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

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re:	Chapter 11
SYNTAX-BRILLIAN CORPORATION, *et al.*,[1]	Case No. 08-11407 (BLS)
Debtors.	(Jointly Administered)

SECOND AMENDED DISCLOSURE STATEMENT WITH RESPECT TO DEBTORS' SECOND AMENDED CHAPTER 11 LIQUIDATING PLAN

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[1] The Debtors are the following entities: Syntax-Brillian Corporation, Syntax-Brillian SPE, Inc., and Syntax Groups Corporation.

DISCLAIMER[2]

THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT IS INCLUDED FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE DEBTORS' CHAPTER 11 LIQUIDATING PLAN FILED BY THE PROPONENTS THEREOF, AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT, REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN.

ALL CREDITORS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETIES BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT WITH RESPECT TO THE PLAN ARE QUALIFIED IN THEIR ENTIRETIES BY REFERENCE TO THE PLAN, THE EXHIBITS ANNEXED TO THE PLAN AND ANY PLAN SUPPLEMENT(S). THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF.

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AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO CONSTITUTE ADVICE ON THE TAX, SECURITIES OR OTHER LEGAL EFFECTS OF THE PLAN AS IT RELATES TO HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTORS.

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[2] Terms used in this Disclaimer that are not otherwise defined, shall have the meanings ascribed to such terms elsewhere in the Disclosure Statement.

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ARTICLE I

INTRODUCTION

Syntax-Brillian Corporation (**"SBC"**), Syntax-Brillian SPE, Inc. (**"SPE"**), and Syntax Groups Corporation ("Syntax Groups") (collectively, the **"Debtors"** or the **"Proponents"**) have filed the Debtors' First Amended Chapter 11 Liquidating Plan (as such plan may be further amended from time to time in accordance with its terms, the **"Plan"**), with the United States Bankruptcy Court for the District of Delaware (the **"Bankruptcy Court"**). A copy of the Plan is annexed hereto as Exhibit I.

The Proponents hereby submit this disclosure statement (the **"Disclosure Statement"**) pursuant to the Bankruptcy Code in connection with the solicitation of acceptances or rejections of the Plan from certain Holders of Claims against the Debtors.

Following a hearing held on March 11, 2009, this Disclosure Statement was approved by the Bankruptcy Court as containing "adequate information" in accordance with Section 1125 of the Bankruptcy Code. Pursuant to Section 1125(a)(1) of the Bankruptcy Code, "adequate information" is defined as "information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and the history of the debtor and the condition of the debtor's books and records, that would enable a hypothetical reasonable investor typical of holders of claims or interests in the relevant class to make an informed judgment about the plan." **NO STATEMENTS OR INFORMATION CONCERNING THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY HAVE BEEN AUTHORIZED, OTHER THAN THE STATEMENTS AND INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT AND THE INFORMATION ACCOMPANYING THIS DISCLOSURE STATEMENT. ALL OTHER STATEMENTS REGARDING THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY, WHETHER WRITTEN OR ORAL, ARE UNAUTHORIZED**.

APPROVAL OF THIS DISCLOSURE STATEMENT BY THE BANKRUPTCY COURT DOES NOT INDICATE THAT THE BANKRUPTCY COURT RECOMMENDS EITHER ACCEPTANCE OR REJECTION OF THE PLAN NOR DOES SUCH APPROVAL CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT OF THE FAIRNESS OR MERITS OF THE PLAN.

This Disclosure Statement contains important information that may bear upon your decision to accept or reject the Plan. Each Holder of a Claim should read this Disclosure Statement and the Plan in their entirety, including the conditions precedent to confirmation and Effective Date of the Plan contained in Article X of the Plan. After carefully reviewing these documents, if you are a Holder of a Claim entitled to vote, please indicate your vote with respect to the Plan on the enclosed Ballot and return it in the envelope provided.

CAPITALIZED TERMS NOT DEFINED HEREIN ARE AS DEFINED IN ARTICLE I OF THE PLAN.

The information set forth herein is the product of the Debtors' books and records, historical materials and public and non-public materials. Accounting and any valuation methods are as maintained by the Debtors.

A. Disclosure Statement Enclosures

Accompanying this Disclosure Statement are:

- a copy of the Plan (Exhibit I);
- a ballot for acceptance or rejection of the Plan for Holders of impaired Claims entitled to vote to accept or reject the Plan (the "**Ballot**");
- a notice setting forth: (i) the deadline for casting ballots either accepting or rejecting the Plan; (ii) the deadline for filing objections to confirmation of the Plan; and (iii) the date, time and location of the Confirmation Hearing (the **"Notice"**); and
- a letter from the Committee urging Holders of Claims (who are entitled to vote) to vote to accept the Plan.

B. Only Impaired Classes Vote

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

Under the Plan, Holders of Claims in Class 1, Class 2, Class 3, and Class 4 are unimpaired and therefore deemed to accept the Plan. Holders of Claims in Class 5 and Class 6 are impaired and are entitled to vote on the Plan. Holders of Equity Interests in Class 7 are deemed to reject the Plan and are not entitled to vote.

ACCORDINGLY, A BALLOT FOR ACCEPTANCE OR REJECTION OF THE PLAN IS BEING PROVIDED ONLY TO HOLDERS OF CLAIMS IN CLASS 5 AND CLASS 6.

For a summary of the treatment of each Class of Claims and Equity Interests, see Section IV, "Summary of the Plan" below.

C. Voting Procedures

If you are entitled to vote to accept or reject the Plan, a Ballot is enclosed for the purpose of voting on the Plan. If you hold Claims in more than one Class and you are entitled to vote

Claims in more than one Class, you will receive separate Ballots that must be used to vote in each separate Class. Please vote and return your Ballot(s) in the pre-addressed return envelope provided to you or to the address set forth below:

IF BY MAIL:

SBC Balloting Center c/o Epiq Bankruptcy Solutions, LLC
Grand Central Station P.O. Box 4613
New York, NY 10163-4613

IF BY HAND OR FEDEX:

SBC Balloting Center c/o Epiq Bankruptcy Solutions, LLC
757 Third Avenue, Third Floor
New York, NY 10017

TO BE COUNTED, YOUR BALLOT WITH ORIGINAL SIGNATURE INDICATING ACCEPTANCE OR REJECTION OF THE PLAN MUST BE RECEIVED NO LATER THAN 5:00 P.M. (PREVAILING EASTERN TIME) ON APRIL 13, 2009 (THE **"VOTING DEADLINE"**).

If you are a Holder of a Claim entitled to vote on the Plan and you did not receive a Ballot, you received a damaged Ballot or you lost your Ballot, or if you have any questions concerning the Disclosure Statement, the Plan or the procedures for voting on the Plan, please contact Epiq Bankruptcy Solutions, LLC at (800) 314-5550. Please do not return your notes or securities with your ballot.

D. **Confirmation Hearing**

The Bankruptcy Court has scheduled a hearing to consider confirmation of the Plan for April 21, 2009 at 1:30 p.m. (prevailing Eastern time) in the United States Bankruptcy Court, 5th Floor, 824 Market Street, Wilmington, Delaware 19801 (the **"Confirmation Hearing"**). The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be served and filed on or before **April 13, 2009, at 4:00 p.m. (prevailing Eastern Time)** in the manner described in the Notice accompanying this Disclosure Statement. The date of the Confirmation Hearing may be adjourned from time to time without further notice except for an in-court announcement at the Confirmation Hearing of the date and time as to which the Confirmation Hearing has been adjourned or an appropriate filing on the Bankruptcy Court's docket.

THE PROPONENTS URGE ALL HOLDERS OF CLAIMS IN CLASSES 5 AND 6 TO VOTE IN FAVOR OF THE PLAN. VOTING INSTRUCTIONS ARE DESCRIBED IN ARTICLE V.

The classification and treatment of Claims and Equity Interests under the Plan are described in detail below. Because the Plan provides the greatest likelihood of recovery to all

Holders of Allowed Claims in the Chapter 11 Cases, the Proponents strongly encourage all Holders of Claims entitled to vote on the Plan to vote to accept the Plan.

ARTICLE II

BACKGROUND

A. General Background of the Debtors

SBC is a Delaware corporation headquartered in Tempe, Arizona and City of Industry, California. SBC and its affiliated Debtors, Syntax-Brillian SPE, Inc., and Syntax Groups Corporation (**"Syntax Groups"**), collectively formed an organization of leading designers, developers, and distributors of high-definition televisions (HDTVs) utilizing liquid crystal display (LCD) and, formerly, liquid crystal on silicon (LCoS) technologies.

Syntax Groups was founded as a privately held company in 2003. In early 2004, Syntax Groups commenced shipment of Olevia brand widescreen HDTV-ready LCD televisions in the United States. In March 2004, Syntax Groups joined with South China House of Technology (**"SCHOT"**), a Chinese distributor, to distribute HDTVs to the Asia-Pacific market. In March 2004, Syntax Groups entered into an agreement with Taiwan Kolin Co., Ltd. (**"Kolin"**), for the manufacture of HDTVs. Syntax Groups and Kolin entered into agreements governing marketing, technology research and development, and customer incentives. In addition, Syntax Groups, Kolin and DigiMedia Technology Co., Ltd. (**"DigiMedia"**), entered into a strategic alliance through the acquisition by both Syntax Groups and Kolin of the stock of DigiMedia; Syntax Groups later divested its direct stake in DigiMedia. In November, 2005, Syntax Groups merged with Brillian Corp., a public company, and traded thereafter on NASDAQ as Syntax-Brillian Corporation, ticker symbol BRLC. SBC was de-listed from NASDAQ on July 22, 2008, as described below.

1. Olevia

Under its "Olevia" brand name, SBC traditionally sold HDTVs in a broad array of screen sizes to international, national, regional, and online consumer electronics retailers and distributors. Through these sales channels, SBC sold HDTVs designed to meet the individual needs of a variety of end-user consumers, including consumers in the price-conscious, high-performance, and high-end home theater markets. SBC focused primarily on developing its market position in North America and China.

SBC established a virtual manufacturing model to produce HDTVs utilizing components sourced in Asia, third-party contract manufacturers located in Asia, and third-party assemblers located in close proximity to end-user consumers. In addition, SBC developed service expertise that allowed it to provide a high level of performance and reliability in its products. The overall result was intended to be a scalable business model that was intended to reduce SBC's capital expenses and enable it to concentrate on product design, marketing, research and development, and technological advances.

SBC's business was dependent upon a manufacturing arrangement with Kolin under which Kolin produced the electronic components and subassemblies for SBC's LCD televisions. SBC and Kolin jointly selected and qualified vendors for LCD panels, electronic components, and subassemblies that Kolin did not itself manufacture, and SBC negotiated terms and conditions of orders and contracts with these vendors.

As of the Petition Date, the Debtors had approximately 100 employees (representing a reduction in personnel) in office and warehouse space in City of Industry, California where most corporate functions were housed, including executive offices, general administration, sales, shipping, warehouse, repair, technical and call center. SBC also operated with a second warehouse space for additional shipping and receiving capacity in City of Industry. As of the Petition Date, the Debtors also had approximately eight employees in leased office space in Tempe, Arizona, consisting primarily of SBC's chief financial officer, the general counsel and the financial staff, which represented a reduction in activity and personnel from previous levels in the Tempe office.

SBC had a relationship with DigiMedia which provided key technology, research and development services. DigiMedia owned and controlled the technology necessary for the conduct of SBC's business. DigiMedia apparently no longer operates.

In April 2006, SBC entered into a strategic relationship with China South Industries Group Corporation ("**China South**"), a state-owned enterprise directly under the administration of China's central government. The strategic relationship resulted in a joint venture, Sino-Brillian, which the Debtors still own.

On July 10, 2006, the Debtors acquired a 19.5% interest in Olevia Senna de Brazil, a joint venture in Brazil, to introduce their products in the Latin American markets. The Debtors similarly hold a 16.7% interest in Olevia Japan, and a 16.0% interest in Nanjing Huahai Display Technology in China.

2. SBC Asset Holding Corp., Formerly Known As Vivitar

As of the Petition Date, SBC Asset Holding Corp., formerly known as Vivitar Corporation ("**SBC Asset Holding**"), acquired by SBC in 2006, was a wholly owned subsidiary of SBC, headquartered in Leicester, UK. SBC Asset Holding had approximately 60 full-time, direct employees as of June 25, 2008. SBC Asset Holding was not a Debtor in the Chapter 11 Cases. SBC Asset Holding's operations were housed in the Debtors' City of Industry offsite and warehouse space.

SBC Asset Holding was a leading supplier of both film cameras and a broad line of digital imaging products, including digital cameras, "point and shoot" cameras, 35 millimeter single lens reflex cameras, auto focus cameras, digital video recorders, multimedia players, flash units, binoculars, projectors, and camera accessories.

SBC Asset Holding's digital imaging products were marketed through a direct sales force and through independent dealers and distributors. The United States, France, Hong Kong and

the United Kingdom were the principal markets for SBC Asset Holding's digital imaging products. SBC Asset Holding had been generally near-self-sufficient financially, but dependent upon the Debtors for certain infrastructure.

SBC Asset Holding's assets have been and/or are being sold outside the Chapter 11 process, as described below. On February 6, 2009, SBC Asset Holding filed a Chapter 7 bankruptcy petition. Montague Claybrook has been assigned as the chapter 7 trustee for SBC Asset Holding's estate

B. Financing History

In the two-and-a-half years prior to the Petition Date, the Debtors undertook a number of stock issuances and capital raises including a $15,000,000 raise in March 2006; an issuance to Kolin of 3,000,000 shares, amounting to 6.2% of then-outstanding shares of common stock and a warrant to purchase 750,000 shares of SBC common stock for gross proceeds of $15,000,000; a private placement of $10,000,000 to a supplier in December 2006; a $15,500,000 private placement to TCV or its affiliate in March 2007; a public offering of $142,600,000 on May 30, 2007 (of which $20,200,000 was used to repay and reduce outstanding indebtedness); and a private placement of $20,000,000 to TECO Electric & Machinery Co., Ltd. (**"TECO"**), a supplier, in August 2007; for a total of approximately $328,000,000 in equity raised during that period.

As of the Petition Date, SBC primarily financed its business operations through the following loan facilities and financing agreements.

C. Pre-Petition Financial Structure

The Debtors, certain lenders, and Silver Point Finance, LLC, as administrative agent, collateral agent, and lead arranger ("**Silver Point**" and together with its lender participants, the "**Pre-Petition Lenders**") entered into that certain *Credit and Guaranty Agreement*, dated October 26, 2007 (the "**Pre-Petition Credit Facility**"), for (1) a term loan in the aggregate principal amount of $150,000,000, consisting of two tranches, (a) a $110,000,000 term loan (the "**Tranche A Term Loan**") and (b) a $40,000,000 term loan (the "**Tranche A-1 Term Loan**"), and (2) a revolving credit facility, with a maximum commitment of $100,000,000 (the "**Revolving Loan**"). For each of the Tranche A Term Loan and the Tranche A-1 Term Loan, maturity was to be the earliest to occur of (x) October 26, 2012, and (y) the date that all Tranche A Term Loans or Tranche A-1 Term Loans, as applicable, would become due and payable in full under the Pre-Petition Credit Facility, whether by acceleration or otherwise. The Revolving Loan was supposed to mature on the earliest to occur of (i) October 26, 2012, (ii) the date the revolving commitments are permanently reduced to zero pursuant to certain terms of the Credit Agreement, and (iii) the date of the termination of the revolving commitments pursuant to the Pre-Petition Credit Facility. The Chapter 11 filing accelerated the obligations under the Pre-Petition Credit Facility.

Borrowings under the Pre-Petition Credit Facility originally bore interest at 11.0615%. On December 25, 2007, the interest rate increased to 13.0625%, where it remained until January

31, 2008, at which time the interest rate decreased to 13.0000%. On February 15, 2008, the interest rate increased to 17.5000%, which increase was due to a default by the Debtors under the Pre-Petition Credit Facility.

The obligations under the Pre-Petition Credit Facility are secured by a first-priority blanket lien on substantially all of the Debtors' assets, including a pledge of all of the capital stock of each of the Debtors' domestic subsidiaries and 65% of all the capital stock of each of first-tier foreign subsidiaries, pursuant to a pledge and security agreement entered into with the Pre-Petition Lenders. The obligations under the Pre-Petition Credit Facility are also guaranteed by the Debtors' domestic subsidiaries, including SBC Asset Holding, under terms set forth in the Pre-Petition Credit Facility including a pledge of their assets.

The Debtors were in default under the Credit Agreement from and after December 24, 2007. Since then, there were payment defaults under the Credit Agreement, amendments and several forbearance agreements, and interim borrowings. As of the Petition Date there was approximately $73,619,027 owing on the Tranche A Term Loan, $36,533,333 owing on the Tranche A-1 Loan, and approximately $1,525,000 owing on the Revolving Loan, for a total of approximately $111,677,606, plus other amounts including interest and the "Make Whole" amount.

Additionally, pursuant to that certain *Amended and Restated Promissory Note Variable Rate*, dated July 26, 2007 (the "**AR Note**"), a prior $2,000,000 note entered into on December 1, 2006, was amended and restated in the amount of $4,000,000. The AR Note was to bear interest at Preferred Bank's prime rate plus 0.50% and was to mature on December 5, 2008. The AR Note is secured only by personal guarantees of four of SBC's former directors and/or executive officers, and remains outstanding, although a portion of the AR Note has been paid by Kolin.

On November 22, 2006, the Debtors entered into an amended and restated factoring agreement with The CIT Group/Commercial Services, Inc. ("**CIT**"). Under the so-called factoring agreement, the Debtors would sell and assign collection of accounts receivable to CIT, subject to CIT's approval, and CIT would assume the credit risk, and obtain insurance, for all accounts approved by CIT. The Debtors would pay fees to CIT of 0.30% or 0.20% of gross invoice amounts, depending on whether CIT assumed credit risk, plus 0.25% for each 30-day period in which invoices are outstanding, subject to a minimum fee per calendar quarter of $112,500. 60% of all proceeds received from CIT for factored accounts were applied to advances under our credit facility with Preferred Bank. In addition, the Debtors would request that CIT advance up to $15,000,000 to the Debtors based on the accounts receivable of two of their customers. The Debtors granted a security interest in accounts receivable to CIT to secure the obligations to CIT under the factoring agreement. CIT filed a UCC lien statement to protect CIT. Pre-petition, the Debtors terminated the CIT agreement and established procedures to collect and allocate outstanding accounts receivable subject to the agreement. These procedures were included in the terms of the debtor-in-possession financing described below and CIT was paid in full.

D. Summary of Events, Litigation and Other Circumstances Precipitating Liquidity and Operational Crises

There are a number of events including business transactions, litigation and other circumstances which appear to have precipitated liquidity and operational crises, and which ultimately led to the Debtors' Chapter 11 filings. Some of these events are the likely subjects of future litigation and are still being investigated by the Debtors and the Committee. However, in the Debtors' view and based on their current knowledge, the primary factors which ultimately caused the Chapter 11 filings included the following.

1. Chinese Government Issues; Pre-Petition Credit Facility Default

In or about the fall of 2007, approximately 26,000 custom, large screen HDTVs reportedly sold to SCHOT and Olevia Far East (**"OFE"**), were in turn sold to the Chinese government apparently for future installation in the Olympic Village in connection with the 2008 Beijing Winter Olympics. The custom HDTVs allegedly were manufactured for the Debtors by or through Kolin at the Nanjing factory. Representations were made that the custom HDTVs were delivered to the Chinese government in or about the fall of 2007. The Chinese government then allegedly refused to pay for the HDTVs. SCHOT, OFE and Kolin allegedly entered into an agreement to take back the units. The Debtors were informed that the HDTVs were physically retrieved by Kolin.

The Debtors and Kolin undertook to determine whether the returned units could be (a) sold in the Asian-Pacific market with the existing components built to Chinese government standards, and given the custom, large size of the televisions, (b) held for later delivery to the Chinese government, or (c) re-tooled for sale in United States markets (Chinese tuners would have to be removed and replaced to comply with United States import regulations). No satisfactory plan was developed. SCHOT apparently purchased some of this inventory but then sought to return it. Reportedly, some of the refused inventory was sold by Kolin, some was maintained in inventory, some was shipped to customers and some was held in customs. SBC was denied control of the inventory. The Debtors have been unable to confirm the status of this inventory and believe that most of this inventory was dissipated and is unlikely to be recovered.

2. SBC Faces Liquidity Crunch

Upon the Chinese government's alleged refusal to accept the HDTVs, SBC's account receivable from its Chinese market distributors, SCHOT and OFE, anticipated to be approximately $63,000,000, were excluded from SBC's borrowing base under the Pre-Petition Credit Facility. The resulting non-payment of the receivable due for those goods, default under the Pre-Petition Credit Facility, in addition to other events, led to a serious liquidity crisis for the Debtors by the first quarter of 2008. The Debtors, as borrowers under the Pre-Petition Credit Facility, found their borrowing ability exhausted under that facility. Despite the Debtors' efforts no other sources of funding existed or could be found at that time.

3. SEC Inquiry

SBC filed its SEC form 10-K disclosure for the period through June 30, 2007 (the close of the SBC fiscal year), on September 13, 2007, with Ernst & Young as its newly engaged auditor. A dispute with Ernst & Young followed; the auditor alleged that SBC's internal controls were lacking.

The Debtors received an informal letter of inquiry from the SEC in or about June, 2007. The focus of the informal SEC inquiry was on various financial and accounting issues for the period beginning July 1, 2005, including, but not limited to, the accounting treatment of tooling deposits, cash advances to Asian manufacturers, outstanding accounts receivable, inventory returns, internal control issues and SBC's supply chain relationships in Asia. The Debtors responded, and communicated with the SEC, through counsel. The Debtors continue to respond to additional inquiries from the SEC, which has since commenced a formal order of investigation. The Debtors, through an independent director and the audit committee of the Board of Directors, interim management and outside professionals, conducted certain investigations into the issues identified by the SEC in its informal inquiry and later formal order of investigation. On April 18, 2008, SBC publicly filed its statement that the prior reporting in the 10 K was unreliable. Prior to the Petition Date, the Debtors undertook investigations as described below.

