person:

Golden Steves Cohen & Gordon LLP
300 Convent Street
San Antonio, TX 78205
Attn: Andrew Cohen, Esq.

11.16 *Filing of Additional Documents*

On or before substantial consummation of this Plan, and without the need for any further order or authority, the Debtors may file with the Bankruptcy Court such agreements or other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan.

11.17 *Direction to a Party*

From and after the Effective Date, the Debtors or the Responsible Person may apply to the Bankruptcy Court for the entry of an order directing any Person to execute or deliver or to join in the execution or delivery of any instrument or document reasonably necessary or reasonably appropriate to effect a transfer of properties dealt with by this Plan, and to perform any other act (including the satisfaction of any lien or security interest) that is reasonably necessary or reasonably appropriate for the consummation of this Plan.

11.18 *Successors and Assigns*

The rights, duties and obligations of any Person named or referred to in this Plan, including all Creditors, shall be binding on, and shall inure to the benefit of, the successors and assigns of such Person.

11.19 *Waiver of Subrogation*

Notwithstanding any provision of this Plan to the contrary, all Holders of Claims shall be deemed to have waived any and all subrogation rights which they may have with respect to the Distributions made pursuant to this Plan, and the Confirmation Order shall permanently enjoin, effective as of the Effective Date, all Holders of Claims from enforcing or attempting to enforce any such rights against any Person receiving Distributions under this Plan.

Respectfully submitted,

MA LERIN HILLS HOLDER, LP

By: /s/ Andrew S. Cohen
Andrew S. Cohen, Receiver

L H DEVCO, INC.

By: /s/ Andrew S. Cohen
Andrew S. Cohen, Receiver

LERIN HILLS UTILITY EASEMENT HOLDER, LLC

By: /s/ Andrew S. Cohen
Andrew S. Cohen, Receiver

Prepared by:

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