4. Decrease in Value of SBC Public Stock

Pre-petition, SBC's stock was traded on NASDAQ at over $6.00 in September 2007, in the $4.00 to $5.00 range in October 2007, in the $2.00 to $3.00 range for much of December 2007 through early February 2008, then sunk to about $1.00 for most of the third quarter and finally to the 50-cent range in the last several weeks prior to the Petition Date. On July 1, 2008, SBC received a letter from NASDAQ notifying that for the prior thirty consecutive trading days the common stock closed below the minimum $1.00 per share requirement for continued inclusion under marketplace rule 4450(a)(5). The common stock was ultimately de-listed and ceased trading as of July 22, 2008.

5. Class Actions

As of the Petition Date, four (4) securities class action complaints were pending in the United States District Court for the District of Arizona (the **"Arizona District Court"**), alleging violations by SBC and certain of SBC's former officers and directors (the **"Individual Non-Debtor Defendants"**) of certain federal securities laws, including Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (the **"Exchange Act"**) and Rule 10b-5 promulgated thereunder.[1] The above-referenced complaints allege certain former officers and directors of the

[1] The first such complaint, *Tsirekidze v. Syntax-Brillian Corp., et al.*, Case No. CV-07-2204-PHX-FJM, was filed on November 14, 2007. On August 25, 2008, SBC's underwriters and auditors (together with the Individual Non-Debtor Defendants, the "Non-Debtor Defendants") and the Individual Non-Debtor Defendants were named as

Debtors made false and misleading statements and representations concerning SBC's financial results and business made during the Class Period. On or about April 7, 2008, the Arizona District Court appointed the Lead Plaintiff and consolidated the pending putative class actions alleging violations of the Exchange Act into the Securities Litigation.[2] Thereafter, an action asserting claims under the Securities Act of 1933 (the **"Securities Act"**) against certain of the Non-Debtor Defendants was consolidated with the Exchange Act action. Lead Plaintiff and the members of the putative Class allege that they are creditors, equity holders and parties-in-interest in these Chapter 11 proceedings resulting from their allegations of losses of millions of dollars related to their purchases or acquisitions of SBC securities.

On August 25, 2008, Lead Plaintiff filed a Consolidated Class Action Complaint for Violation of the Federal Securities Laws (the **"Consolidated Complaint"**)[3] and subsequently filed a motion for leave to amend the Consolidated Complaint and a Motion for Class Certification. Motions to dismiss the Consolidated Complaint were filed by the Defendants. On February 4, 2009, the Arizona District Court entered an Order denying in part and granting in part the Motions to dismiss and denying the Motion to amend the Consolidated Complaint. Mediation of the claims asserted in the Securities Litigation, as well as other claims against certain of the Non-Debtor Defendants and Debtors, was held on February 13 and 14, 2009. Although SBC was named as a defendant in several of the class action complaints filed prior to the Petition Date, Lead Plaintiff on September 9, 2008, filed a notice of voluntary dismissal as to SBC without prejudice. The Securities Litigation is continuing against the Non-Debtor Defendants.

6. Derivative Complaints

An alleged shareholder filed a derivative complaint in Arizona state court against SBC and several of its former officers and directors. The complaint purportedly was filed on behalf of SBC and alleges that the individual defendants violated their fiduciary duties under Delaware state law in connection with alleged accounting deficiencies of SBC, the making of allegedly false and misleading statements in SBC's SEC public filings, and with the sale by certain former directors of shares in SBC's publicly-traded stock. A claim was filed with the Debtors' directors and officers liability insurance carrier for coverage of the case. Upon the bankruptcy filing, the

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defendants in the Consolidated Complaint (*see* note 5, *infra*), which alleged violations of Sections 11, 12(a)(2) and 15 of the Securities Act of 1933 (together with the Exchange Act, the **"Securities Laws"**) in addition to the Exchange Act violations.

[2] One of the initial Exchange Act class actions was voluntarily dismissed subsequent to consolidation.

[3] The Consolidated Complaint names as defendants former Syntax-Brillian CEO Vincent F. Sollitto, Jr., President and Chief Operating Officer James Ching Hua Li, Chief Financial Officer Wayne A. Pratt, Chief Procurement Officer Man Kit (Thomas) Chow, Director and Audit Committee Chairman John S. Hodgson, underwriters of SBC's May 24, 2007 Secondary Offering Brean Murray, Carret & Co., LLC, Conaccord Adams Inc., Merrill Lynch, Pierce, Fenner & Smith Incorporated, Robert W. Baird & Co., Incorporated, UBS Securities LLC and former SBC auditors Grobstein, Horwath & Company LLP.

derivative claims became property of the Estates for the benefit of SBC and its stakeholders. Upon notice by the Debtors that the claims at issues were property of the Estates, the plaintiffs in August 2008 voluntarily dismissed the action.

7. Funai Litigation

The Debtors participated in a joint defense agreement with other defendants in litigation initiated by private complaint in federal court and by a separate complaint filed before the International Trade Commission for investigation. The federal court litigation was stayed pending the Commission's investigation. The claim of Funai Electric Co., Ltd. (and others) surrounded alleged unauthorized use of protected technology of other parties; there are over a dozen defendants. Given the anticipated sale and liquidation of the Debtors as is described below, the Debtors ceased to participate in the defense of this matter as of approximately August 15, 2008. The Commission has not issued a final order in the matter.

8. Patent Infringement Actions

There are claims pending in the federal courts, and claims threatened by several parties against the Debtors with respect to patent infringement and similar claims. The Debtors have ceased to defend these matters given the automatic stay and the anticipated liquidation of the Estates.

9. FCC Litigation

The United States government has recently modified the requirements for the sale of certain HDTV components in the United States. The Federal Communications Commission (the "**FCC**") has alleged that SBC may have violated certain FCC rules with respect to technical requirements for selling televisions containing high-definition tuners. In May, 2008 a forfeiture order was issued by the FCC of $1,266,100, with a second forfeiture order for $11,000 for reporting deficiencies. SBC refused to make payment and it is SBC's belief that the forfeiture was referred to the United States Department of Justice for further enforcement action. The FCC was notified of the bankruptcy filings, and to date there has been no contact from either the FCC or the United States Department of Justice regarding any attempts to collect the forefeitures.

10. TECO Litigation

TECO filed a complaint in the United States District Court for the District of Arizona against SBC for damages allegedly arising out of the $20,000,000 private placement described above in Section B. The complaint seeks rescission of the private placement agreement, disgorgement of the $20,000,000 investment or, alternatively, an award of compensatory damages and interest. Upon the filing of the Debtors' bankruptcy petitions, TECO amended the complaint to drop its claims against the Debtors and instead only assert claims against certain of the Debtors' former officers and directors. A claim for coverage was filed with the Debtors' insurance carriers.

E. Summary of Pre-petition Investigations and Various Claims of the Debtors

1. Pre-petition Investigations

Prior to the Petition Date, the Debtors engaged outside counsel John Orenstein and the firm of Anthony Ostlund Baer Louwagie & Ross, P.A. (**"Anthony Ostlund"**) to investigate possible claims that would be available to the Debtors' estates in a Chapter 11 proceeding. Anthony Ostlund continued its investigation after the filing of the Petition and made an oral report to the Bankruptcy Court on October 16, 2008. A copy of the transcript of the Anthony Ostlund report and recommendations is attached hereto as Exhibit IV. On September 3, 2008, the Court entered an order appointing James S. Feltman as Examiner (**"Examiner"**) in these cases, who also investigated potential claims available to the Debtors' estates. The Examiner's oral report was delivered to the Bankruptcy Court on October 6, 2008. A copy of the transcript of the Examiner's report and recommendations is attached hereto as Exhibit V. Both the Anthony Ostlund investigation and the Examiner's investigation suggested that meritorious claims existed against officers and directors of the Debtors and certain third-parties. Neither Anthony Ostlund nor the Examiner addressed the collectibility of any damages resulting from those claims.

2. Claims Against Directors and Officers

Certain of the claims identified by the Examiner and Anthony Ostlund are breach of fiduciary duty and related claims against former board members and certain members of the prior senior management team resulting from pre-petition activities. The Examiner and Anthony Ostlund both raised questions regarding the propriety of certain actions by prior board members and officers due to their affiliations with other companies with whom the Debtors did business and, specifically, questioned conduct on the part of the interested directors to wrongfully direct money to other entities in whom they had an interest. The Examiner and Anthony Ostlund also raised the possibility of insider trading by certain prior officers or directors.

The Examiner and Anthony Ostlund did not make any allegations of wrongdoing against (a) Michael Garnreiter, the outside director of the Debtors and the sole remaining director of Debtors' Syntax-Brillian Corporation and Syntax Groups Corporation, from the pre-petition period or (b) any member of the Debtors' current management.

As a result, in part, of the investigations conducted by the Examiner and Anthony Ostlund, the Official Committee of Unsecured Creditors of Syntax-Brillian Corporation on November 26, 2008, filed a complaint against certain former directors and officers of Syntax-Brillian Corporation (**"Creditors Committee Complaint"**). The Creditors Committee Complaint asserts three claims for breaches of fiduciary duties and a claim for equitable subordination to the extent any of the defendants in the adversary proceeding asserts a claim against the estate. The Creditors Committee Complaint seeks over $300 million in damages for the claims arising out of allegations of breach of fiduciary duty. The defendants named in the Creditors Committee Complaint are James Li a/k/a Ching Hua Li, Thomas Chow a/k/a Man Kit Chow, Michael K. Chan, Vincent F. Sollitto, Jr., Wayne A. Pratt, John S. Hodgson, David P. Chavoustie, Max Fang, Christopher C. Liu, Yasushi Chikoagam, and Shih-Jye Cheng. Other

than Mr. Chavoustie, who is one of three directors at Syntax SPE, none of the defendants are still affiliated with the Debtors. The litigation of the Creditors Committee Complaint, as well as other potential causes of action described in Article IV.V below, will be pursued by the Liquidation Trust.

It is difficult to evaluate the likely recovery value of the proceeds of the litigation in the Creditors Committee Complaint. Such claims are inherently difficult and expensive to litigate and there is certainly collection risk associated with the claims. In this case, the collectibility of the claims is questionable due to a number of factors. First, there are substantial competing claims against the applicable directors and officers liability insurance policies (**"D&O Policies"**). In addition to the Creditors Committee Complaint, other actions have been brought against the Debtors' former officers and directors arising out of much of the same or similar conduct, including (a) four consolidated class action lawsuits, (b) a shareholder derivative complaint, (c) an action brought by TECO in connection with its $20 million investment, and (d) a complaint brought by Silver Point in connection with its secured loan (**"D&O Claims"**). The amount of damages sought in each of these various claims ranges from about $20 million to in excess of $150 million. In aggregate, the total amount of the damages sought in the D&O Claims, including the Creditors Committee Complaint, is in excess of $700 million. The Debtors' D&O insurance carrier has agreed to defend the D&O Claims under a reservation of rights under the 2006-07 D&O Policies; the D&O insurance carriers have denied coverage under any other policy period.[4] The aggregate amount of coverage under the Debtors' 2006-07 D&O Policies is $20 million; however, the total amount of the coverage is reduced by the amount spent to defend covered claims. The Debtors believe that about $2 million has been billed already to the insurance carriers in defense costs, thereby reducing to $18 million the amount of the insurance coverage currently available for defense and indemnification of the D&O Claims. The Committee and Debtors have attempted to negotiate an apportionment of the 2006-07 D&O Policies proceeds with the other D&O Claims claimants, but to date no agreement has been reached. However, it is highly unlikely that the Debtors and Creditors Committee will be apportioned more than a pro rata share of D&O Policies proceeds (i.e., less than 40% of the available D&O Policies proceeds), and it is possible that the apportionment for the Creditors Committee Complaint will be significantly less than the pro rata value of the Committee's claims.

In addition, collection of any damages award for the D&O Claims in excess of the available D&O Policies proceeds would require pursuing collection claims against the personal

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[4] The Debtors D&O Policies are claims-made policies. The Debtors filed a claim for coverage of the Creditors Committee Complaint under the 2007-08 D&O Policies, which have an aggregate coverage limit of $25 million. The D&O insurer has denied coverage under the 2007-08 Policies on the basis, among other grounds, that the Debtors' notice of claim under the 2006-07 D&O Policies included the claims contained in the Creditors Committee Complaint and hence are covered under the 2006-07, and not 2007-08, D&O Policies. It is likely that the Litigation Trustee will seek to enforce any rights the Debtors have for coverage of the Creditors Committee Complaint under the 2007-08 D&O Policies.

assets of the Debtors' former officers and directors. Many of the defendants named in the Creditors Committee Complaint are citizens and residents of Taiwan and other Eastern Asian nations. Collecting a foreign judgment in the courts of Taiwan or elsewhere in Eastern Asia is a difficult and expensive task. There are significant legal and factual impediments to pursuing collection claims in countries such as Taiwan and the People's Republic of China. The extent to which such collection efforts would be successful is highly speculative and the Debtors believe it is unlikely to raise meaningful sums of money.

It further is anticipated that the D&O defendants will vigorously defend the claims brought against them. The Debtors believe that the D&O Claims will result in some recovery to the estate largely dependent upon the available insurance coverage.

3. Other Claims: In addition to the D&O Claims, the Debtors also anticipate that the Liquidating Trustee will bring other claims, including:

(a) South China House of Technology (**"SCHOT"**) Receivables Claim. The Debtors have claims against SCHOT for unpaid receivables in the amount of approximately $47.6 million. Questions exist as to whether there is jurisdiction over such claims in the United States or whether such claims must be brought in Hong Kong. It is anticipated that SCHOT will assert counterclaims against the Debtors. For example, SCHOT has notified the Debtors that it has contractual claims against the Debtors for alleged unpaid sales commissions in excess of $3.7 million. In addition, SCHOT has asserted defenses to the Debtors' claims based on contractual arrangements that were entered into with the Debtors' former CEO who is a defendant in the Creditors' Committee Complaint. The Debtors expect that SCHOT will vigorously defend the claims brought against it. SCHOT has no known assets in the United States and hence all collection efforts for any successful damage award would have to be brought in Hong Kong. The Debtors believe these claims will be difficult to collect but may have nominal value to the Debtors' estates.

(b) Kolin Claims. The Debtors have claims against Kolin for missing inventory and tooling deposits that were paid to Kolin but for which the Debtors received no benefit. The Debtors estimate that such claims are valued at approximately $133 million. Kolin vigorously disputes the Debtors' claims and has informed the Debtors that it may seek the return of all price protection payments paid to the Debtors, which Kolin alleges are in the amount of approximately $270 million. Meanwhile, significant litigation and collection problems exist with respect to the Kolin claims. Kolin currently is engaged in restructuring proceedings in Taiwan and does not appear to have assets sufficient to cover the amounts owed to creditors. Moreover, the Debtors' relationship with Kolin was largely handled by prior officers of the Debtors who are no longer employed by the Debtors and who are subject to the breach of fiduciary duty litigation described above. The Debtors believe that significant barriers exist to collecting any recovery against Kolin. Furthermore, Silver Point has asserted a lien on any of the Debtors' inventory in the possession of Kolin.

(c) Olevia Far East (**"OFE"**) Claims. The Debtors have claims against OFE for unpaid receivables pursuant to certain sales representation agreements and related to the sale of certain inventory. The Debtors estimate that these claims would be in the amount of

approximately $15 million. However, the Debtors believe that OFE, which had been located in Hong Kong, no longer exists. The Debtors have no knowledge as to the whereabouts of OFE's principal. Hence the Debtors view the value of such claims as worthless to negligible.

(d) Kolin Affiliate Receivables. The Debtors have certain receivables in the aggregate amount of approximately $13 million that are owed by affiliates and distributors of Kolin. Those receivables are likely to be difficult to collect because the referenced distributors have alleged that the receivables in question are owed to the Debtors by Kolin and not themselves. The Debtors believe that these Kolin-affiliated distributors are suffering financially due to their relationship with Kolin. As a result, the Debtors ascribe little value to those receivables.

(e) Auditors and Debtors' Professionals. The Debtors have claims against their pre-petition auditors, Grobstein, Horwath & Co., LLP (**"Grobstein"**) and Ernst & Young, for professional negligence in the conduct of auditing services (and, in the case of Grobstein, other services, such as its assistance in structuring the Debtors' business relationship with SCHOT). These damages claims are estimated to be for more than $100 million, although the auditors are expected to vigorously defend such actions and certain defenses exist to the claims. Certain shareholders also have alleged that the Debtors may have claims against their pre-petition professionals, including FTI and Debtors' counsel. The analysis of such claims will be left to the Liquidating Trustee to conduct. However, the Debtors do not believe these claims to be meritorious.

(f) Employee Dishonesty Claims. The Debtors have claims against certain former employees for reimbursement of falsified expense claims paid during the pre-petition period. The amount of the claims is approximately $300,000. The Debtors believe that they have insurance coverage for such claims assuming such claims are valid.

(g) Vivitar-Related Claims. The Debtors have a claim against Great Step arising out of their former ownership of Vivitar. The claim is related to having allegedly over-valued inventory and accounts receivable in the amount of more than $11 million. There are collection and liability issues associated with the pursuit of such claims that make it unlikely that the Debtors will be able to obtain a judgment in full.

(h) OIG and Wu Claims. The Debtors filed an adversary complaint on September 11, 2008, against OIG and Jung-Jyh (a/k/a John) Wu seeking an order of specific performance to compel OIG to close on its contractual obligation to purchase the Debtors' assets. OIG sought an order from the Court for a declaration that it was not obligated to close on the transaction and for the return of its deposit. On October 10, 2008, the Court agreed with the Debtors and issued an order of specific performance against OIG and its guarantor, John Wu, compelling OIG and Mr. Wu to close on the acquisition of the Debtors' assets no later than October 16, 2008. OIG failed close on the transaction as ordered by the Court. On October 28, 2008, the Court issued an Order of Contempt against OIG, John Wu and Tung-Chiao (a/k/a Michael) Wu, directing them immediately to pay the Debtors the contract purchase amount of $60 million. The Court further ordered that OIG, John Wu and Michael Wu, so long as they remained in contempt of the Court's order to pay the contract purchase amount, were to be fined

jointly and severally in the amount of $3 million per week and the Wu's were subject to an order of incarceration should they enter the United States. The Debtors successfully collected the $5 million deposit put in escrow by OIG (the proceeds of which were paid over to Silver Point), resulting in a deficiency claim of $55 million. OIG has appealed the judgment and contempt orders to the United States District Court for the District of Delaware. Counsel for OIG and the Wu's has sought to withdraw from further representation of them. In order to collect the $55 million outstanding judgment amount, the Debtors would have to initiate litigation in Taiwan. Significant legal and practical impediments exist to recover a meaningful amount.

(i) Preferences. Due to budgetary and timing constraints, the Debtors have not yet conducted an analysis of preference claims. However, the Debtors have made an estimate of preference claims based on the Debtors schedules and statements which is reflected in the liquidation analysis. These preference claims include amounts paid to DigiMedia of $4.1 million and amounts paid to Taiwan Kolin of approximately $270,000,000. The Debtors expect claims against DigiMedia and Kolin to be difficult if not impossible to collect. In addition, preferences against trade creditors are not preserved.

Allegations of wrongdoing by the Debtors and certain insiders and professionals have been alleged in certain court filings, statements and submissions by certain shareholders, including Ahmed Amr and Charles Cerny. Descriptions of these allegations can be found in the Court's docket and in associated hearing transcripts and submissions.

F. **Pre-Petition Efforts to Find a Solution**

1. Management and Directorship Changes

During the several months pre-petition, SBC experienced resignations from its board of directors and vested the audit committee with authority over an internal investigation. SBC's president and chief executive officer, James Li, was placed on leave and then terminated, and its chief financial officer was placed on leave, was replaced and ultimately resigned. The Debtors retained FTI Consulting Inc. ("**FTI**") personnel as interim executives. FTI retained additional support of counsel and other outside advisors.

2. ThomasLloydCapital Retained to Seek Investment

In the fourth quarter of 2007, the Debtors retained ThomasLloydCapital, LLC, an investment banking firm based in New York, to seek out an investment transaction in order to adequately capitalize the Debtors in the form of a "PIPE" or by raising capital from a supplier. The Debtors engaged in negotiations with one party identified by ThomasLloydCapital.

Nevertheless, the parties could never reach agreement on a term sheet acceptable to the Debtors.[3] The Debtors terminated their relationship with ThomasLloydCapital prior to the Petition Date.

3. Reduction in Workforce

In order to reduce costs, the Debtors reduced their workforce substantially over the several months prior to the Petition Date. They also reduced the number of temporary workers procured through manpower agencies.

4. Opportunity for Internal Restructuring Examined

The Debtors attempted to develop a model for an internal restructuring including a re-negotiation of the secured debt. However, due to the high cost of goods sold and costs associated with research and development and sales, general and administrative expenses (**"SG&A"**) and given that the Debtors had no control over the research and development entity, which is necessary to a stand-alone business model, a suitable business model could not be developed. The Debtors created financial models assuming lower sales and administration expenses and sales to higher volume and higher profit customers. Financial accommodations intended to reduce the need for outside financing were assumed. In all scenarios the high cost of goods sold and SG&A and inability to control research and development precluded a profitable business model.

5. SBC Asset Holding Corp., Formerly Known as Vivitar Corporation

SBC coordinated various efforts to capitalize upon the value of SBC Asset Holding, its wholly owned subsidiary. Upon consultation with the Debtors' Pre-Petition Lenders, SBC retained the services of Qorval, LLC, as a financial professional. SBC also retained the services of KPMG Capital Finance LLC, to explore a sale of SBC Asset Holding. As is described below, SBC Asset Holding was ultimately sold.

6. Diversification of Supply

The Debtors diversified their sourcing for manufacturing. On April 3, 2008, SBC announced a strategic manufacturing agreement with Compal Electronics, Inc. (**"Compal"**), under which Compal would manufacture an initial order for 300,000 Olevia LCD HDTVs at Compal's factories in Kunshan, China. Kolin, SBC's main supplier and manufacturer, would continue to leverage its network of suppliers, to assist Compal to source components at the best prices. DigiMedia, the research and development technology supplier to SBC, and an affiliate of Kolin, was to support Compal on SBC's behalf.

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[3] ThomasLloydCapital LLC reported that it approached or communicated with the following financial players: Iroquois; Enable; Rockmore; Hudson Bay; PEM Group; Sage; DE Shaw; Highbridge; York; Ramius; Midsummer; HBK; Ram; LH Financial; ComVest; and RWB.

7. Expanded Retention of FTI

In order to address exigent financial and operational issues and by agreement with the Pre-Petition Lenders, FTI commenced work with the Debtors in the first quarter of 2008. FTI was initially retained to assist the Debtors to provide information and reporting to the Pre-Petition Lenders, including to create short-term budgets, negotiate appropriate waivers, and assess the available assets of and options by which to improve, the Debtors.

FTI focused on operations and evaluating forecasts developed by the Debtors. FTI came up to speed with internal management and spoke with vendors, customers, and others to help assess the viability of the Debtors' business. FTI also worked to restructure and improve the Debtors' method of operations. FTI had customers furnish letters of credit to finance shipments entering the country from assembly overseas, reducing costs, labor, and delivery times. FTI dealt with a variety of other operational issues and implemented cost savings and excess staff reductions.

In the course of FTI's work, it became apparent that even more resources were required. FTI personnel were added in various management and support positions to shore up the Debtors' capabilities. Later, Gregory F. Rayburn of FTI Palladium Partners was retained as interim chief operating officer and then as interim chief executive officer as of June 4, 2008, which role he continues to fulfill. On August 4, 2008, the Bankruptcy Court entered an Order Authorizing the Continued Employment and Retention of FTI Consulting, Inc., and Certain Employees Thereof, Including Gregory F. Rayburn as Interim Chief Executive Officer of the Debtors, *Nunc Pro Tunc* as of the Petition Date [Docket No. 161], on the terms set forth in the engagement letter dated March 25, 2008. In addition, on July 8, 2008 at Docket No. 18 and as supplemented on January 27, 2009 at Docket No. 819, the Debtors filed the affidavit of Gregory Rayburn filed disclosing FTI's connections to all parties-in-interest in the Debtors' cases

G. **Pre-Petition Sale Efforts**

The Debtors determined that a sale would be the only way to create value for stakeholders. The Debtors considered a variety of potential suitors and approached Kolin, a key Taiwan HDTV supplier to the Debtors with which the Debtors had a variety of relationships. However, no offer could be procured from Kolin. The Debtors have major disputes with Kolin over certain accounting, inventory and deposit issues.

The Debtors also had discussions with respect to a potential transaction with a financial party. Negotiations were not fruitful.

The Debtors had several conversations with Compal to explore a potential equity infusion or transaction. The Debtors approached Compal believing that, as a manufacturer in SBC's supply chain, Compal could benefit from supply chain efficiencies. Compal and the Debtors negotiated toward a term sheet but ultimately no agreement was reached.

The Debtors also reached out to TCV, a Taiwanese manufacturer of plastic molds that has highly-developed skills and technology in the production of complex molds for a variety of

industries ("**TCV**"). TCV, a privately held company established in 1977 with operations in Taiwan, China, Japan, Australia and Hong Kong, is thought to be a leading specialist OEM manufacturer for injection molding painting and tooling in Taiwan for automotive and motorcycle parts, as well as one of the largest toy, battery operated small vehicle product manufacturers (OBM/OEM) in the world, shipping to more than 68 countries with more than 18% of the global market. TCV was thought to be a credible transaction party. A transaction, subject to a Chapter 11 filing and sale of assets subject to Bankruptcy Court authority was negotiated and documented over several weeks, the terms and history of which are described below.

H. Exhaustion of Pre-Petition Date Options

With all options exhausted except a Chapter 11 filing premised upon an asset sale, the Debtors negotiated with the Pre-Petition Lenders to continue funding to assure liquidity pending a transaction to be undertaken in Chapter 11. Debtor-in-possession financing was arranged, as described below. Chapter 11 would provide the Debtors an opportunity to effectuate a quick sale process that would satisfy the DIP Lender and the Pre-Petition Lenders to the extent possible, and achieve the highest and best value for the Debtors' assets. Absent Chapter 11, further and fast erosion of the Debtors' business and relationships was certain.

ARTICLE III

THE CHAPTER 11 CASES

A. Commencement of Cases

On July 8, 2008 (the "**Petition Date**"), the Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code and thereafter continued in the management and possession of their businesses and properties as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. By order dated July 9, 2008, the Debtors' cases were jointly administered for procedural purposes only. No trustee was appointed. An examiner was appointed on August 22, 2008, as set forth below.

B. "First Day" Motions and Related Applications

On the Petition Date, the Debtors filed a number of "First Day" Motions designed to ease the Debtors' transition into Chapter 11, maximize the value of the Debtors' assets and minimize the effects of the commencement of these Chapter 11 Cases. By Orders dated July 9, 2008, the Debtors obtained authority to, *inter alia*: (i) maintain their existing bank accounts and consolidated cash management system (with final order granting waiver of deposit guidelines entered on September 11, 2008); (ii) make payments on account of certain pre-petition obligations, including employee wages and benefits, sales and use taxes, customer programs and practices, freight carriers, warehousemen, and amounts owing to critical vendor DigiMedia (which amounts were never paid to DigiMedia); (iii) provide adequate assurance to their utility providers to ensure continued utility service (final order entered July 31, 2008); (iv) maintain all insurance policies and insurance premium financing; (v) continue certain letter of credit

programs relating to orders placed by Target Corporation; and (vi) obtain interim DIP Financing, as set forth below.

C. Retention of Professionals and Appointment of the Committee

1. Debtors' Professionals

By order dated August 12, 2008, the Debtors retained Greenberg Traurig, LLP to serve as their bankruptcy counsel in these Chapter 11 cases and by order dated August 4, 2008, the Debtors retained Anthony Ostland Baer Louwagie & Ross P.A. ("**AO**"), as conflicts counsel. By order dated August 4, 2008, the Debtors were also authorized to continue the employment of FTI, as their Chief Executive Officer. The Debtors retained EPIQ Bankruptcy Solutions, LLC, as balloting, noticing and claims agent (the "**Balloting Agent**") by order dated July 9, 2008. The Debtors were also authorized to retain certain ordinary course professionals utilized by the Debtors prior to the Petition Date pursuant to the authority granted by the Bankruptcy Court by order dated August 4, 2008. By order dated December 8, 2008, the Debtors retained Huron Consulting Services, LLC, as forensic accountants.

2. Appointment of Creditors' Committee

On July 16, 2008, the United States Trustee appointed the Official Committee of Unsecured Creditors (the "**Committee**"). The members of the Committee are: (i) ESPN Inc.; (ii) LG Electronics USA, Inc.; (iii) Solar Link Technologies, Inc.; (iv) NVC Logistics Group, Inc.; and (v) AFN LLC. By order dated August 4, 2008, the Committee retained Pepper Hamilton, LLP, to serve as its bankruptcy counsel in these Chapter 11 cases. By order dated August 4, 2008, the Committee was authorized to retain J.H. Cohn, LLP, as its financial advisors.

The Committee and the Pre-Petition Lenders have engaged in discovery proceedings. These discovery proceedings involve the production of certain information the Committee and Pre-Petition Lenders believe may be confidential, including, sensitive personal, commercial, financial or business information. Pursuant to such discovery proceedings, by order dated September 5, 2008, the Bankruptcy Court approved a confidentiality stipulation between the Committee and the Pre-Petition Lenders governing the protection and exchange of confidential information.

The Committee has been an active participant in these Chapter 11 Cases.

3. Appointment of Examiner

Upon the motion of the Office of the United States Trustee, pursuant to order entered August 22, 2008, the Court directed the appointment of an examiner. On September 2, 2008, the office of the United States Trustee appointed James S. Feltman as examiner (the "**Examiner**") which was subsequently approved by order of the Court dated September 3, 2008. The Examiner was appointed to, *inter alia*, investigate (i) the facts and circumstances surrounding the decline in the Debtors' assets or the value thereof; (ii) the relationships among and between the Debtors, TCV, Kolin, DigiMedia and that past and present principals, officers and directors; and (iii) the ability and inclination of the Debtors' management to pursue potential claims and causes

of action against the Debtors' former officers and directors, including the directors who selected the Debtors' current chief executive officer.

To facilitate the Examiner's responsibilities, by order dated October 27, 2008, the Court authorized the Examiner to employ (i) Gaffney, Gallagher & Phillip, LLP, as forensic consultant, (ii) Potter, Anderson & Corroon, LLP, as counsel, and (iii) Wilson, Sonsini, Goodrich & Rosati, P.C., as counsel.

The Examiner made a report on October 6, 2008 in open court and described the efforts taken in the course of his examination. Having completed his duties, the Examiner's services were suspended by order of the Bankruptcy Court dated December 8, 2008.

4. Interim Payments

By order entered among the other "first day" orders, the Bankruptcy Court authorized a procedure for submission and payment of partial fees, and expenses, of duly retained professionals subject to further, periodic orders of the Bankruptcy Court. Pursuant thereto, various retained professionals have been paid interim payments, subject to a hold-back and periodic Bankruptcy Court orders. Final approval of compensation and reimbursement of expenses to duly retained professionals is expected to be sought after the Effective Date.

D. DIP Facility/Cash Collateral

By the Interim Order (I) Authorizing Debtors to Obtain Postpetition Financing, (II) Granting Liens and Superpriority Claims to Postpetition Lenders, (III) Authorizing Use of Cash Collateral, (IV) Providing Adequate Protection to Pre-Petition Lenders and (V) Scheduling Final Hearing dated July 9, 2008 (the **"Interim DIP Order"**), the Debtors were authorized to, *inter alia*, (i) enter into the DIP Credit Agreement, (ii) borrow funds, use cash collateral, incur debt and other obligations, grant postpetition liens, make deposits, and provide guaranties and indemnities, and (iii) perform their obligations in accordance with the terms of the Postpetition Financing Documents (as defined in the Interim DIP Order) and Interim DIP Order. The Interim DIP Order also scheduled a hearing to obtain a Final DIP Order (as defined below).

The Interim DIP Order provided authority for the Debtors: (i) to obtain postpetition financing pursuant to the Credit Agreement, among the Debtors and the other parties named therein, as guarantors, the Postpetition Lenders (as defined in the order), and Silver Point, as Postpetition Agent (as defined in the Interim DIP Order); (ii) to grant liens and superpriority claims to and on behalf of and for the benefit of the Postpetition Agent and the Postpetition Lenders in all Collateral to secure any and all of the Obligations; (iii) upon entry of the final order (the "**Final DIP Order**"), to make a partial repayment of the Prepetition Obligations (as defined in the Interim DIP Order); (iv) to use Cash Collateral (as defined by section 363(a) of the Bankruptcy Code) pursuant to the terms of the budget annexed to the motion, including any funds subject to a right of setoff in favor of the Pre-Petition Lenders, any funds on deposit or maintained in any account subject to a control agreement with the Pre-Petition Agent, and any proceeds of the Prepetition Collateral; and (v) pending the final hearing, to and including the date on which the Final DIP Order is entered, to obtain emergency postpetition loans and financing in

an amount not to exceed $7,500,000 under the Interim Facility (as defined in the Final DIP Order), in addition to amounts of Cash Collateral (as defined in the Final DIP Order) permitted to be used by the Debtors.

On August 7, 2008, the Court entered the Final DIP Order, permitting the Debtors to borrow a maximum amount of up to $23,000,000 or such other amount as provided in the DIP Credit Agreement. Pursuant to the terms of the DIP Credit Agreement, the total amount of the DIP Financing is to be repaid on the date which is the earliest of (i) the earlier of the Effective Date and the date of the substantial consummation (as defined in Section 1101(2) of the Bankruptcy Code), in each case, of a plan of reorganization or a plan of liquidation in any of the Chapter 11 Cases that has been confirmed by an order of the Bankruptcy Court, (ii) the date on which the sale of all or substantially all of the assets of the Borrowers and Guarantors (as are defined in the Final DIP Order) is consummated pursuant to Section 363 of the Bankruptcy Code in accordance with the terms of an order of the Bankruptcy Court, and (iii) such earlier due date on which all loans and other obligations for payment of money shall become due and payable in accordance with the terms of the DIP Credit Agreement and the Postpetition Financing Documents (as defined in the Final DIP Order).

The Debtors used the proceeds of the DIP Financing (a) to fund ongoing working capital requirements of the Debtors including, without limitation, payments of the administrative expenses of the kind specified in Section 503(b) of the Bankruptcy Code incurred in the ordinary course of business of the Debtors or otherwise approved by the Bankruptcy Court (and not otherwise prohibited); and (b) to pay for fees, costs and expenses, including, without limitation, Carve-Out Expenses (as defined in the Final DIP Order).

On November 18, 2008, the Debtors filed their motion to approve modification of the Final DIP Order. The initial Budget annexed to the Final DIP Order provided a budget through August 29, 2008. The initial Budget has been consensually amended pursuant to the terms of the Final DIP Order several times, mostly to change various line items, update the timing of payments and disbursements, and extend the timeframes covered by the Budget. The modification of the Final DIP Order was approved by order of the Bankruptcy Court dated December 8, 2008, which decreased the line item for Committee Professionals to $5000.00 per week. The most recent Budget ran through December 31, 2008 and the Debtors are in the process of preparing an extended Budget.

E. **Proposed Sale Transaction**

1. Anticipated Sale of Substantially all of the Debtors' Assets

Prior to the Petition Date, the Debtors negotiated an asset purchase agreement (the "**Asset Purchase Agreement**") with Olevia International Group, LLC, an affiliate of TCV, to purchase substantially all of the Debtors' assets (the "**Purchaser**"). The negotiations and documentation took weeks to accomplish and were arduous. Both parties were represented by counsel.

On the Petition Date, the Debtors filed a motion requesting approval to sell certain of the Debtors' assets (the "**Purchased Assets**") free a clear of all liens, claims, encumbrances, and

other interests (the "**Sale Transaction**"). In connection with the anticipated sale of the Purchased Assets, the Debtors also sought the approval of (a) certain bidding procedures and protections, and related dates and deadlines in respect of the sale, (b) the procedures and related dates and deadlines in respect of the assumption and assignment of some or all of the Debtors' executory contracts and unexpired leases, and (c) a form of cure notice.

The Debtors determined that a reorganization was not a viable option due to the Debtors' liquidity constraints and problematic business model. The Debtors proposed the sale of the Purchased Assets after thorough consideration of all viable alternatives, and believed that the sale was supported by sound business reasons. Hence, the Debtors determined, with the full support of the Lenders, that a sale of the Purchased Assets would provide the best and most efficient means for the Debtors to maximize the value of their Estates, and avoid further deterioration in value.

The Bankruptcy Court established bidding procedures, and, by order dated August 4, 2008, and revised order dated August 8, 2008, the Court approved the Sale Transaction, and related relief. On August 20, 2008, the Debtors held the auction whereby the Purchased Assets were sold. Upon conclusion of the auction, the Purchaser, the stalking-horse bidder, was the successful bidder, no other bids having been made. Thus, on August, 22, 2008, the Court entered an order approving the sale of the Purchased Assets to the Purchaser with closing set for September 2, 2008 and subsequently extended to September 15, 2008 (the "**Closing**"). In reaching its determination the Court found that (i) due and proper notice of the sale and assumption and assignment of executory contracts was given; (ii) a sufficient basis existed requiring the Debtors to sell the Purchased Assets and such sale was in the best interest of the Debtors; (iii) the purchaser was a good faith purchaser; (iv) the terms and conditions of the Asset Purchase Agreement and the sale, and total consideration were fair and reasonable; (v) the auction process was fair and reasonable and the Purchaser's purchase price was the highest and best offer; (vi) Olevia would not be subject to successor liability; (vii) the Debtors could assume and assign certain listed contracts to the Purchaser (subject to certain parties to the assumed contracts having a right to further object and which issues were resolved); and (viii) the Purchased Assets were free and clear of all claims, liens and encumbrances, but would not affect the rights of Funai Electric Co., Ltd., and Funai Corporation, Inc., in an action pending before the International Trade Commission (as described above).

The Debtors and the Purchaser proceeded to negotiate final issues and move toward Closing, and the Debtors expanded significant efforts to ready the transaction for Closing.

On September 10, 2008, and prior to the Closing, the Purchaser filed an emergency motion for an order (i) alleging that (a) the Debtors did not comply and could not comply with the closing conditions in the Sale Transaction and had materially breached the Asset Purchase Agreement, and (b) the Purchaser was excused from performing at Closing; (ii) enforcing the terms of the Asset Purchase Agreement for return of the deposit to the Purchaser; and (iii) compelling the Debtors to comply with the terms of the Bankruptcy Court's critical vendor order authorizing certain payment to TCV. On September 11, 2008, in response to the Purchaser's motion, the Debtors filed a complaint in an adversary proceeding seeking specific performance, injunctive relief compelling the Purchaser to perform under the Asset Purchase Agreement, and

damages. The Court heard the motion and adversary complaint and on October 10, 2008, denied the Purchaser's motion and granted the relief requested in the Debtors' adversary complaint compelling the Purchaser to take all action required to close and consummate the Asset Purchase Agreement by October 16, 2008.

On October 13, 2008, the Purchaser filed its notice of appeal from the Bankruptcy Court's order dated October 10, 2008 compelling the Purchaser to perform under the Asset Purchase Agreement. On October 16, 2008, the Bankruptcy Court, on its own initiative, issued an order to show cause why the Purchaser and John Wu (a principal of the Purchaser and guarantor of its obligations under the Asset Purchase Agreement) had not closed on October 16, 2008 as required by the order dated October 10, 2008. By order dated October 28, 2008, the Bankruptcy Court held the Purchaser, John Wu and the Purchaser's controlling officers and directors, including Tung-Chiao (a/k/a Michael) Wu (a principal) in civil contempt for failing to close and perform under the Asset Purchase Agreement on October 16, 2008, further ordering the Purchaser to close by October 29, 2008 and assessing the Purchaser with sanctions accruing on a daily basis for each day that it would not have closed thereafter. On October 29, 2008, the Purchaser filed a motion seeking a stay of the October 10, 2008 judgment pending appeal, and appeal of the October 28, 2008 order for civil contempt. By order dated November 3, 2008, the Bankruptcy Court denied the Purchaser's motion for a stay pending appeal, but granted a temporary stay of certain sanctions (no longer applicable), and stay of incarceration of John and Michael Wu for contempt. The temporary stay of the Bankruptcy Court's contempt order has expired and the contemnors continue to be subject to the contempt sanctions through the date of the filing of this Disclosure Statement.

As of the date hereof, the Purchaser has not closed on the sale of the Purchased Assets and both appeals remain pending The Debtors are pursuing and will continue to pursue such other and further means, as appropriate, in order to effectuate the closing, whether to the Purchaser, the Pre-Petition Lenders or authorized party if available. To the extent the Debtors' sale of the Purchased Assets cannot be consummated by the Effective Date of the Plan, the Purchased Assets will vest in the Lender Trust.

2. Sale of Substantially All of SBC Asset Holding's Assets

On motion of the Debtors and by order dated August 20, 2008, the Court authorized SBC to vote its equity interest in its wholly owned subsidiary, SBC Asset Holding, to consent to the sale of substantially all of SBC Asset Holding's assets. The Debtors, upon consultation with the Pre-Petition Lenders, the DIP Lenders and the Committee, believed that the sale of substantially all of SBC Asset Holding's assets was the best way to capitalize upon the value of the 100% equity interest in SBC Asset Holding and maximize the return to the Debtors' Estates. With the sale of its own assets anticipated, there was every reason for SBC to also liquidate SBC Asset Holding for the benefit of and to preserve value for Creditors. KPMG was engaged to conduct the sale. The sale was concluded on or about August 15, 2008 to Sakar International, reportedly a market leader in digital cameras and related accessories. Gross proceeds of approximately $11,800,000.00 were received; certain expenses of the transaction were paid and, upon the consent of the Committee, the net proceeds were remitted to the Pre-Petition Lenders to reduce the debt owed by the Debtors.

3. Sale of LCoS Tooling Set

On November 14, 2008, the Debtors filed their motion for entry of an order authorizing and approving the sale of an LCoS plastic injection mold tooling set (the "**Tooling Set**") as a *de minimis* asset free and clear of all liens, claims, interests, and encumbrances, with any such liens, claims, interests, and encumbrances attaching to the sale proceeds with the same validity, extent, and priority as immediately prior to the sale.

The Tooling Set consists of a series of molds used in the plastic injection process to create plastic frames for televisions using LCoS technology. The Debtors proposed to sell the Tooling Set to Nelson Technology ("**Nelson**") for $120,000 upon the terms set forth in an agreement negotiated between the Debtors and Nelson (the "**Tooling Sale Agreement**"). The Tooling Sale Agreement provided for the "as is" sale of the Tooling Set with no warranties or transfer of technology, rights or otherwise, except as provided in the Tooling Sale Agreement. Payment under the Tooling Sale Agreement was to be made to the Debtors through Nelson's issuance of a letter of credit for $120,000 which the Debtors could draw within 60 days after the Tooling Sale Agreement was signed by both the Debtors and the Buyer.

By order dated December 8, 2008, the sale of the Tooling Set was approved by the Bankruptcy Court and the transaction has or is expected to close shortly.

4. Proposed Sale of Brand

Although no motion has been filed as of the date hereof, the Debtors anticipate that they will file a motion seeking authority to sell the "Olevia" brand, as well as the Debtors' patent and other intellectual property rights pending the Effective Date. If no such sale closes prior to the Effective Date, any proceeds from the sale shall vest in the Lender Trust.

5. Proposed Sale of All Remaining Inventory and Other Personal Property

Although no motion has been filed as of the date hereof, the Debtors anticipate that they will file a motion seeking authority to sell substantially all their remaining inventory and other personal property. If no such sale closes prior to the Effective Date, any proceeds from the sale shall vest in the Lender Trust.

F. **Claims Bar Date**

1. General Pre-Petition Claims Bar Date

In accordance with Bankruptcy Rule 3003(c)(3), by order dated July 31, 2008, and amended order dated August 4, 2008, the Bankruptcy Court established September 8, 2008, at 5:00 p.m. (Eastern time) (the **"Bar Date"**) as the last date by which Creditors permitted to file proofs of Claims in these Chapter 11 Cases. By this same order, the Bankruptcy Court established January 5, 2009 at 5:00 pm. (Eastern time) (the **"Governmental Unit Bar Date"**) as the last date by which governmental units are permitted to file proofs of Claims in these Chapter 11 Cases. Pursuant to Bankruptcy Rule 3003(c)(2), any Creditor whose Claim was not scheduled by the Debtors or was scheduled as disputed, contingent, or unliquidated, and who

failed to file a proof of Claim on or before the Bar Date may not be treated as a Creditor with respect to that Claim for purposes of voting on the Plan or receiving a distribution thereunder. The Holder of any Claim who failed to file a proof of Claim on or before the Bar Date or any other date fixed by order of the Bankruptcy Court, as applicable, is forever barred, estopped and enjoined from (i) asserting any and all Claims that such Holder possesses against the Debtors and (ii) voting upon, or receiving distributions under, the Plan. Any proof of claim filed after the Bar Date (or Governmental Unit Bar Date) will be disallowed under the Plan unless otherwise provided therein, or ordered by the Bankruptcy Court.

2. Administrative Claims Bar Dates

Pursuant to an order dated July 31, 2008, and amended order dated August 4, 2008, the Bankruptcy Court established September 8, 2008, at 5:00 p.m. (Eastern time) as the deadline by which all persons and entities holding or wishing to assert a claim (as defined in Section 101(5) of the Bankruptcy Code) against the Debtors' Estates, subject to certain identified exceptions, that: (a) may have arisen, accrued or otherwise become due and payable during the period from the Petition Date through September 8, 2008; (b) is allowable as an administrative expense claim under Section 503(b) of the Bankruptcy Code; and (c) is entitled to first priority under Section 507(a)(2) of the Bankruptcy Code, had to file a request for the allowance of such Administrative Claim or be forever barred from filing or asserting such Administrative Claim against the Debtors (or any successor thereto) or their respective properties. Any request for allowance of any other Administrative Claim accruing between September 8, 2008 and April 10, 2009 must be filed no later than April 10, 2009 at 5:00 p.m. (Eastern time) as set forth in the Order (A) Fixing Deadline for Filing Requests for Allowance of Administrative Expense Claims Incurred Between September 8, 2008 and April 10, 2009 and (B) Designating Form and Manner of Notice Thereof [Docket No. 989]. Any request for allowance of any other Administrative Claim, including, without limitation, Professional Fee Claims, and Administrative Claims accruing between April 10, 2009 and the Effective Date, must be filed no later than thirty days after the Effective Date.

Any Holder of such an Administrative Claim who fails to file a timely request for the allowance of an Administrative Claim: (i) shall be forever barred, estopped and enjoined from asserting such Administrative Claim against the Debtors or any trust created under the Plan (or filing a request for the allowance thereof), and the Debtors, their property and any trust created under the Plan shall be forever discharged from any and all indebtedness or liability with respect to such Administrative Claim; and (ii) such Holder shall not be permitted to participate in any distribution under the Plan on account of such Administrative Claim.

G. **Causes of Action**

1. General

All Causes of Action (not including Sale Causes of Action) of the Debtors will be transferred to and vest in the Liquidation Trust on the Effective Date, and will be pursued solely by the Liquidation Trustee on behalf of the Liquidation Trust. All Sale Causes of Action of the Debtors will be transferred to and vest in the Lender Trust on the Effective Date, and will be pursued solely by the Lender Trustee on behalf of the Lender Trust. While all Causes of Action

(not including Sale Causes of Action) will be preserved and may be pursued by the Liquidation Trustee on and after the Effective Date, and all Sale Causes of Action will be preserved and may be pursued by the Lender Trustee on and after the Effective Date, a non-exhaustive list of potential Causes of Action and Sale Causes of Action is provided in the Schedule of Causes of Action attached hereto as Exhibit II. For a further discussion of the Causes of Action, please see the "Causes of Action" section below, and the discussion on the "Retention and Transfer of Causes of Action", below.

By motion dated November 18, 2008, the Debtors sought the entry of an order (i) granting the Committee standing to commence and prosecute certain claims and actions against the Debtors' directors and officers, or alternatively, (ii) (a) creating a pre-confirmation litigation trust to prosecute such actions and (b) approving the form of trust agreement governing pre-litigation litigation trust. Complicating matters, the deadline for asserting claims under these insurance policies was November 30, 2008.

The Debtors submitted that in order to maximize the value of the Debtors' director and officer litigation with respect to certain directors' and officers' insurance policies, it was essential that the claims against the directors and officers (the "**D&O Actions**") be pursued by the ultimate beneficiaries of the claims, the Debtors' creditors. The Debtors' insurance policies contain standard "insured versus insured" liability exclusions that prevent the Debtors from obtaining a recovery from their insurers on account of claims made by one insured (the Debtors) against another insured (the Debtors' directors and officers).

On November 25, 2008, the Bankruptcy Court entered an Order Granting the Creditors' Committee Standing to Prosecute Actions on Behalf of the Debtors' Estates Against the Debtors' Directors and Officers or, Alternatively, Authorizing the Creation of a Litigation Trust to Prosecute Actions on Behalf of the Debtors' Estates Against the Debtors Directors and Officers, and Approving Form of Trust Agreement.

On November 26, 2008, the Committee filed a complaint against James Li, Man Kit (Thomas) Chow, Michael K Chan, Vincent F. Sollitto, Wayne Pratt, John S. Hodgson, David P. Chavoustie, Max Fang, Christopher C. Liu, Yashushi Chikagami, Shih-Jye Cheng alleging various breaches of fiduciary duty.

2. Accounts Receivable

The Debtors estimate that as of the Effective Date they will have approximately $23,000,000.00 in accounts receivable, however it is uncertain how much of this amount will ultimately be collectible. The right to collect accounts receivable will vest in the Lender Trust.

H. **Directors and Officers**

1. Directors

Prior to the anticipated closing of the Sale Transaction, SBC's and Syntax Groups' sole director was Michael Garnreiter. SPC's directors were Michael Garnreiter, David P. Charvoustie

and Donald J. Puglisi. On the Effective Date, the Liquidation Trustee of the Liquidation Trust shall serve as the sole director of the Debtors.

2. Officers

Prior to the closing of the Sale Transaction, the Debtors' officers were Gregory F. Rayburn - chief executive officer; Brad Lines - chief financial officer; Michael Miller - general counsel. On the Effective Date, the Liquidation Trustee of the Liquidation Trust shall serve as the sole officer of the Debtors.

3. Other Matters Relating to Directors and Officers

(i) Motion to Advance Defense Costs to Former SBC Directors and Officers

On July 31, 2008, Vincent F. Sollitto, Jr., Wayne Pratt, James Ching Hua Li, Man Lit (Thomas) Chow, John S. Hodgson, David P. Chavoustie, Shih-Jye Cheng, Yasushi Chikagami, Max Fang, and Christopher C. Liu (collectively, the "**Movants**"), current and former directors and officers of SBC filed their motion for entry of an order authorizing National Union Fire Insurance Company of Pittsburgh Pennsylvania ("**National Union**"), Navigators Insurance Company, and Liberty Insurance Company (the "**Insurers**") to advance and/or reimburse defense costs and other loss, in accordance with and subject to the terms and conditions of certain the "D&O Policies" issued by the Insurers to SBC.

In defending themselves in certain civil actions, the Movants incurred and are continuing to incur legal and related expenses. The Movants demanded upon National Union payment due under the applicable D&O policy and an order from the Bankruptcy Court including relief from the automatic stay, if applicable.

By order dated October 9, 2008, the Bankruptcy Court entered an order granting the Movant's requests upon certain conditions and limitations. Those limitations include conditions that (i) the Movants must report to the Debtors the total aggregate amount of defense costs actually paid and submitted to payment to the D&O Insurers, and (ii) such report is limited to total aggregate dollar amounts only of defense costs, with separate delineation of attorneys' fees and costs and expenses actually paid, as more fully set forth in the order.

(ii) Motion to Compel Greg Rayburn to File Affidavit Regarding SBC's Bankruptcy Filing

On October 22, 2008, Ahmed Amr, an alleged shareholder of SBC, filed his motion to compel the Debtors' interim CEO, Greg Rayburn, to file an amended affidavit to reflect the circumstances that led to the filing of the Chapter 11 Cases. Mr. Amr alleges that based on certain presentations made to the Bankruptcy Court by the Examiner and its counsel, there are discrepancies in Mr. Rayburn's first day affidavit. Thus, Mr. Amr sought an order compelling Mr. Rayburn to amend his affidavit. On October 27, 2008, the Debtors filed a response to Mr. Amr's motion, and after a hearing, on December 3, 2008, the Bankruptcy Court denied Mr. Amr's motion.

4. Investigation of Directors and Officers

The AO firm conducted an investigation into the conduct and omissions of the Debtors' former directors and officers on behalf of the Debtors with the assistance of Huron as forensic accountants. AO and Huron looked specifically at the issues raised by the SEC and in the various pre-petition actions filed against the Debtors. The product of the AO investigation will be of use in prosecuting actions pending the Effective Date and by the trusts against former directors and officers, and others. AO is now counsel for the Committee and has commenced litigation against the Debtors' former directors and officers, as set forth in greater detail in Article II.E.2 above.

As set forth in Article II.E.2 above, the Pre-Petition Lenders have also commenced an action against the Debtors' former directors and officers, and others, asserting causes of action arising out of pre-petition conduct including certain elements that may have been the subject of investigation by the Examiner and AO. This litigation is expected to continue post-Effective Date.

I. Executory Contracts and Unexpired Leases

1. Motion to Compel Lasertech Computer Distributor, Inc., to perform under Contract

On August 8, 2008, the Debtors filed their motion for entry of an order (a) compelling Lasertech Computer Distributor, Inc. (including its affiliates, officers, directors, and representatives) ("**Lasertech**"), to perform under the executory contract between Lasertech and the Debtors pending assumption or rejection thereof.

SBC provided HDTVs to Lasertech for resale to retail customers pursuant to an ongoing distribution agreement between those entities. On each invoice submitted to Lasertech, SBC allowed for certain deductions from the amount due from Lasertech for the HDTVs. Permissible deductions included tax charges, rebate allowances, cooperative advertising charges, charges related to returns of goods, and freight allowances. That is, a specific deduction for each allowable category, in a specific amount, needed to be included on each invoice, so that the grand total of allowed deductions is readily ascertainable. Lasertech owed SBC approximately $1,307,665 for HDTVs that Lasertech received from SBC.

Despite acknowledging this outstanding amount, Lasertech refused to pay this sum, instead claiming that it is holding back the entire amount owed. Lasertech does not contend that this $1,307,665 constitutes allowable deductions from specific invoices. Lasertech claims this amount to protect itself from undetermined potential losses in the wake of the Debtors' Chapter 11 filing. This motion remains outstanding and was taken under advisement by the Bankruptcy Court.

2. Motion to Assume Certain Sales Advisory Board Agreements

On August 29, 2008, the Debtors filed their motion seeking authorization to assume certain sales advisory board agreements, approving the proposed cure amounts related thereto,

and authorizing the Debtors to pay such cure amounts. The sales advisory board consisted of individuals or entities that represented the Debtors to their key customers.

With the failure of the proposed sale transaction to the Purchaser, the Debtors had no cause to pursue the assumption of the sales advisory board agreements, and the motion remains pending.

3. Termination of Warehouse Lease

The Debtors leased a second facility in City of Industry, California, which served as additional warehouse space. By order dated September 11, 2008, the Bankruptcy Court entered an order (i) authorizing the termination of a warehouse lease with Majestic Realty Co., and Fairway Sub C, LLC (**"Majestic"**), (ii) approving a related lease termination agreement, and (iii) authorizing the sale of surplus furniture and similar personal property on the premises. Pursuant to the order, the Bankruptcy Court ordered that the landlord is not entitled to any rejection damages or other claims arising prior to July 31, 2008; provided, however, that the landlord reserved the right to assert claims arising on or after August 1, 2008 and that the Debtors reserved their right to object. The order also permits the Debtors to sell certain furniture for $55,000 pursuant to the terms of a furniture bill of sale.

On or about February 3, 2009, the Debtors and Majestic entered into a stipulation (the **"Majestic Stipulation"** whereby Majestic consented to extend the Debtors' time to elect to assume or reject the lease for the property located at 20480 E. Business Parkway, City of Industry, California, pursuant to section 365(d)(4) of the Bankruptcy Code, through and including May 1, 2009. In addition, the Debtors have agreed to grant the landlord for the property located at 20275 E. Business Parkway, City of Industry, California, an allowed administrative claim in the amount of $60,353.56 to be paid pursuant to the terms of the Majestic Stipulation. The Bankruptcy Court entered an order approving the Majestic Stipulation on February 4, 2009 [Docket No. 843].

4. Motion to Compel Solar Link and Others to Perform Under Executory Contracts

The Debtors experienced a refusal of a manufacturer to ship finished inventory on a post-petition basis, and sought relief of the Bankruptcy Court. By order dated October 3, 2008, the Bankruptcy Court entered an order compelling Solar Link International, Inc. (including its affiliates, officers, directors, and representatives) ("**Solar Link**") to perform under a certain executory Original Equipment Manufacturer Agreement (the "**OEM Agreement**") pending assumption or rejection thereof. Specifically, the Court held that each purchase order between the Debtors and Solar Link identified the price, type and quantity of goods to be sold and is a separate contract or agreement, subject to the terms agreed in the OEM Agreement. On October 3, 2008, the Bankruptcy Court entered the Order Granting Motion of the Debtors for Order Compelling Solar Link Technologies, Inc. to Perform Under Executory Contract Pending Assumption or Rejection. On October 13, 2008, Solar Link filed a notice of appeal. On February 17, 2009, the Bankruptcy Court entered an Order approving a settlement between Solar Link and the Debtors, pursuant to which all claims that were the subject of the Debtors' motion

to compel and Solar Link's appeal were resolved, and pursuant to which the Debtors were entitled to payment of $300,000.00.

Similarly, the Debtors filed motions seeking similar relief with respect to other suppliers, who notwithstanding the pendency of the Chapter 11 Cases, threatened to withhold payment or goods to the Debtors. With each such party the Debtors entered into settlements designed to minimize litigation and maximize recoveries to the Estates.

5. Motion of SRS Labs, Inc., to Compel Assumption or Rejection of Contract

By motion dated October 20, 2008, SRS Labs, Inc. ("**SRS**"), filed its motion to (a) compel SBC to assume or reject a certain technology license agreement dated January 23, 2008, pursuant to which SRS Labs allegedly licenses certain technology rights to SBC; and (b) allow SRS's administrative expense claim and directing SBC to immediately pay such claim.

By agreement of the Debtors and SRS, the contract between the parties would be rejected, with the allowance and amount of any administrative claim to be deferred; such agreed relief was granted by order of the Bankruptcy Court dated December 8, 2008.

6. Motion of National City Vendor Finance, a division of National City Commercial Capital Company, LLC, Assignee of Oracle Credit Corporation and Oracle USA, Inc. for Allowance and Payment of Administrative Expense and to Compel Assumption or Rejection of Unexpired Lease

By Motion dated September 8, 2008, National City Vendor Finance, a division of National City Commercial Capital Company, LLC, Assignee of Oracle Credit Corporation and Oracle USA, Inc. (**"National City"**), filed a motion seeking entry of an order (a) granting allowance and payment of post-petition rent as an administrative expense; and (b) requiring the Debtors to immediately assume or reject a certain unexpired lease.

By agreement of the Debtors and National City, National City's administrative expense claim was allowed in the amount of $445,305.80, with such claim to be paid in accordance with the Plan. The agreements between the Debtors and National City were deemed rejected as of midnight, prevailing Eastern time, on December 31, 2008. Such agreed relief was granted by order of the Bankruptcy Court dated January 7, 2009.

7. Extension of Time to Assume or Reject Executory Contracts/Unexpired Leases

By order dated November 5, 2008, upon the Debtors' motion, the Court extended the period during which the Debtors are required to assume, assume or assign or reject unexpired leases of nonresidential real property to and including February 3, 2009. Further extensions may be sought by the Debtors.

8. Motion to Reject Agreement with ACT Litigation Services, Inc.

Effective as of April 28, 2008, SBC entered into a Proposed Statement of Work with ACT Litigation Services, Inc. ("**ACT**"), whereby ACT agreed to provide certain services to

SBC, including, but not limited to, collecting and storing electronically stored information, forensic web hosting, and related discovery and database services (the "**ACT Agreement**").

The Debtors determined that the review platform and web-hosting services provided by ACT under the ACT Agreement no longer provided an efficient, cost-effective solution to effectively manage certain investigations and litigation and that it is in the best interests of their bankruptcy Estates to reject the ACT Agreement in order to avoid the incurrence of any further administrative expense claims related to the ACT Agreement. Therefore, on November 12, 2008, the Debtors sought rejection of the ACT Agreement, together with the corresponding reduction in the Debtors' post-petition financial obligations thereunder, and that such reflects the Debtors' exercise of sound business judgment, is in the best interests of their Estates and creditors, and should be granted. By order dated December 8, 2008, the ACT Agreement was rejected.

9. Motion to Reject Substantially All of the Debtors' Executory Contracts and Unexpired Leases

On January 30, 2009, the Debtors filed Motion for Order Authorizing Rejection of Substantially all Executory Contracts and Unexpired Leases. The Debtors are party to numerous executory contracts and unexpired leases primarily consisting of service and equipment contracts and leases, vendor agreements, and other similar agreements related to the Debtors' operations. The Debtors determined in their reasonable business judgment that it is in the best interests of their bankruptcy estates to reject substantially all such remaining contracts and leases. This motion remains pending.

J. **Motion to Have Judge Shannon Recuse Himself**

On December 8, 2008, Mr. Amr filed a motion seeking the recusal of the judge presiding over the Chapter 11 Cases. On December 22, 2008, the Debtors filed an objection to Mr. Amr's motion, and on December 31, 2008, Mr. Amr filed a response. A hearing on the motion was held and on January 9, 2009, the Bankruptcy Court entered an order denying Mr. Amr's motion.

K. **Avoidance Actions and Other Causes of Action**

Under Sections 547 and 550 of the Bankruptcy Code, the Debtors' Estates may seek, and reserve all rights on behalf of the Liquidation Trust, to avoid and recover all transfers made by a Debtor to or for the benefit of a Creditor, in the ninety days prior to the Petition Date, in respect of an antecedent debt if such transfer was made when the Debtor was insolvent. Transfers made to a creditor that was an "insider" of a Debtor are subject to these provisions if the payment was made within one year of the Petition Date. A preliminary list of the transfers made by the Debtors within the 90-days (and one-year for "insiders") prior to the Petition Date is included in each of the Debtors' Statement of Financial Affairs filed in the Chapter 11 Cases. All Causes of Action arising under Sections 547 and 550 of the Bankruptcy Code, regardless of whether the transfer is included in a Debtor's Statement of Financial Affairs, are preserved under the Plan

and shall vest in, and be transferred to, the Liquidation Trust on the Effective Date, to be pursued by the Liquidation Trustee, in his or her sole discretion, for the benefit of the Liquidation Trust. To date, the Debtors have not completed an analysis of the merits of any actions to avoid and recover any such transfers.

Under Section 548 of the Bankruptcy Code, the Estates may seek, and reserve all rights on behalf of the Liquidation Trust, to avoid and recover all transfers (x) made with either the actual intent to hinder, delay or defraud any entity to which a Debtor was or became, on or after the date that such transfer was made, indebted, or (y) to the extent that the Debtor received less than a reasonably equivalent value in exchange for such transfer and the Debtor either (i) was insolvent or became insolvent, (ii) was engaged or was about to be engaged in business with an unreasonably small capital, (iii) intended to incur, or believed it would incur, debts that would be beyond the Debtor's ability to pay as they matured, or (iv) made such transfer to or for the benefit of an insider, or incurred an obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business. In addition, Section 544 of the Bankruptcy Code enables the Estates to avail themselves of state laws addressing fraudulent conveyances and other types of transfers, including, without limitation, the Uniform Fraudulent Transfer Act and the Uniform Fraudulent Conveyance Act. All Causes of Action arising under Sections 544 and 548 of the Bankruptcy Code are preserved under the Plan and shall vest in, and be transferred to, the Liquidation Trust on the Effective Date, to be pursued by the Liquidation Trustee, in his sole discretion, for the benefit of the Liquidation Trust.

IN ADDITION TO THESE CLAIMS, THE PLAN PROVIDES THAT ALL CAUSES OF ACTION, INCLUDING AVOIDANCE ACTIONS, WILL BE PRESERVED AND PROSECUTED, AS APPROPRIATE, BY (a) THE LIQUIDATION TRUSTEE, ON BEHALF OF THE LIQUIDATION TRUST, OR (b) THE LENDER TRUSTEE ON BEHALF OF THE LENDER TRUST, INCLUDING THE SALE CAUSES OF ACTION. A NON-EXHAUSTIVE LIST OF POTENTIAL CAUSES OF ACTION AND SALE CAUSES OF ACTION THAT HAVE BEEN INVESTIGATED, AND MAY BE PURSUED AFTER THE EFFECTIVE DATE BY THE LIQUIDATION TRUSTEE OR THE LENDER TRUSTEE, ARE SET FORTH ON THE SCHEDULE OF CAUSES OF ACTION ATTACHED HERETO AS EXHIBIT II. THE DEBTORS, AND THE LIQUIDATION TRUSTEE AND THE LENDER TRUSTEE ON BEHALF OF THE LIQUIDATION TRUST AND THE LENDER TRUST (RESPECTIVELY), RESERVE ALL RIGHTS WITH RESPECT TO ALL CAUSES OF ACTION AND SALE CAUSES OF ACTION, NOT ONLY THOSE LISTED IN THE SCHEDULE OF CAUSES OF ACTION.

L. Extension of Period Within Which Debtors May Remove Actions

By order dated October 27, 2008, the Court granted the Debtors' motion to extend the period within which Debtors may remove actions which are at least "related to" proceedings to January 4, 2009.

M. **Motion to Extend Exclusivity to File Chapter 11 Plan**

By motion dated November 5, 2008, the Debtors Filed their motion (a) extending the period during which the Debtors have the exclusive right to file a chapter 11 plan (the "**Exclusive Filing Period**") by ninety (90) days through and including February 3, 2009, and (b) extending the period during which the Debtors have the exclusive right to solicit acceptances thereof (the "**Exclusive Solicitation Period**," and together with the Exclusive Filing Period, the "**Exclusive Periods**") through and including April 6, 2009, or sixty-two (62) days after the expiration of the Exclusive Filing Period, as extended. On February 4, 2009, the Bankruptcy Court entered an Order extend the Exclusive Filing Period through and including February 3, 2009, and the Exclusive Solicitation Period through and including April 20, 2009.

ARTICLE IV
SUMMARY OF THE PLAN

A. **General**

The Plan is a plan of liquidation that contemplates the complete liquidation of the assets of the Debtors, the creation of the Liquidation Trust and Lender Trust and distribution of all proceeds resulting therefrom. In general, the Purchased Assets will vest in the Lender Trust for disposition by the Lender Trustee for the benefit of the Lender beneficiaries thereof. All other assets of the Estates will vest in the Liquidation Trust for disposition by the Liquidation Trustee for the benefit of the beneficiaries thereof.

B. **Substantive Consolidation and Cancellation of Intercompany Claims**

1. Substantive Consolidation

Pursuant to the Substantive Consolidation Order which is sought in the Plan, upon the Effective Date, the Debtors' Estates and all of the debts of all of the Debtors will be substantively consolidated for purposes of treating Claims including for voting, confirmation and distribution purposes. The entry of the Substantive Consolidation Order shall not be interpreted or enforced in any way so as to enhance any right, claim, lien, mortgage or security interest of any Holder of a Secured Claim. The Estates shall be substantively consolidated as of the Effective Date of the Plan. Nothing in the Substantive Consolidation Order shall: (i) alter the state of incorporation of any Debtor for purposes of determining the applicable law of any of the Causes of Action or Sale Causes of Action, (ii) alter or impair the legal and equitable rights of the Liquidation Trust or the Lender Trust to enforce any of the Causes of Action or Sale Causes of Action, respectively or (iii) otherwise impair, release, discharge, extinguish or affect any of the Causes of Action or Sale Causes of Action or issues raised as a part thereof.

If the Bankruptcy Court determines that the Plan is confirmable except for the foregoing provision for substantive consolidation, the Plan Proponents shall seek confirmation of the Plan without substantive consolidation so that distributions hereunder shall be made to Holders of Allowed Claims against each Debtor separately from distributions in the cases of the other Debtors.

C. **Classification and Treatment of Claims and Equity Interests**

The Debtors estimate that at the conclusion of the Claims objection, reconciliation and resolution process, the aggregate amount of Allowed Claims will be as follows: (i) Allowed Administrative Claims (exclusive of Professional Fee Claims): $1,239,912.48; (ii) Allowed DIP Facility Claims: $300,000.00; (iii) Allowed Non-Tax Priority Claims: $0.00; (iv) Allowed Priority Tax Claims: $0.00; (v) Allowed Secured Tax Claims: $0.00; (vi) Allowed Other Secured Claims: $424,684.00; (vii) Allowed Pre-Petition Credit Facility Claims: $125,000,000.00; (viii) Allowed General Unsecured Claims: $65,000,000.00 - $100,000,000.00.

The estimates set forth herein are approximate and based upon numerous assumptions and there is no guarantee that the ultimate amount of Allowed Claims will conform to these estimates. Claims may be filed or identified during the Claims objections, reconciliation and resolution process that may materially affect the foregoing estimates. Although the Debtors believe that certain claims are without merit, and objections will likely be filed to such claims, there can be no assurance that these objections will be successful.

1. Unclassified Claims

The Bankruptcy Code does not require administrative claims to be classified under a Chapter 11 plan. Accordingly, Administrative Claims have not been classified in the Plan.

(i) Administrative Claims

(a) Administrative Claims Bar Dates

Pursuant to the Bankruptcy Court's Administrative Claim Bar Date Order dated July 31, 2008, requests for allowance of Administrative Claims were required to be Filed no later than September 8, 2008, in accordance with the Administrative Claim Bar Date Order. Any request for allowance of any other Administrative Claim, including, without limitation, Professional Fee Claims, and Administrative Claims accruing between September 8, 2008 and April 10, 2009, shall be Filed no later April 10, 2009 at 5:00 p.m., as established by the Bankruptcy Court's Order (A) Fixing Deadline for Filing Requests for Allowance of Administrative Expense Claims Incurred Between September 8, 2008 and April 10, 2009 and (B) Designating Form and Manner of Notice Thereof [Docket No. 989] (the **"Second Administrative Claims Bar Date"**). Any request for allowance of any other Administrative Claim, including, without limitation, Professional Fee Claims, and Administrative Claims accruing between this Second Administrative Claims Bar Date and the Effective Date, shall be Filed no later than thirty (30) days after the Effective Date.

Objections to Professional Fee Claims shall be due no later than twenty (20) days after the respective Professional Fee Claims have been Filed. Any Holder of an Administrative Claim who fails to file a timely request for the allowance of an Administrative Claim: (i) shall be forever barred, estopped and enjoined from asserting such Administrative Claim against the Debtors or the Liquidation Trust Assets or Lender Trust Assets (or filing a request for the allowance thereof), and the Debtors, their property, the Liquidation Trust Assets and Lender

Trust Assets shall be forever discharged from any and all indebtedness or liability with respect to such Administrative Claim; and (ii) such Holder shall not be permitted to participate in any distribution under the Plan on account of such Administrative Claim.

(b) Treatment

Unless otherwise agreed by the Holder of an Allowed Administrative Claim, Allowed Administrative Claims will be paid in full in Cash on the Effective Date, or if Allowed after the Effective Date, as soon as practicable thereafter from the Carve-Out Reserve or from the Lender Trust Funding and Lender Trust Assets, as applicable.

(ii) Liquidation Trust Funding Reimbursement

Notwithstanding anything contained in the Plan to the contrary, the Liquidation Trust Funding shall be paid in full from the proceeds of the Liquidation Trust Assets. The amount to be paid pursuant to this paragraph with respect to such funding is referred to herein as the "Liquidation Trust Funding Reimbursement." The Liquidation Trust Funding Reimbursement shall be paid in Cash in full prior to the payment of any Claims of the Liquidation Trust Beneficiaries, all as more fully provided in the Liquidation Trust Agreement, but after the payment of Allowed Administrative Claim and Allowed Priority Claims.

The Debtors shall timely pay to Anthony Ostlund all fees and expenses for services rendered and expenses incurred in connection with the Chapter 11 Cases. After the Effective Date, the DIP Lenders shall be paid (i) solely from the Custom Bond Refund, an amount equal to the fees and expenses actually paid by the Debtors' estates to Anthony Ostlund for services rendered and expenses incurred between December 1, 2008 and February 13, 2009 in connection with the Chapter 11 Cases and (ii) from the Liquidation Trust Assets, including, but not limited to the Custom Bond Refund, an amount equal to the fees and expenses actually paid by the Debtors' estates to Anthony Ostlund for services rendered and expenses incurred after February 13, 2009 through the Effective Date in connection with the Chapter 11 Cases. Any payment made to the DIP Lenders pursuant to this paragraph shall be made pursuant to the priority of distributions set forth in Article VIII.A.1 of the Plan.

In addition to the foregoing, the following amount shall be reimbursed to the DIP Lenders to the extent that such amount has been paid by the Debtors prior to the Effective Date or is included in the Carve-Out Reserve or is otherwise funded by the DIP Lenders: one half of any increase in compensation payable to Michael Miller for the period subsequent to February 15, 2009 through the Effective Date. Any payment made to the DIP Lenders pursuant to this paragraph shall be made pursuant to the priority of distributions set forth in Article VIII,A.1 of the Plan.

(iii) Lender Trust Funding Reimbursement

Notwithstanding anything contained in the Plan to the contrary, the Lender Trust Funding, including all amounts funded by any of the Pre-Petition Lenders or DIP Lenders to the Lender Trust pursuant to Article VI.B.2.C of the Plan or otherwise, shall be paid in full from the

proceeds of the Lender Trust Assets. The amount to be paid pursuant to this paragraph with respect to such funding is referred to herein as the "Lender Trust Funding Reimbursement." The Lender Trust Funding Reimbursement shall be paid in full in Cash after the payment of all Allowed Administrative Claims and Allowed Priority Claims, but prior to the payment of any other Claims of the Lender Trust Beneficiaries, all as more fully provided in the Lender Trust Agreement.

(iv) DIP Facility Claims

Unless otherwise agreed to by the Holder of an Allowed DIP Facility Claim and the Proponents, each Holder of an Allowed DIP Facility Claim shall receive, in full and final satisfaction of such Allowed DIP Facility Claim (i) its Pro Rata distributions from the Lender Trust, as provided therein, until the earlier of such time as (x) the DIP Facility Claims are paid in full or (y) the Lender Trust Assets are exhausted.

2. Classification and Treatment of Claims and Equity Interests

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

(i) Class 1 – Non-Tax Priority Claims

(a) Classification: Class 1 comprises the Non-Tax Priority Claims against the Debtors.

(b) Treatment: The Plan will not alter any of the legal, equitable and contractual rights of the Holders of Non-Tax Priority Claims. Unless otherwise agreed to by the Holder of an Allowed Non-Tax Priority Claim and the Pre-Petition Agent, each Holder of an Allowed Non-Tax Priority Claim shall be paid (i) in full, in Cash on the Effective Date, or (ii) if such Allowed Non-Tax Priority Claim is allowed after the Effective Date, as soon as practicable thereafter from the Lender Trust Funding; or (iii) on such other day as agreed to by the Lender Trustee and such Creditor, or as otherwise ordered by the Bankruptcy Court.

(c) Estimated Amount: The Debtors estimate that there will be $0.00 in Allowed Non-Tax Priority Claims.

(ii) Class 2 – Priority Tax Claims

(a) Classification: Class 2 comprises the Priority Tax Claims against the Debtors.

(b) Treatment: The Plan will not alter any of the legal, equitable and contractual rights of the Holders of Priority Tax Claims. Unless otherwise agreed to by the Holder of an Allowed Priority Tax Claim and the Pre-Petition Agent, each Holder of an Allowed Priority Tax Claim shall be paid (i) in full, in Cash on the Effective Date, or (ii) if such Priority Tax Claim is allowed after the Effective Date, as soon as practicable

thereafter from the Lender Trust Funding; or (iii) on such other day as agreed to by the Lender Trustee and such Creditor, or as otherwise ordered by the Bankruptcy Court.

(c) Estimated Amount: The IRS has filed a proof of claim in the amount of $17,321,764.57 asserting priority pursuant to section 507(a)(8) of the Bankruptcy Code. The Debtors do not anticipate owing additional tax payments for the fiscal year ending June 30, 2008 due to an estimated tax loss of approximately $142 million. The Debtors filed their federal tax return for the period ending June 30, 2008 in early March 2009 indicating a tax loss of approximately $142 million. Overall, the Debtors estimate that there will be approximately $0.00 in Allowed Priority Tax Claims.

(iii) Class 3 – Secured Tax Claims

(a) Classification: Class 3 *comprises* the Secured Tax Claims against the Debtors.

(b) Treatment: The Plan will not alter any of the legal, equitable and contractual rights of the Holders of Secured Tax Claims. Unless otherwise agreed to by the Holder of an Allowed *Secured* Tax Claim and the Pre-Petition Agent, each Holder of an Allowed Secured Tax Claim shall be paid in full, in Cash on the Effective Date, or if allowed after the Effective Date, as soon as practicable thereafter from the Lender Trust Funding; or at the option of the Proponents, over a period not to exceed six years from the date of assessment, together with interest thereon at such a rate as may be required under the Bankruptcy Code.

(c) Estimated Amount: The Debtors estimate that there will be $0.00 in Allowed Secured Tax Claims.

(iv) Class 4 – Other Secured Claims

(a) Classification: Class 4 *comprises* the Other Secured Claims against the Debtors.

(b) Treatment: The Plan will not alter any of the legal, equitable and contractual rights of the Holders of Other Secured Claims. Unless otherwise agreed to by the Holder of an Allowed Other Secured Claim and the Proponents, the collateral subject to the Allowed Other Secured Claim shall be abandoned to the Creditor as of the Effective Date in full satisfaction of the Allowed Other Secured Claim.

(c) Estimated Amount: The Debtors estimate that there will be approximately $424,684.00 in Allowed Other Secured Claims.

(v) Class 5—Pre-Petition Credit Facility Claims

(a) Classification: Class 5 comprises the Pre-Petition Credit Facility Claims.

(b) Treatment: Holders of Allowed Class 5 Claims shall receive, in full and final satisfaction of their Allowed Class 5 Claims (i) after payment in full of Allowed DIP Facility Claims, Allowed Administrative Claims, the Lender Trust Funding Reimbursement and Allowed Claims in Classes 1 through 3, their Pro Rata distributions from the Lender Trust until the Lender Trust Assets are exhausted and (ii) as to the Pre-Petition Lender Agreed Deficiency Claim, their Pro Rata distributions from the Liquidation Trust until the Liquidation Trust Assets are exhausted.

(c) Order of Distributions from Lender Trust and Liquidation Trust: Distributions on the Pre-Petition Credit Facility Claims shall be made from the Lender Trust and distributions on the Pre-Petition Lender Agreed Deficiency Claim shall be made from the Liquidation Trust. The distributions from the Lender Trust and Liquidation Trust shall be handled as follows:

(i) The Pre-Petition Lender Agreed Secured Claim shall be entitled to be paid in full from the Lender Trust Assets.

(ii) The Pre-Petition Lender Agreed Deficiency Claim will be entitled to recover from the Liquidation Trust Assets up to the Allowed amount of that Claim; provided, that to the extent the Pre-Petition Lenders actually receive any distributions on the Pre-Petition Lender Agreed Deficiency Claim such distribution shall reduce the Pre-Petition Lender Agreed Secured Claim which thereafter can recover from the Lender Trust Assets dollar for dollar.

(iii) After the Pre-Petition Lenders have received Cash distributions on account of the Pre-Petition Lender Agreed Secured Claim from the Lender Trust or from any other third party in an amount equal to $55 million, any further Cash distributions from the Lender Trust or from such third-parties on account of the Pre-Petition Lender Agreed Secured Claim shall reduce such claim and the Pre-Petition Lender Agreed Deficiency Claim dollar for dollar. For purposes of this clause (iii) any amounts received from third parties shall be reduced by the costs and expenses (including reasonable attorneys' fees and expenses) incurred in connection with obtaining such amounts and shall not count toward the $55 million amount set forth above.

(d) Estimated Amount: The Debtors estimate that there will be approximately $125,000,000.00 in Allowed Pre-Petition Credit Facility Claims.

Given the contingent and unliquidated nature of the Sale Causes of Action and Causes of Action, and as a result, the Lender Trust Assets and Liquidating Trust Assets, the Debtors cannot project at this time the recovery under the Plan for Allowed Pre-Petition Credit Facility Claims.

(vi) Class 6—General Unsecured Claims

(a) Classification: Class 6 comprises the General Unsecured Claims against the Debtors.

(b) Treatment: Holders of Allowed Class 6 Claims shall receive, in full and final satisfaction of their Allowed Class 6 Claims, after payment in full of expenses of the Liquidation Trust, and after payment in full of the Liquidation Trust Funding Reimbursement, their Pro Rata (including the Pre-Petition Lender Agreed Deficiency Claim) distributions from the Liquidation Trust.

(c) Estimated Amount: The Debtors estimate that there will be approximately $65,000,000 to $100,000,000 in Allowed General Unsecured Claims.

Given the contingent and unliquidated nature of the Causes of Action, and as a result, the Liquidating Trust Assets, the Debtors cannot project at this time the recovery under the Plan for Allowed General Unsecured Claims.

(vii) Class 7—Equity Interests

(a) Classification: Class 7 comprises the Equity Interests in the Debtors.

(b) Treatment: On the Effective Date, Class 7 Equity Interests will be cancelled. Holders of Allowed Equity Interests will not receive any distribution of any kind under the Plan on account of Allowed Equity Interests; provided, however, that if prior to the closing of the Chapter 11 Cases the Liquidating Trustee, in consultation with the Creditor Representatives, determines that Residual Equity Assets are available for distribution to Holders of Allowed Equity Interests (meaning that additional assets are available after satisfying in full all other pre- and post-Petition Date claims and trust expenses), then, upon reasonable notice to the Holders of Allowed Equity Interests as of the Equity Interest Record Date (which will be the March 11, 2009), and to the United States Trustee, the Liquidating Trustee will file a motion with the Bankruptcy Court requesting approval of procedures for making distributions to the Holders of Allowed Equity Interests as of the Equity Interest Record Date.

The Debtors do not believe that any assets will be available for such distributions.

D. Provisions for Implementation of the Plan

1. The Liquidation Trust

(i) Establishment of the Liquidation Trust

On the Effective Date, the Debtors and the Liquidation Trustee shall execute the Liquidation Trust Agreement and shall take all other steps necessary to establish the Liquidation Trust in accordance with the Plan. Notwithstanding any prohibition of assignability under applicable non-bankruptcy law, on the Effective Date and periodically thereafter if additional

Liquidation Trust Assets become available, the Debtors shall be deemed to have automatically transferred to the Liquidation Trust all of their right, title, and interest in and to all of the Liquidation Trust Assets, and in accordance with Section 1141 of the Bankruptcy Code, all such assets shall automatically vest in the Liquidation Trust free and clear of all Claims and Liens, subject only to the Allowed Claims of the Liquidation Trust Beneficiaries as set forth in the Plan and the expenses of the Liquidation Trust as provided in the Liquidation Trust Agreement. Thereupon, the Debtors shall have no interest in or with respect to the Liquidation Trust Assets or the Liquidation Trust. In connection with the vesting and transfer of the Liquidation Trust Assets, including rights and Causes of Action, any attorney-client privilege, work-product protection, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Liquidation Trust shall vest in the Liquidation Trust. The Debtors and the Liquidation Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges, protections and immunities.

Any refund received by the Debtors relating to or arising from any Customs Bond Deposit shall be segregated by the Debtors and, upon the establishment of the Liquidation Trust on the Effective Date, be transferred to the Liquidation Trust.

To effectively investigate, defend or pursue the Causes of Action and the Liquidation Trust Assets, the Debtors, the Liquidation Trust, the Creditor Representatives and the Liquidation Trustee, and all counsel thereto, must be able to exchange information with each other on a confidential basis and cooperate in common interest efforts without waiving any applicable privilege. Given the common interests of the parties and the Liquidation Trust's position as successor to the Causes of Action, sharing such information among the Debtors, the Liquidation Trust, the Creditor Representatives or their respective counsel shall not waive or limit any applicable privilege or exemption from disclosure or discovery related to such information.

(ii) Treatment of Liquidation Trust for Federal Income Tax Purposes; No Successor in-Interest

The Liquidation Trust shall be established for the primary purpose of liquidating its assets, in accordance with Treas. Reg. § 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidation Trust. Accordingly, the Liquidation Trustee shall in an expeditious but orderly manner, liquidate and convert to Cash the Liquidation Trust Assets, including the Causes of Action, make timely distributions to the Liquidation Trust Beneficiaries and not unduly prolong its duration. The Liquidation Trust shall not be deemed a successor-in-interest of the Debtors for any purpose other than as specifically set forth herein or in the Liquidation Trust Agreement.

The Liquidation Trust is intended to qualify as a "grantor trust" for federal income tax purposes with the Liquidation Trust Beneficiaries treated as grantors and owners of the Liquidation Trust. For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidation Trustee, and the Liquidation Trust Beneficiaries) shall treat the transfer of the Liquidation Trust Assets by the Debtors to the Liquidation Trust, as set forth in

the Liquidation Trust Agreement, as a transfer of such assets by the Debtors to the Holders of Allowed Claims of Liquidation Trust Beneficiaries entitled to distributions from the Liquidation Trust Assets, followed by a transfer by such Holders to the Liquidation Trust. Thus, the Beneficiaries shall be treated as the grantors and owners of a grantor trust for federal income tax purposes.

As soon as practicable after the Effective Date, the Liquidation Trustee (to the extent that the Liquidation Trustee deems it necessary or appropriate in his or her sole discretion) shall value the Liquidation Trust Assets based on the good faith determination of the Liquidation Trust and shall apprise the Creditor Representatives of such valuation. The valuation shall be used consistently by all parties (including the Debtors, the Liquidation Trustee, and the Liquidation Trust Beneficiaries) for all federal income tax purposes. The Bankruptcy Court shall resolve any dispute regarding the valuation of the Liquidation Trust Assets.

The right and power of the Liquidation Trustee to invest the Liquidation Trust Assets transferred to the Liquidation Trust, the proceeds thereof, or any income earned by the Liquidation Trust, shall be limited to the right and power to (i) invest such Liquidation Trust Assets (pending distributions in accordance with the Plan) in (a) short-term direct obligations of, or obligations guaranteed by, the United States of America, (b) short-term obligations of any agency or corporation which is or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof or (c) such other investments as the Bankruptcy Court and the Creditor Representatives may approve from time to time; or (ii) deposit such assets in demand deposits or certificates of deposit at any bank or trust company, which has, at the time of the deposit, a capital stock and surplus aggregating at least $1,000,000,000 (collectively, the "**Permissible Investments**"); provided, however, that the scope of any such Permissible Investments shall be limited to include only those investments that a liquidating trust, within the meaning of Treas. Reg. § 301.7701-4(d), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise.

Subject to the provisions of Article VI of the Plan, the Liquidation Trustee shall distribute to the Liquidation Trust Beneficiaries all net cash income plus all net cash proceeds from the liquidation of the Liquidation Trust Assets (including as Cash for this purpose, all cash equivalents) at such time intervals as decided by the Liquidation Trustee in his or her discretion, after consultation with the Creditor Representatives pursuant to the terms of the Plan. The Liquidation Trust shall make distributions no less frequently than once per twelve-month period, such period to be measured from the Effective Date; provided however, that the Liquidation Trustee may, in his or her sole discretion, cause the Liquidation Trust to retain an amount of net cash proceeds or net cash income reasonably necessary to maintain the value of its assets or to meet Claims and contingent liabilities (including Disputed Claims). The Liquidation Trustee may also determine that in a given period or on the anniversary of the Effective Date, there are insufficient assets to make a distribution.

The Liquidation Trustee may require any Liquidation Trust Beneficiary or other distributee to furnish to the Liquidation Trustee in writing his or its Employer or Taxpayer Identification Number as assigned by the Internal Revenue Service and the Liquidation Trustee

may condition any distribution to any Liquidation Trust Beneficiary or other distributee upon receipt of such identification number.

(iii) Funding of the Liquidation Trust

The Liquidation Trust Funding Amount shall be provided by the DIP Lenders in the initial amount of $250,000.00 or such other greater amount as may be agreed to by the DIP Lenders and the Committee.

(iv) Appointment of the Liquidation Trustee

From and after the Effective Date, the Liquidation Trustee shall serve as trustee of the Liquidation Trust, and shall have all powers, rights and duties of a trustee, as set forth in the Liquidation Trust Agreement. Among other things, the Liquidation Trustee shall: (i) hold and administer the Liquidation Trust Assets, including the Causes of Action, (ii) have the sole authority and discretion on behalf of the Liquidation Trust to evaluate and determine strategy with respect to the Causes of Action, and to litigate, settle, transfer, release or abandon any and all Causes of Action on behalf of the Liquidation Trust, in each case, on any terms and conditions as it may determine in good faith based on the best interests of the Liquidation Trust Beneficiaries, and subject to the approval of the Creditor Representatives as provided in the Liquidation Trust Agreement, (iii) have the power and authority to retain, as an expense of the Liquidation Trust and subject to the approval of the Creditor Representatives, attorneys, advisors, other professionals and employees as may be appropriate to perform the duties required of the Liquidation Trustee hereunder or in the Liquidation Trust Agreement, (iv) make distributions to the Liquidation Trust Beneficiaries as provided in the Liquidation Trust Agreement and the Plan, (v) have the right to receive reasonable compensation for performing services as Liquidation Trustee and to pay the reasonable fees, costs and expenses of any counsel, professionals, advisors or employees as may be necessary to assist the Liquidation Trustee in performing the duties and responsibilities required under the Plan and the Liquidation Trust Agreement, (vi) file, litigate, settle, compromise or withdraw objections to Claims as set forth in Article IX.A of the Plan, and (vii) provide periodic reports and updates to the Creditor Representatives regarding the status of the administration of the Liquidation Trust Assets, including the Causes of Action, and the assets, liabilities and transfers of the Liquidation Trust. In the event the Liquidation Trustee is no longer willing or able to serve as trustee, then the successor shall be appointed by the mutual agreement of the Creditor Representatives, or as otherwise determined by the Bankruptcy Court, and notice of the appointment of such Liquidation Trustee shall be filed with the Bankruptcy Court.

(v) Appointment of the Creditor Representatives

Prior to the Confirmation Hearing, the Committee shall appoint one Committee Member to serve as a Creditor Representative under the Liquidation Trust Agreement. Also prior to the Confirmation Hearing, the Pre-Petition Lenders shall appoint one representative to serve as a Creditor Representative under the Liquidation Trust Agreement. In the event any such Committee Member or representative of the Pre-Petition Lenders is no longer willing or able to serve as a Creditor Representative, then the Creditor Representative may thereafter appoint any

other Committee Member or representative of the Pre-Petition Lenders, as applicable, to serve as successor Creditor Representative by providing notice to the Liquidation Trustee. The Liquidation Trustee shall file notice of such appointment with the Bankruptcy Court. The Creditor Representatives shall: (i) have access to all reports, documents, memoranda and other work product of the Liquidation Trustee related to the Causes of Action and the Liquidation Trust Assets, and, to the extent such items are subject to any privilege or protection against disclosure, the Creditor Representatives and Liquidation Trustee shall enter into a common interest and joint privilege and non-disclosure agreements containing customary terms and conditions, (ii) have the right to monitor the actions of the Liquidation Trustee and to receive monthly status reports from the Liquidation Trustee as to the status of the litigation, settlement, administration and pursuit of the Causes of Action, (iii) have the right of reimbursement from the Liquidation Trust Assets of any reasonable and necessary expenses incurred in connection with serving as Creditor Representatives under the Liquidation Trust Agreement, and (iv) have the right to monitor and receive periodic reports and updates from the Liquidation Trustee regarding the status of the administration of the Liquidation Trust Assets, including the Causes of Action, and the assets, liabilities and transfers of the Liquidation Trust.

(vi) Termination of the Liquidation Trust

The Liquidation Trust will terminate as soon as practicable, but in no event later than the fifth (5th) anniversary of the Effective Date; *provided, however,* that, on or prior to the date of such termination, the Bankruptcy Court, upon motion by a party-in-interest, may extend the term of the Liquidation Trust for a finite period, if such an extension is necessary to liquidate the Liquidation Trust Assets or for other good cause. Notwithstanding the foregoing, multiple extensions may be obtained so long as Bankruptcy Court approval is obtained prior to the expiration of each extended term; *provided, however*, that the Liquidation Trustee receives an opinion of counsel or a favorable ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the Liquidation Trust as a grantor trust for federal income tax purposes.

(vii) Termination of Liquidation Trustee and Creditor Representatives

The duties, responsibilities and powers of the Liquidation Trustee and Creditor Representatives shall terminate in accordance with the terms of the Liquidation Trust Agreement.

(viii) Exculpation; Indemnification

The Liquidation Trustee and Creditor Representatives, and their respective professionals, shall be exculpated and indemnified pursuant to and in accordance with the terms of the Liquidation Trust Agreement.

(ix) Preservation of Records and Documents

The Debtors and Liquidation Trustee shall: (i) take commercially reasonable efforts to preserve all records and documents (including any electronic records or documents) related to

the Causes of Action and the Liquidation Trust Assets for a period of five (5) years from the Effective Date or, if actions with respect to the Causes of Action are then pending, until the Liquidation Trustee notifies the Debtors such records are no longer required to be preserved; and (ii) provide the Liquidation Trustee, Creditor Representatives, the Pre-Petition Agent, the Pre-Petition Lenders and their respective counsel, agents and advisors, with reasonable access to such records and documents.

2. Establishment of the Lender Trust

(i) Establishment of the Lender Trust

On the Effective Date, the Debtors, the Pre-Petition Lenders and the Lender Trustee shall execute the Lender Trust Agreement and shall take all other steps necessary to establish the Lender Trust in accordance with the Plan. Notwithstanding any prohibition of assignability under applicable non-bankruptcy law, on the Effective Date and periodically thereafter if additional Lender Trust Assets become available, the Debtors shall be deemed to have automatically transferred to the Lender Trust all of their right, title, and interest in and to all of the Lender Trust Assets, and in accordance with Section 1141 of the Bankruptcy Code, all such assets shall automatically vest in the Lender Trust free and clear of all Claims and Liens, provided; however, that Funai has asserted that nothing in the Plan may affect the rights of Funai and the Commission regarding Investigation No. 337-TA-617 (as more fully described below), and shall be subject only to the Lender Trust Claims and Lender Trust Funding Reimbursement as set forth in the Plan and the expenses of the Lender Trust as provided in the Lender Trust Agreement. Within 10 days prior to the Confirmation Hearing, the Pre-Petition Agent will designate in writing to the Debtors, the Committee and the United States Trustee which of the Purchased Assets will not be transferred to the Lender Trust. To the extent such Purchased Assets which are not transferred to the Lender Trust still exist on such date, the Confirmation Order will provide that they are deemed abandoned by the Debtors. Thereupon, the Debtors shall have no interest in or with respect to the Lender Trust Assets or the Lender Trust. In connection with the vesting and transfer of the Lender Trust Assets, including rights and Sale Causes of Action, any attorney-client privilege, work-product protection, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Lender Trust shall vest in the Lender Trust. The Debtors and the Lender Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges, protections and immunities.

Funai has asserted that nothing in the Plan shall prejudice the rights of Funai Electric Co., Ltd. (**"Funai Electric"**) and Funai Corporation, Inc. (**"Funai Corp."**) (collectively **"Funai"**) in the action pending before the International Trade Commission (the **"Commission"**) (Investigation No. 337-TA-617), and/or with respect to any orders issued by the Commission relating to Investigation No. 337-TA-617. Funai has asserted that it wishes to reserve its right to argue that the Lender Trust and/or any subsequent purchaser of the Purchased Assets from the Lender Trust will be deemed a successor to the Debtors for purposes of Investigation No. 337-TA-617 and any orders entered by the Commission thereunder or in connection therewith, and the Lender Trust and/or any subsequent purchaser of the Purchased Assets reserves the right to contest any such argument.

To effectively investigate, defend or pursue the Sale Causes of Action and the Lender Trust Assets, the Debtors, the Pre-Petition Agent, the Pre-Petition Lenders, the Lender Trust and the Lender Trustee, and all counsel thereto, must be able to exchange information with each other on a confidential basis and cooperate in common interest efforts without waiving any applicable privilege. Given the common interests of the parties and the Lender Trust's position as successor to the Sale Causes of Action, sharing such information among the Debtors, the Pre-Petition Agent, the Pre-Petition Lenders, the Postpetition Agent, the DIP Lenders, the Lender Trustee and the Lender Trust or their respective counsel shall not waive or limit any applicable privilege or exemption from disclosure or discovery related to such information.

(ii) Treatment of Lender Trust for Federal Income Tax Purposes; No Successor-in Interest

The Lender Trust shall be established for the primary purpose of liquidating its assets, in accordance with Treas. Reg. § 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Lender Trust. Accordingly, the Lender Trustee shall in an expeditious but orderly manner, liquidate and convert to Cash the Lender Trust Assets, including the Sale Causes of Action, make timely distributions to the Lender Trust Beneficiaries and not unduly prolong its duration. The Lender Trust shall not be deemed a successor-in-interest of the Debtors for any purpose other than as specifically set forth herein or in the Lender Trust Agreement.

The Lender Trust is intended to qualify as a "grantor trust" for federal income tax purposes with the Lender Trust Beneficiaries treated as grantors and owners of the Lender Trust. For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Lender Trustee, and the Lender Trust Beneficiaries) shall treat the transfer of the Lender Trust Assets by the Debtors to the Lender Trust, as set forth in the Lender Trust Agreement, as a transfer of such assets by the Debtors to the Holders of Allowed Claims of Lender Trust Beneficiaries entitled to distributions from the Lender Trust Assets, followed by a transfer by such Holders to the Lender Trust. Thus, the Lender Trust Beneficiaries shall be treated as the grantors and owners of a grantor trust for federal income tax purposes.

As soon as practicable after the Effective Date, the Lender Trustee (to the extent that the Lender Trustee deems it necessary or appropriate in his or her sole discretion) shall value the Lender Trust Assets based on the good faith determination of the Lender Trustee and shall apprise the Pre-Petition Lenders of such valuation. The valuation shall be used consistently by all parties (including the Debtors, the Lender Trustee, and the Lender Trust Beneficiaries) for all federal income tax purposes. The Bankruptcy Court shall resolve any dispute regarding the valuation of the Lender Trust Assets.

The right and power of the Lender Trustee to invest the Lender Trust Assets transferred to the Lender Trust, the proceeds thereof, or any income earned by the Lender Trust, shall be limited to the right and power to (i) invest such Lender Trust Assets (pending distributions in accordance with the Plan) in (a) short-term direct obligations of, or obligations guaranteed by, the United States of America, (b) short-term obligations of any agency or corporation which is or

may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof or (c) such other investments as the Bankruptcy Court and the Pre-Petition Agent may approve from time to time; or (ii) deposit such assets in demand deposits or certificates of deposit at any bank or trust company, which has, at the time of the deposit, a capital stock and surplus aggregating at least $1,000,000,000; provided, however, that the scope of any such Permissible Investments shall be limited to include only those investments that a liquidating trust, within the meaning of Treas. Reg. § 301.7701-4(d), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise.

Subject to the provisions of this Article VI.B.2 of the Plan, the Lender Trustee shall distribute to the Holders of Lender Trust Claims the Lender Trust Beneficiaries all net cash income plus all net cash proceeds from the liquidation of the Lender Trust Assets (including as Cash for this purpose, all cash equivalents) at such time intervals as decided by the Lender Trustee in its discretion, after consultation with the Pre-Petition Agent pursuant to the terms of the Plan. The Lender Trust shall make distributions no less frequently than once per twelve-month period, such period to be measured from the Effective Date; provided however, that the Lender Trustee may, in its sole discretion, cause the Lender Trust to retain an amount of net cash proceeds or net cash income reasonably necessary to maintain the value of its assets or to meet Lender Trust Claims. The Lender Trustee may also determine that in any period or on the anniversary of the Effective Date, there are insufficient assets to make a distribution.

The Lender Trustee may require any Holder of Lender Trust Claims or any Lender Trust Beneficiary or other distributee to furnish to the Lender Trustee in writing his or its Employer or Taxpayer Identification Number as assigned by the Internal Revenue Service and the Lender Trustee may condition any distribution to any Lender Trust Beneficiary or other distributee upon receipt of such identification number.

(iii) Funding of the Lender Trust

The Lender Trust Funding Amount shall be provided by the Pre-Petition Lenders in the initial amount agreed to by the DIP Lenders and the Lender Trustee, provided that the Lender Trust Funding Amount shall be sufficient to make distributions to Holders of Allowed Administrative Claims and Holders of Allowed Claims in Classes 1, 2 an 3 to the extent not otherwise satisfied on the Effective Date.

(iv) Appointment of the Lender Trustee

From and after the Effective Date, the Lender Trustee shall serve as trustee of the Lender Trust, and shall have all powers, rights and duties of a trustee, as set forth in the Lender Trust Agreement. Among other things, the Lender Trustee shall: (i) hold and administer the Lender Trust Assets, including the Sale Causes of Action, (ii) have the sole authority and discretion on behalf of the Lender Trust to evaluate and determine strategy with respect to the Sale Causes of Action, and to litigate, settle, transfer, release or abandon any and all Sale Causes of Action on behalf of the Lender Trust, in each case, on any terms and conditions as it may determine in good faith based on the best interests of the Lender Trust Beneficiaries, and subject to the approval of

the Pre-Petition Agent as provided in the Lender Trust Agreement, (iii) have the power and authority to retain, as an expense of the Lender Trust and subject to the approval of the Pre-Petition Agent, attorneys, advisors, other professionals and employees as may be appropriate to perform the duties required of the Lender Trustee hereunder or in the Lender Trust Agreement, (iv) make distributions to the Holders of Lender Trust Claims and to the Lender Trust Beneficiaries as provided in the Lender Trust Agreement and the Plan, (v) have the right to receive reasonable compensation for performing services as Lender Trustee and to pay the reasonable fees, costs and expenses of any counsel, professionals, advisors or employees as may be necessary to assist the Lender Trustee in performing the duties and responsibilities required under the Plan and the Lender Trust Agreement, (vi) file, litigate, settle, compromise or withdraw objections to Claims as set forth in Article IX.A herein, and (vii) provide periodic reports and updates to the Pre-Petition Agent regarding the status of the administration of the Lender Trust Assets, including the Sale Causes of Action, and the assets, liabilities and transfers of the Lender Trust. In the event the Lender Trustee is no longer willing or able to serve as trustee, then the successor shall be appointed by the Pre-Petition Agent, or as otherwise determined by the Bankruptcy Court, and notice of the appointment of such Lender Trustee shall be filed with the Bankruptcy Court. In addition, the Pre-Petition Agent may replace the Lender Trustee at any time and notice of such replacement shall be Filed with the Bankruptcy Court.

(v) Termination of the Lender Trust

The Lender Trust will terminate as soon as practicable, but in no event later than the fifth (5th) anniversary of the Effective Date; provided, however, that, on or prior to the date of such termination, the Bankruptcy Court, upon motion by a party-in-interest, may extend the term of the Lender Trust for a finite period, if such an extension is necessary to liquidate the Lender Trust Assets or for other good cause. Notwithstanding the foregoing, multiple extensions may be obtained so long as Bankruptcy Court approval is obtained prior to the expiration of each extended term; provided, however, that the Lender Trustee receives an opinion of counsel or a favorable ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the Lender Trust as a grantor trust for federal income tax purposes.

(vi) Termination of Lender Trustee

The duties, responsibilities and powers of the Lender Trustee shall terminate in accordance with the terms of the Lender Trust Agreement.

3. Exculpation; Indemnification

The Lender Trustee, and its professionals, shall be exculpated and indemnified pursuant to the terms of the Lender Trust Agreement.

4. Preservation of Records and Documents

The Debtors, Lender Trustee and the Pre-Petition Lenders shall: (i) take commercially reasonable efforts to preserve all records and documents (including any electronic records or documents) related to the Sale Causes of Action and the Lender Trust Assets for a period of five

(5) years from the Effective Date or, if actions with respect to the Sale Causes of Action are then pending, until the Lender Trustee notifies the Debtors such records are no longer required to be preserved; and (ii) provide the Lender Trustee and the Pre-Petition Lenders and their respective counsel, agents and advisors, with reasonable access to such records and documents.

5. Identity of Trustees

The Liquidation Trustee and the Lender Trustee may be the same or a different Person. Co-trustees may be designated in place of a single Person.

6. International Recognition

The Liquidation Trustee and the Lender Trustee shall be: (i) recognized by foreign courts, tribunals and jurisdictions, (ii) the subject of the recognition of comity of such foreign courts, tribunals and jurisdictions, (iii) vested with the authority of a statutory trustee pursuant to the Liquidation Trust Agreement and Lender Trust Agreement, and, as well, with the authority of a Chapter 7 bankruptcy trustee in foreign pursuits and actions.

7. Discovery

The Liquidation Trust and Lender Trust shall be authorized to employ Bankruptcy Rule 2004 and any other bankruptcy tools of discovery as such are available prior to the Effective Date to the Estates.

8. Corporate Action

Upon the entry of the Confirmation Order by the Bankruptcy Court, all matters provided under the Plan involving the corporate structure of the Debtors shall be deemed authorized and approved without any requirement of further action by the Debtors, the Debtors' shareholders or the Debtors' boards of directors. To the extent such action has not been completed subsequent to the entry of the Substantive Consolidation Order, the Debtors (and their boards of directors) shall dissolve or otherwise terminate their existence on the Effective Date, by filing a certificate of dissolution and a copy of the Confirmation Order with the Delaware Secretary of State, and are authorized to dissolve or terminate the existence of wholly-owned non-Debtor subsidiaries following the Effective Date as well as any remaining health, welfare or benefit plans.

9. Cancellation of Notes, Instruments, Debentures and Equity Securities

On the Effective Date, except to the extent provided otherwise in the Plan, all notes, instruments, certificates and other documents evidencing Claims and all Equity Interests in any of the Debtors shall be cancelled and deemed terminated.

10. Compromise and Settlement of Claims

The distributions provided for herein represent the compromise and settlement within the meaning of section 1123(b)(3) of the Bankruptcy Code, and Bankruptcy Rule 9019, of any and all claims and issues that have been asserted, or may be asserted, against the DIP Lenders, the

Postpetition Agent, SPC, the Pre-Petition Agent or the Pre-Petition Lenders, including, without limitation, all Claims and Defenses (as such term is defined in the Final DIP Order), claims under section 506(c) of the Bankruptcy Code, claims with respect to the allocation or determination of values of any assets of the Estates, the magnitude of the Adequate Protection Claims and the validity, priority and extent of the Pre-Petition Lenders' Secured Claims and Liens and the DIP Lenders' Claims and Liens. Confirmation of the Plan shall constitute approval of such compromise and settlement in accordance with Bankruptcy Rule 9019, and, notwithstanding any claims or defenses that may have been asserted or may be asserted against the Pre-Petition Lenders, the Pre-Petition Agent, the DIP Lenders or Postpetition Agent in accordance with the provisions of the Interim DIP Order or the Final DIP Order or otherwise, upon the Effective Date and without any further action or order of any court, any and all such claims shall forever be barred, released, dismissed, with prejudice and discharged, and the Confirmation Order shall so provide.

11. Relationship to the Lender Trust Agreement

The principal purpose of the Lender Trust Agreement and Liquidation Trust Agreement is to aid in the implementation of the Plan. The Lender Trustee and the Liquidation Trustee shall have full power and authority to take any action consistent with the purpose and provisions of the Plan and the Lender Trust Agreement and Liquidation Trust Agreement, as applicable, and to seek any orders from the Bankruptcy Court in furtherance of implementation of the Plan and the Lender Trust Agreement and the Liquidation Trust Agreement.

E. Executory Contracts and Unexpired Leases

1. Assumption and Rejection of Executory Contracts and Unexpired Leases

Any executory contracts or unexpired leases, except the Tempe Lease, that have not expired by their own terms on or prior to the Effective Date, which the Debtors have not assumed and assigned or rejected with the approval of the Bankruptcy Court (whether as part of the Sale Transaction or otherwise), or that are not the subject of a motion to assume the same pending as of the Effective Date, shall be deemed rejected by the Debtors on the Effective Date and the entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such rejections pursuant to Sections 365(a) and 1123 of the Bankruptcy Code, unless the Debtors identify any executory contracts or unexpired leases in the Plan Supplement which the Debtors do not intend to reject.

2. Rejection Claims; Cure of Defaults

If the rejection of an executory contract or unexpired lease results in damages to the other party or parties to such contract or lease, any Claim for such damages, if not heretofore evidenced by a Proof of Claim that has been Filed, shall be forever barred and shall not be enforceable against the Debtors, the Liquidation Trust, the Lender Trust or their properties, successors or assigns, unless a Proof of Claim is Filed and served upon (i) the Liquidation Trustee, and (ii) any counsel for the Liquidation Trustee, on or before (x) thirty (30) days after the later to occur of (a) the Effective Date, and (b) the date of entry of an order by the

Bankruptcy Court authorizing rejection of a particular executory contract or unexpired lease, or (y) such other date as may be ordered by the Bankruptcy Court.

F. **Provisions Regarding Distributions**

1. Liquidation Trust Distributions

The Liquidation Trustee, on behalf of the Liquidation Trust, or such other Entity as may be designated in accordance with the Liquidation Trust Agreement, will make the distributions to Liquidation Trust Beneficiaries required under the Plan in accordance with the Liquidation Trust Agreement and in accordance with the priorities set forth in and the other provisions of the Plan. The Liquidation Trustee will make distributions to Liquidation Trust Beneficiaries in consultation with the Creditor Representatives. Whenever any distribution to be made under the Plan or the Liquidation Trust Agreement is due on a day other than a Business Day, such distribution shall be made, without interest, on the immediately succeeding Business Day, but any such distribution will have been deemed to have been made on the date due.

Distributions will be made by the Liquidation Trustee in the following order of priority: (i) first, to satisfy the expenses of administering the Liquidation Trust, including reasonable fees and expenses of any attorneys, advisors, other professionals and employees employed by the Liquidation Trustee; (ii) second, to repay in full the Liquidation Trust Funding Reimbursement and all other amounts provided for in Article III.B; and (iii) third to make distributions to Liquidation Trust Beneficiaries in accordance with the terms of the Plan and Liquidation Trust Agreement.

2. Lender Trust Distributions

The Lender Trustee, on behalf of the Lender Trust, or such other Entity as may be designated in accordance with the Lender Trust Agreement, will make the distributions to Holders of Lender Trust Claims and to the Lender Trust Beneficiaries in accordance with the Lender Trust Agreement and in accordance with the priorities set forth in and the other provisions of the Plan. The Lender Trustee will make distributions to the Lender Trust Beneficiaries in consultation with the Pre-Petition Agent. Whenever any distribution to be made under the Plan or the Lender Trust Agreement is due on a day other than a Business Day, such distribution shall be made, without interest, on the immediately succeeding Business Day, but any such distribution will have been deemed to have been made on the date due.

Distributions will be made by the Lender Trustee in the following order of priority: (i) first, to satisfy the expenses of administering the Lender Trust, including reasonable fees and expenses of any attorneys, advisors, other professionals and employees employed by the Lender Trustee; (ii) second, to repay in full the Lender Trust Funding Reimbursement; and (iii) third to make distributions to Holders of Lender Trust Claims and to the Lender Trust Beneficiaries in accordance with the terms of the Plan and Lender Trust Agreement.

G. **Reserve for Disputed Claims**

The Liquidation Trustee shall maintain a reserve for any distributable amounts required to be set aside on account of Disputed Claims and shall distribute such amounts (net of any expenses, including any taxes relating thereto), as provided herein and in the Liquidation Trust Agreement, as such Disputed Claims are resolved by Final Order, and such amounts shall be distributable in respect of such Disputed Claims as such amounts would have been distributable had the Disputed Claims been Allowed Claims as of the Effective Date, provided that no interest shall be distributable or accrue with respect thereto.

H. **Manner of Payment under the Plan and Liquidation Trust**

Any payment in Cash to be issued under the Plan shall, at the election of the issuer, be made by check drawn on a domestic bank or by wire transfer from a domestic bank.

I. **Delivery of Distributions**

Subject to the provisions of Federal Rule of Bankruptcy Procedure 2002(g), and except as otherwise provided herein or in the Plan, distributions and deliveries to Holders of record of Allowed Claims shall be made at the address of each such Holder set forth on the Debtors' books and records unless superseded by the address set forth on proofs of claim or interest filed by any such Holders. By no later than the Effective Date, the Debtors and/or the Pre-Petition Lenders shall provide the Liquidation Trustee and/or Lender Trustee with the addresses and other books and records relating to the Liquidation Trust Beneficiaries and/or Lender Trust Beneficiaries, including, without limitation, all taxpayer identification information.

J. **Undeliverable Distributions**

1. Holding of Undeliverable Distributions:

If any distribution hereunder to any Holder is returned as undeliverable, no further distributions shall be made to such Holder unless and until the issuer of the distribution is notified in writing of such Holder's then-current address. All Entities ultimately receiving undeliverable Cash shall not be entitled to any interest or other accruals of any kind. Nothing contained in the Plan, Liquidation Trust Agreement or Lender Trust Agreement shall require the issuer of any distribution to attempt to locate any Holder of an Allowed Claim or an Allowed Equity Interest.

2. Failure to Claim Undeliverable Distributions:

Any Holder of an Allowed Claim that does not assert its rights pursuant to the Plan, Liquidation Trust Agreement or Lender Trust Agreement to receive a distribution within three (3) months from and after the date such distribution is returned as undeliverable shall have such Holder's Claim for such undeliverable distribution discharged and shall be forever barred from asserting any such Claim against the Debtors, Liquidation Trust, the Liquidation Trustee, the Lender Trust, the Lender Trustee and their respective professionals, the Liquidation Trust Assets or the Lender Trust Assets. In such case, any consideration held for distribution on

account of such Claim shall belong, as applicable (i) to the Liquidation Trust for distribution by the Liquidation Trustee to the Liquidation Trust Beneficiaries in accordance with the terms of the Plan and Liquidation Trust Agreement or (ii) to the Lender Trust for distribution by the Lender Trustee to the Holders of Lender Trust Claims and to the Lender Trust Beneficiaries in accordance with the terms of the Plan and Lender Trust Agreement. After final distributions have been made in accordance with the terms of the Plan, Liquidation Trust Agreement and Lender Trust Agreement, if the amount of undeliverable cash remaining is less than $50,000.00, the Liquidation Trustee or Lender Trustee, as applicable, in his or her sole discretion, may donate such amount to a charity.

K. **Compliance with Tax Requirements/Allocation**

The issuer of any distribution under the Plan, Liquidation Trust or Lender Trust shall comply with all applicable tax withholding and reporting requirements imposed by any Governmental Unit, and all distributions pursuant to the Plan, Liquidation Trust or Lender Trust shall be subject to any such applicable withholding and reporting requirements. For tax purposes, distributions received in respect of Allowed Claims will be allocated first to the principal amount of such Claims, with any excess allocated to unpaid accrued interest.

L. **Time Bar to Cash Payments**

Checks issued on account of Allowed Claims shall be null and void if not negotiated within forty-five (45) days from and after the date of issuance thereof. Requests for reissuance of any check shall be made directly to the issuer of the check by the Holder of the Allowed Claim with respect to which such check originally was issued. Any claim in respect of such a voided check shall be made within six (6) months from and after the date of issuance of such check. After such date, all Claims in respect of voided checks shall be discharged and forever barred and the Liquidation Trust or Lender Trust, as applicable, shall be entitled to retain all monies related thereto for distribution to the Liquidation Trust Beneficiaries or Lender Trust Beneficiaries, as applicable, in accordance with the terms of the Plan and Liquidation Trust Agreement or Lender Trust Agreement, as applicable.

M. **Distributions After Effective Date**

Distributions made after the Effective Date to Holders of Claims that are not Allowed Claims as of the Effective Date, but which later become Allowed Claims, shall be deemed to have been made on the Effective Date. Except as otherwise specifically provided in the Plan, the Liquidation Trust Agreement or the Lender Trust Agreement, no interest shall be payable on account of any Allowed Claim not paid on the Effective Date.

N. **Fractional Dollars; De Minimis Distributions**

Notwithstanding anything contained herein to the contrary, payments of fractions of dollars will not be made. Whenever any payment of a fraction of a dollar under the Plan, Liquidation Trust or Lender Trust would otherwise be called for, the actual payment made will reflect a rounding of such fraction to the nearest dollar (up or down), with half dollars being

rounded down. No payment shall be made on account of any distribution less than Fifty Dollars ($50) with respect to any Allowed Claim unless a request therefor is made in writing to the issuer of such payment on or before ninety (90) days after the Effective Date.

O. **Setoffs**

The Liquidation Trustee may, pursuant to Sections 502(d) or 553 of the Bankruptcy Code or applicable nonbankruptcy law, set off against any Allowed Claim or Allowed Administrative Claim and the distributions to be made pursuant to the Liquidation Trust Agreement on account thereof (before any distribution is made on account of such Claim), the Claims, rights and Causes of Action of any nature that it may hold against the Holder of such Allowed Claim or Allowed Administrative Claim; *provided*, *however*, that neither the failure to effect such a set-off nor the allowance of any Claim hereunder shall constitute a waiver or release of any such claims, rights and Causes of Action that the Liquidation Trust may possess against such Holder, and, *provided further*, that the Liquidation Trustee may not effect setoffs against any Claims of the DIP Lenders or the Pre-Petition Lenders.

P. **Preservation of Subordination Rights**

Except as otherwise provided herein, all subordination rights and claims relating to the subordination by the Debtors or the Liquidation Trustee of any Allowed Claim shall remain valid, enforceable and unimpaired in accordance with Section 510 of the Bankruptcy Code or otherwise.

Q. **Waiver by Creditors of All Subordination Rights**

Except as otherwise ordered by the Bankruptcy Court, each Holder of a Claim shall be deemed to have waived all contractual, legal and equitable subordination rights that they may have, whether arising under general principles of equitable subordination, Section 510(c) of the Bankruptcy Code or otherwise, with respect to any and all distributions to be made under the Plan, and all such contractual, legal or equitable subordination rights that each Holder of a Claim has individually and collectively with respect to any such distribution made pursuant to the Plan shall be discharged and terminated, and all actions related to the enforcement of such subordination rights will be permanently enjoined.

R. **Settlement of Claims and Controversies**

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan shall constitute a good faith compromise and settlement of claims or controversies relating to the contractual, legal and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim, or any distribution to be made on account of any such Allowed Claim.

S. **Procedures for Resolution of Disputed, Contingent and Unliquidated Claims or Equity Interests**

1. Objections to Claims; Prosecution of Disputed Claims

The Debtors, prior to the Effective Date, and thereafter the Liquidation Trustee, on behalf of the Liquidation Trust and in accordance with the Liquidation Trust Agreement, shall have the right to object to the allowance of Claims in Class 6 other than the Pre-Petition Lender Agreed Deficiency Claim, and expressly excluding Lender Trust Claims, with respect to which they dispute liability or allowance in whole or in part, by no later than the Claim Objection Deadline. All objections shall be litigated or settled prior to Final Order; *provided*, *however*, that the Liquidation Trustee (within any parameters as may be established by the Liquidation Trust Agreement) shall have the authority to file, settle, compromise or withdraw any objections to such Claims, without approval of the Bankruptcy Court.

The Debtors, prior to the Effective Date, and thereafter the Lender Trustee, on behalf of the Lender Trust and in accordance with the Lender Trust Agreement, shall have the right to object to the allowance of (i) Administrative Claims and (ii) Claims in Class 1, Class 2, Class 3 or Class 4 Filed with the Bankruptcy Court (other than any DIP Facility Claims and Pre-Petition Credit Facility Claims) with respect to which they dispute liability or allowance in whole or in part, by no later than the Claim Objection Deadline. All objections shall be litigated or settled prior to Final Order; provided, however, that the Lender Trustee (within any parameters as may be established by the Lender Trust Agreement) shall have the authority to file, settle, compromise or withdraw any objections to such Claims, without approval of the Bankruptcy Court.

2. Estimation of Claims

The Debtors, prior to the Effective Date, and thereafter the Liquidation Trustee or Lender Trustee in accordance with the Liquidation Trust Agreement or Lender Trust Agreement, respectively, may at any time request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether the Debtors, the Liquidation Trustee or Lender Trustee previously have objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. Subject to the provisions of Section 502(j) of the Bankruptcy Code, in the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, the amount so estimated shall constitute the maximum allowed amount of such Claim. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors, the Liquidation Trustee or Lender Trustee may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

3. Controversy Concerning Impairment

If a controversy arises as to whether any Claims or Class of Claims are Impaired under the Plan, the Bankruptcy Court shall, after notice and a hearing, determine that controversy before the Confirmation Date.

4. Payments and Distributions on Disputed Claims

Notwithstanding any provision hereof to the contrary, any issuer of a distribution hereunder may, in its discretion, pay the undisputed portion of a Disputed Claim. Notwithstanding the foregoing, the issuer of a distribution hereunder will set aside for each Holder of a Disputed Claim such portion of Cash as may be necessary to provide required distributions if that Claim were an Allowed Claim, either based upon the amount of the Claim as filed with the Bankruptcy Court or the amount of the Claim as estimated by the Bankruptcy Court.

At such time as a Disputed Claim becomes, in whole or in part an Allowed Claim, the issuer of a distribution hereunder shall distribute to the Holder thereof the distributions, if any, to which such Holder is then entitled under the Plan, the Liquidation Trust or the Lender Trust. Such distribution, if any, will be made as soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing such Disputed Claim becomes a Final Order. No interest will be paid on Disputed Claims that later become Allowed or with respect to any distribution in satisfaction thereof to a Holder.

T. Conditions Precedent to Confirmation and Effective Date of the Plan

1. Conditions Precedent to Confirmation

The following are conditions precedent to confirmation of the Plan that must be (i) satisfied or (ii) waived in accordance with Article X.C of the Plan.

(i) The entry of the Confirmation Order and the Substantive Consolidation Order in form and substance satisfactory to the Proponents and the DIP Lenders.

(ii) The Plan Supplement and all of the schedules, documents, and exhibits contained therein shall have been filed in form and substance reasonably acceptable to the Proponents and the DIP Lenders.

(iii) Allowed Administrative Claims shall not exceed an amount to be agreed between the Proponents and the DIP Lenders and to be provided in the Plan Supplement.

(iv) Allowed Priority Claims and Secured Tax Claims shall not exceed an amount to be agreed between the Proponents and the DIP Lenders and to be provided in the Plan Supplement.

2. Conditions Precedent to Effective Date of the Plan

The following are conditions precedent to the Effective Date of the Plan that must be (i) satisfied or (ii) waived in accordance with Article X.C of the Plan:

(i) All other actions and documents necessary to implement the Plan shall have been effected or executed, including the Liquidation Trust Agreement and Lender Trust Agreement.

(ii) There shall be sufficient Cash to permit payment of all amounts required to be paid on the Effective Date, including taking into account the Liquidation Trust Funding Amount and Lender Trust Funding Amount.

(iii) The Liquidation Trust Agreement shall have been fully executed and the Liquidation Trust Funding Amount shall have been delivered to the Liquidation Trust.

(iv) The Effective Date shall occur no later than May 4, 2009.

3. Waiver of Conditions Precedent

Only the Proponents, upon consent of the DIP Lenders, may waive the conditions listed in Article X of the Plan.

4. Effect of Non-Occurrence of Consummation

If the Confirmation Order is vacated, the Plan shall be null and void in all respects and nothing contained in the Plan or this Disclosure Statement shall: (1) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtors; (2) prejudice in any manner the rights of the Debtors or any other party; or (3) constitute an admission, acknowledgment, offer or undertaking by the Debtors in any respect.

U. Exculpation, Injunctive and Related Provisions[5]

1. Exculpation

The (i) Debtors and all officers, directors, employees, managers, partners, attorneys, actuaries, financial advisors, investment bankers, agents, professionals (other than accountants) and representatives of each of the Debtors (in each case in their capacity as such, and only if serving in any such capacity on the Petition Date or thereafter), (ii) the Pre-

[5] Flashpoint Technology, inc. has requested that the Plan's release and exculpation provisions provide that "Notwithstanding anything to the contrary contained in the Plan, nothing in Article XI of the Plan or elsewhere shall exculpate or release any claims that FlashPoint Technology, Inc. may have against the Pre-Petition Lenders or the Pre-Petition Agent related in any way to the payment to or receipt by the Pre-Petition Lenders or the Pre-Petition Agent of the proceeds of the sale of Vivitar."

Petition Lenders, (iii) the Pre-Petition Agent, (iv) t he DIP Lenders, (v) the Postpetition Agent, (vi) the Committee, (vii) FTI Consulting, Inc., (viii) FTI Palladium Partners and (x) as to the entities listed in clauses (ii)-(ix) of this paragraph, all of their respective officers, directors, affiliates, employees, members, managers, partners (general and limited), attorneys, actuaries, financial advisors, accountants, investment bankers, agents, professionals and representatives (all entities in clauses (i) – (ix) hereof, the "Exculpated Parties") shall neither have, nor incur any liability to any Person or Entity for any post-petition act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or consummating the Plan, the Disclosure Statement, or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other post-petition act taken or omitted to be taken in connection with or in contemplation of the restructuring or liquidation of the Debtors and/or relating to these Chapter 11 Cases; provided, however, that the foregoing shall have no effect on the liability of any Person or Entity that results from any such act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct, and, provided further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, the Plan.

2. Release and Satisfaction of Claims; Termination of Equity Interests; Injunction

Except as otherwise provided herein, and as set forth in the Confirmation Order: (a) the rights afforded herein and the treatment of all Claims and Equity Interests herein, shall be in exchange for and in complete satisfaction and release of, all Claims and Equity Interests of any nature whatsoever, including any interest accrued on Claims from and after the Petition Date, against the Debtors or any of their assets and properties, (b) on the Effective Date, all such Claims against, and Equity Interests in, the Debtors shall be satisfied and released in full, and (c) all Persons shall be precluded from asserting and shall be permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively or otherwise) against the Debtors, the Liquidation Trust, the Lender Trust, their successors or their assets or properties, or any other or further Claims or Equity Interests based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date.

3. Release by Debtors

For good and valuable consideration, the adequacy of which is hereby confirmed, upon the Effective Date, the Debtors in their individual capacities and as debtors-in-possession, shall be deemed, to forever release, waive and discharge each Pre-Petition Lender each DIP Lender (in consideration for, among other things, funding the Liquidation Trust Funding Amount and Lender Trust Funding Amount), SPC (in its capacity as agent for the Pre-Petition Lenders), the Postpetition Agent and the Committee, and their respective officers, partners, directors, members, trustees, employees, representatives, agents and retained professionals, (each in their capacities as such) from and with respect to all claims, obligations, suits, judgments, damages, demands, debts, rights, and liabilities (other than the rights of the Debtors to enforce the terms of the Plan and the contracts, instruments, releases and other agreements or documents delivered in connection with the Plan), whether liquidated

or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other occurrence taking place before the Effective Date in any way relating to the Debtors, the Chapter 11 Cases, the Plan or the Disclosure Statement.

V. Retention and Preservation of Causes of Action

1. Liquidation Trust Causes of Action

Except as otherwise provided in the Plan, all Causes of Action that the respective Debtors and their Estates may hold against any Person or Entity shall, on the Effective Date, automatically vest in the Liquidation Trust free and clear of liens, claims, encumbrances and interests. The Liquidation Trustee, on behalf of the Liquidation Trust, shall have the exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise any and all such Causes of Action without the consent or approval of any third party and without any further order of the Bankruptcy Court, except as otherwise provided herein or in the Liquidation Trust Agreement. From and after the Effective Date, the Liquidation Trustee, in accordance with Section 1123(b)(3) of the Bankruptcy Code, and on behalf of the Liquidation Trust, shall serve as a representative of the Debtors' Estates and shall retain and possess the sole and exclusive right to commence, pursue, settle, compromise or abandon, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, in any court or other tribunal. On the Effective Date, the Liquidation Trustee shall be automatically substituted for the Committee, as plaintiff in any litigation commenced by the Committee.

2. Sale Causes of Action

Except as otherwise provided in the Plan, all Sale Causes of Action that the respective Debtors and their Estates may hold against any Person or Entity, including but not limited to the Purchaser and the Guarantor, shall automatically vest in the Lender Trust. The Lender Trustee, on behalf of the Lender Trust, shall have the exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise any and all such Sale Causes of Action without the consent or approval of any third party and without any further order of the Bankruptcy Court, except as otherwise provided herein or in the Lender Trust Agreement. From and after the Effective Date, the Lender Trustee, in accordance with Section 1123(b)(3) of the Bankruptcy Code, and on behalf of the Lender Trust, shall serve as a representative of the Debtors' Estates and shall retain and possess the sole and exclusive right to commence, pursue, settle, compromise or abandon, as appropriate, any and all Sale Causes of Action, whether arising before or after the Petition Date, in any court or other tribunal.

3. Preservation of All Causes of Action Not Expressly Settled or Released

The Debtors and the Committee are currently investigating potential Causes of Action against certain Persons or Entities but have not yet completed their investigations. Therefore, on the Effective Date, all Causes of Action shall vest in the Liquidation Trust, which shall hold and possess all rights on behalf of the Debtors, their Estates and the Liquidation Trust to commence

and pursue any and all Causes of Action (under any theory of law, including, without limitation, the Bankruptcy Code, and in any court or other tribunal). The Liquidation Trustee, on behalf of the Liquidation Trust, shall have the sole and exclusive right to commence, prosecute, pursue, settle, compromise or abandon such Causes of Action as set forth herein and in the Liquidation Trust Agreement.

The potential Causes of Action which may be pursued by the Liquidation Trustee, on behalf of the Liquidation Trust, after the Effective Date, include, without limitation, the Causes of Action listed or described on the Schedule of Causes of Action attached to the Disclosure Statement as an exhibit. The Debtors and, after the Effective Date, the Liquidation Trustee, on behalf of the Liquidation Trust, reserve all rights to pursue any and all Causes of Action, whether or not listed or described on the Schedule of Causes of Action attached to the Disclosure Statement as an exhibit. In addition to the Causes of Action listed on the Schedule of Causes of Action attached to the Disclosure Statement as an exhibit, the Debtors hereby reserve the rights of the Liquidation Trust and the Liquidation Trustee, on behalf of the Liquidation Trust, to pursue, administer, settle, litigate, enforce and liquidate:

(a) Any other Causes of Action, whether legal, equitable or statutory in nature;

(b) Any and all actions arising under or actionable pursuant to the Bankruptcy Code, including, without limitation, Sections 544, 545, 547 (except as provided below), 548, 549, 550, 551, 553(b) and/or 724(a) of the Bankruptcy Code; and

(c) Any other Causes of Action that currently exist or may subsequently arise and which have not been otherwise set forth herein or in the Schedule of Causes of Action, because the facts upon which such Causes of Action are based are not currently or fully known by the Debtors, the Committee, and the Pre-Petition Lenders (collectively, the "**Unknown Causes of Action**"). The failure to list or describe any such Unknown Cause of Action herein, or in the Schedule of Causes of Action, is not intended to limit the rights of the Liquidation Trustee, on behalf of the Liquidation Trust, to pursue any Unknown Cause of Action.

Unless Causes of Action against a Person or Entity are expressly waived, relinquished, released, compromised or settled in the Plan, or any Final Order, the Debtors (before the Effective Date) and the Liquidation Trustee, on behalf of the Liquidation Trust (post-Effective Date), expressly reserve all Causes of Action (including the Unknown Causes of Action) for later adjudication and therefore, no preclusion doctrine or other rule of law, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such Causes of Action upon, after, or as a result of the confirmation or Effective Date of the Plan, or the Confirmation Order. In addition, the Debtors and the Liquidation Trustee, on behalf of the Liquidation Trust, and any successors-in-interest thereto, expressly reserve the right to pursue or adopt any Causes of Action not so waived, relinquished, released, compromised or settled that are alleged in any lawsuit in which the Debtors are a defendant or an interested party, against any Person or Entity, including, without limitation, the plaintiffs and co-defendants in such lawsuits. Causes of Action arising under section 547 of the Bankruptcy Code against any Person who both (i) has never been an officer, director, employee, affiliate or insider of any of the Debtors and (ii) is not named on the

Schedule of Causes of Action attached to the Disclosure Statement (as the same may be amended, with the consent of the Committee, at least five days prior to the Voting Deadline) are not preserved under the Plan.

W. **Preservation of All Sale Causes of Action Not Expressly Settled or Released**

The Debtors are currently investigating potential Sale Causes of Action against certain Persons or Entities, including but not limited to the Purchaser and the Guarantor, but have not yet completed their investigations. Therefore, on the Effective Date, all Sale Causes of Action shall vest in the Lender Trust, which shall hold and possess all rights on behalf of the Debtors, their Estates and the Lender Trust to commence, prosecute, pursue, settle, compromise or abandon any and all Sale Causes of Action (under any theory of law, including, without limitation, the Bankruptcy Code, and in any court or other tribunal). The Lender Trustee, on behalf of the Lender Trust, shall pursue such Sale Causes of Action as set forth herein and in the Lender Trust Agreement.

The potential Sale Causes of Action currently being investigated by Debtors, which may be pursued by the Lender Trustee, on behalf of the Lender Trust, after the Effective Date, include, without limitation, the Sale Causes of Action listed or described on the Schedule of Sale Causes of Action attached to the Disclosure Statement as an exhibit. The Debtors and, after the Effective Date, the Lender Trustee, on behalf of the Lender Trust, reserve all rights to pursue any and all Sale Causes of Action, whether or not listed or described on the Schedule of Sale Causes of Action attached to the Disclosure Statement as an exhibit. In addition to the Sale Causes of Action listed on the Schedule of Sale Causes of Action attached to the Disclosure Statement as an exhibit, the Debtors hereby reserve the rights of the Lender Trust and the Lender Trustee, on behalf of the Lender Trust, to pursue, administer, settle, litigate, enforce and liquidate:

(a) Any other Sale Causes of Action, whether legal, equitable or statutory in nature; and

(b) Any other Sale Causes of Action that currently exist or may subsequently arise and which have not been otherwise set forth herein or in the Schedule of Sale Causes of Action, because the facts upon which such Sale Causes of Action are based are not currently or fully known by the Debtors, the Pre-Petition Lenders, the DIP Lenders, the Postpetition Agent or the Committee (collectively, the "**Unknown Sale Causes of Action**"). The failure to list or describe any such Unknown Sale Cause of Action herein, or in the Schedule of Sale Causes of Action, is not intended to limit the rights of the Lender Trustee, on behalf of the Lender Trust, to pursue any Unknown Sale Cause of Action.

The Debtors (before the Effective Date) and the Lender Trustee, on behalf of the Lender Trust (post-Effective Date), expressly reserve all Sale Causes of Action (including the Unknown Sale Causes of Action) for later adjudication and therefore, no preclusion doctrine or other rule of law, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such Sale Causes of Action upon, after, or as a result of the confirmation or Effective Date of the Plan, or the Confirmation Order. In addition, the Debtors and the Lender Trustee, on behalf of

the Lender Trust, and any successors-in-interest thereto, expressly reserve the right to pursue or adopt any Sale Causes of Action that are alleged in any lawsuit in which the Debtors are a defendant or an interested party, against any Person or Entity, including, without limitation, the plaintiffs and co-defendants in such lawsuits.

X. **Retention of Jurisdiction**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain such jurisdiction over any matter arising under the Bankruptcy Code, or arising in or related to the Chapter 11 Cases or the Plan after Confirmation and after the Effective Date, and any other matter or proceeding that is within the Bankruptcy Court's jurisdiction pursuant to 28 U.S.C. § 1334 or 28 U.S.C. § 157, including, without limitation, jurisdiction to:

(i) Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Equity Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of Claims or Equity Interests;

(ii) Grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

(iii) Resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract and unexpired lease to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine and, if necessary, liquidate, any Claims arising therefrom;

(iv) Ensure that distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions hereof;

(v) Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters, including all Causes of Action or Sale Causes of Action and objections or estimations to Claims or Equity Interests, and grant or deny any applications involving a Debtor that may be pending on the Effective Date, or that, pursuant to the Plan, may be instituted by (i) the Liquidation Trustee or the Liquidation Trust, (ii) the Lender Trustee or the Lender Trust, or (iii) any other Person or Entity after the Effective Date; ***provided***, ***however***, that (a) the Liquidation Trustee and the Liquidation Trust shall reserve the right to prosecute the Causes of Action in all proper jurisdictions and (b) the Lender Trustee and Lender Trust shall reserve the right to prosecute the Sale Causes of Action in all proper jurisdictions;

(vi) Enter such orders as may be necessary or appropriate to implement or consummate the provisions hereof and of all contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan, the Disclosure Statement, the Liquidation Trust Agreement, or Lender Trust Agreement;

(vii) Resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan, the Liquidation Trust Agreement, the Lender Trust Agreement or any Person's or Entity's obligations incurred in connection with the Plan, the Liquidation Trust Agreement, or the Lender Trust Agreement including, relating to determining the scope and extent of the Liquidation Trust Assets or the Lender Trust Assets;

(viii) Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person or Entity with consummation or enforcement of the Plan, except as otherwise provided herein;

(ix) Resolve any cases, controversies, suits or disputes with respect to the releases, injunctions and other provisions contained in Article XI of the Plan and enter any orders that may be necessary or appropriate to implement such releases, injunctions and other provisions;

(x) Enter and implement any orders that are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

(xi) Determine any other matters that may arise in connection with or related to the Plan, the Disclosure Statement, the Confirmation Order, the Liquidation Trust Agreement, the Lender Trust Agreement or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan or the Disclosure Statement or the Liquidation Trust Agreement or the Lender Trust Agreement;

(xii) Resolve any issues that arise in connection with the administration of and distributions from the Liquidation Trust and Lender Trust; and

(xiii) Enter an order and/or Final Decree concluding the Chapter 11 Cases.

Notwithstanding any other provision in this article to the contrary, nothing herein shall prevent the Liquidation Trustee or Lender Trustee from commencing and prosecuting any cause of action before any other court or judicial body which would otherwise have appropriate jurisdiction over the matter and parties thereto and nothing herein shall restrict any such courts or judicial bodies from hearing and resolving such matters.

Y. **Miscellaneous Provisions**

1. Plan Supplement

The Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court or its designee during normal business hours. Holders of Claims and Equity Interests may obtain a copy of the Plan Supplement by contacting Epiq Bankruptcy Solutions, LLC, or by visiting http://chapter11.epiqsystems.com. The documents contained in the Plan Supplement are an integral part of the Plan and shall be approved by the Bankruptcy Court pursuant to the Confirmation Order.

Z. **Effectuating Documents, Further Transactions and Corporation Action**

Each of the Debtors is authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and provisions hereof and of the Plan.

Prior to, on or after the Effective Date (as appropriate), all matters provided for hereunder that would otherwise require approval of the shareholders or directors of the Debtors shall be deemed to have occurred and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to the general corporation laws of the applicable States without any requirement of further action by the shareholders or directors of the Debtors.

AA. **Dissolution of Committee**

Upon the Effective Date, the Committee shall be deemed dissolved, except with respect to, and to the extent of any applications for Professional Fee Claims or Committee Member expense reimbursement, and the Committee Members and the Committee's Professionals shall be relieved and discharged of all duties related to the Chapter 11 Cases.

BB. **Payment of Statutory Fees**

All fees payable pursuant to Section 1930(a) of Title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing pursuant to Section 1128 of the Bankruptcy Code, shall be paid for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first, responsibility for which shall be divided equally between the Liquidation Trustee and Lender Trustee.

CC. **Modification of Plan**

Subject to the limitations contained in the Plan:

(i) The Proponents reserve the right, upon consent of the DIP Lenders, and in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order; and

(ii) After the entry of the Confirmation Order, upon consent of the DIP Lenders, the Proponents may amend or modify, upon order of the Bankruptcy Court, the Plan, in accordance with Section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

(iii) After the Effective Date, the Liquidation Trustee and the Lender Trustee, subject to the consent of the DIP Lenders, may amend or modify, upon order of the Bankruptcy Court, the Plan, in accordance with Section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

DD. **Revocation of Plan**

The Proponents reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent plans of reorganization or liquidation. If the Proponents revoke or withdraw the Plan, or if Confirmation or the Effective Date does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Equity Interest or Class of Claims or Equity Interests), assumption or rejection of executory contracts or leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void, and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claims by or against, or any Equity Interests in, any Debtor or any other Person, (ii) prejudice in any manner the rights of such Debtor or any other Person, or (iii) constitute an admission of any sort by any Debtor or any other Person.

EE. **Successors and Assigns**

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

FF. **Reservation of Rights**

Except as expressly set forth herein, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of the Plan, any statement or provision contained herein, or the taking of any action by any Debtor with respect to the Plan, the Disclosure Statement or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the Holders of Claims or Equity Interests prior to the Effective Date.

GG. **Section 1146 Exemption**

Pursuant to Section 1146(a) of the Bankruptcy Code, under the Plan, (i) the issuance, distribution, transfer or exchange of any debt, equity security or other interest in the Debtors; (ii) the creation, modification, consolidation or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (iii) the making, assignment or recording of any lease or sublease; or (iv) the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan shall not be subject to any document recording tax, mortgage recording tax, stamp tax or similar government assessment, and the appropriate state or local government official or agent shall be directed by the Bankruptcy Court to forego the collection of any such tax or government assessment and to accept for filing and recording any of the foregoing instruments or other documents without the payment of any such tax or government assessment.

All subsequent issuances, transfers or exchanges of securities, or the making or delivery of any instrument of transfer by the Debtors in the Chapter 11 Cases, whether in connection with a sale under Section 363 of the Bankruptcy Code or otherwise, shall be deemed to be or have been done in furtherance of the Plan.

HH. **Further Assurances**

The Holders of Claims receiving distributions hereunder and all other parties in interest shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan, the Liquidation Trust Agreement, or the Lender Trust Agreement.

II. **Approval of Creditor Representatives**

Unless otherwise provided herein, all references herein and in the Liquidation Trust Agreement to approval of the Creditor Representatives shall mean the unanimous approval of the Creditor Representatives.

JJ. **Service of Documents**

Any pleading, notice or other document required by the Plan to be served on or delivered upon the Debtors shall be sent by first class U.S. mail, postage prepaid, as follows:

To the Debtors:
Greenberg Traurig, LLP Attn: Nancy A. Mitchell, Esq. Allen G. Kadish, Esq. 200 Park Avenue New York, New York 10166 and Greenberg Traurig, LLP Attn: Victoria W. Counihan, Esq. 1007 N. Orange St., 12th Floor Wilmington, Delaware 19801

KK. **Transactions on Business Days**

If the date on which a transaction may occur under the Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

LL. **Filing of Additional Documents**

On or before the Effective Date, the Debtors may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and provisions hereof.

MM. **Post-Effective Date Fees and Expenses**

From and after the Effective Date, the Liquidation Trustee, on behalf of the Liquidation Trust, shall, in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Liquidation Trust, and any professionals retained by the Liquidation Trust, related to the consummation and to the implementation of the Plan, except as otherwise provided in the Liquidation Trust Agreement.

From and after the Effective Date, the Lender Trustee, on behalf of the Lender Trust, shall, in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Lender Trust, and any professionals retained by the Lender Trust, related to the consummation and to the implementation of the Plan, except as otherwise provided in the Lender Trust Agreement.

NN. **Severability**

The provisions of the Plan shall not be severable unless such severance is agreed to by the Proponents or, if after the Effective Date, by the Liquidation Trustee, on behalf of the Liquidation Trust, the Lender Trustee on behalf of the Lender Trust, and by the Pre-Petition Agent, and such severance would constitute a permissible modification of the Plan pursuant to Section 1127 of the Bankruptcy Code.

OO. **Conflicts**

To the extent any provision of the Liquidation Trust Agreement, the Lender Trust Agreement, the Disclosure Statement, or any document executed in connection therewith or any documents executed in connection with the Confirmation Order (or any exhibits, schedules, appendices, supplements or amendments to any of the foregoing) conflicts with, or is in any way inconsistent with, the terms of this Plan, the terms and provisions of the Confirmation Order and the Plan shall govern and control other than any inconsistencies or clarifications in furtherance of the treatment of the Lender Trust or Liquidation Trust as a liquidation trust for federal income tax purposes.

PP. **Term of Injunctions or Stays**

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases under Sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and still extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the closing of the Chapter 11 Cases in accordance with Article XIII.13 of the Plan. All

injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

QQ. **Entire Agreement**

The Plan and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings and representations on such subjects, all of which have become merged and integrated into the Plan.

RR. **Closing of the Chapter 11 Cases**

The Liquidation Trustee shall promptly, upon the full administration of the Chapter 11 Cases, and upon the consent of the Lender Trustee, File with the Bankruptcy Court all documents required by the Bankruptcy Rules and any applicable orders of the Bankruptcy Court to close the Chapter 11 Cases.

ARTICLE V
VOTING REQUIREMENTS, ACCEPTANCE AND CONFIRMATION OF THE PLAN

A. **General**

The Bankruptcy Code requires that, in order to confirm the Plan, the Bankruptcy Court must make a series of findings concerning the Plan and the Debtors, including that (i) the Plan has classified Claims in a permissible manner; (ii) the Plan complies with applicable provisions of the Bankruptcy Code; (iii) the Proponents have complied with applicable provisions of the Bankruptcy Code; (iv) the Proponents have proposed the Plan in good faith and not by any means forbidden by law; (v) the disclosure required by Section 1125 of the Bankruptcy Code has been made; (vi) the Plan has been accepted by the requisite votes of creditors or interest Holders (except to the extent that cramdown is available under Section 1129(b) of the Bankruptcy Code) (*see* "Acceptance of Plan" and "Confirmation Without Acceptance of All Impaired Classes" below); (vii) the Plan is feasible and confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors under the Plan unless such liquidation or reorganization is proposed in the Plan; (viii) the Plan is in the "best interests" of all Holders of Claims in an impaired Class by providing to such Holders on account of their Claims property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain in a Chapter 7 liquidation, unless each Holder of a Claim in such Class has accepted the Plan; and (ix) all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the hearing on confirmation, have been paid or the Plan provides for the payment of such fees on the Effective Date.

B. **Parties in Interest Entitled to Vote**

Pursuant to the Bankruptcy Code, only Classes of Claims that are "impaired" (as defined in Section 1124 of the Bankruptcy Code) under the Plan are entitled to vote to accept or reject the Plan. A Class is impaired if the legal, equitable or contractual rights to which the Claims of

that Class entitled the Holders of such Claims are modified, other than by curing defaults and reinstating the Claims. Classes that are not impaired are not entitled to vote on the Plan and are conclusively presumed to have accepted the Plan. In addition, Classes that receive no distributions under the Plan are not entitled to vote on the Plan and are deemed to have rejected the Plan.

C. **Classes Impaired and Entitled to Vote under the Plan**

The following Classes are impaired under the Plan and are entitled to vote on the Plan:

Class	**Claim**	**Status**	**Voting Right**
5	Pre-Petition Credit Facility Claims	Impaired	Entitled to vote
6	General Unsecured Claims	Impaired	Entitled to vote

Acceptances of the Plan are being solicited only from Holders of Claims in Classes 5 and 6 that will or may receive consideration under the Plan. Holders of Equity Interests in Class 7 are deemed to reject the Plan. Holders of Claims in Classes 1, 2, 3 and 4 are deemed to accept the Plan and are not entitled to vote.

D. **Voting Procedures and Requirements**

VOTING ON THE PLAN BY EACH HOLDER OF AN IMPAIRED CLAIM ENTITLED TO VOTE ON THE PLAN IS IMPORTANT. YOU SHOULD COMPLETE, SIGN AND RETURN EACH BALLOT YOU RECEIVE.

1. Ballots

The Disclosure Statement Order sets March 11, 2009, as the record date for voting on the Plan (the **"Record Date"**). Accordingly, only Holders of record as of the Record Date, that are otherwise entitled to vote under the Plan, will receive a Ballot and may vote on the Plan.

In voting for or against the Plan, please use only the Ballot sent to you with this Disclosure Statement. If you are a member of Class 5 or 6 and did not receive a Ballot, if your Ballot is damaged or lost or if you have any questions concerning voting procedures, please call the Debtors' voting agent, Epiq Bankruptcy Solutions, LLC, at (800) 314-5550.

In most cases, each Ballot enclosed with this Disclosure Statement has been encoded for voting purposes with information. **PLEASE FOLLOW THE DIRECTIONS CONTAINED ON THE ENCLOSED BALLOT CAREFULLY.**

2. Returning Ballots

If you are a Holder of a Claim entitled to vote, you should complete, sign and return your Ballot with original signature in the enclosed envelope to: (i) if by mail: SBC Balloting Center

c/o Epiq Bankruptcy Solutions, LLC, FDR Station, P.O. Box 5014, New York, New York 10150-5014 or (ii) if by Fedex or hand delivery: Epiq Bankruptcy Solutions LLC, Attn: Syntax-Brillian Balloting Center, 757 Third Avenue, 3rd Floor, New York, NY 10017. Votes cannot be transmitted orally. Facsimile and/or emailed Ballots will not be accepted. To be counted, original signed Ballots must be received **on or before April 13, 2009, at 5:00 p.m. (prevailing Eastern Time)**. If you have any questions concerning your ballot, please call Epiq Bankruptcy Solutions, LLC at (866)-897-6440.

IT IS OF THE UTMOST IMPORTANCE TO THE PROPONENTS, AND THE PROPONENTS REQUEST, THAT YOU VOTE PROMPTLY TO ACCEPT THE PLAN.

3. Voting

Pursuant to the Disclosure Statement Order (a copy of which is enclosed herewith solely for the purposes of voting to accept or reject the Plan and not for the purpose of allowance of, or distribution on account of, a Claim and without prejudice to the rights of the Debtors in any other context, each Claim within a Class of Claims entitled to vote to accept or reject the Plan will be temporarily Allowed in an amount equal to the amount of such Claim as set forth in a timely filed proof of claim (provided no objection to such Claim has been filed), or, if no proof of claim was filed, the amount of such Claim as set forth in the Schedules (provided that amount of such Claim is not listed as disputed, contingent or unliquidated). Moreover, each Claim to which an objection has been filed by March 30, 2009, shall be temporarily Allowed for voting purposes only to the extent and in the manner and amount as may be set forth as the proposed allowed amount or classification in such objection, unless such Holder files a motion pursuant to Federal Rule of Bankruptcy Procedure 3018(a) no later than April 8, 2009, at 4:00 p.m. (prevailing Eastern Time) and the Bankruptcy Court grants the motion temporarily allowing the Claim for purposes of voting to accept or reject the Plan.

E. Confirmation

The Bankruptcy Code requires the Bankruptcy Court, after notice, to conduct a hearing regarding whether the proponent has fulfilled the confirmation requirements of Section 1129 of the Bankruptcy Code. The Confirmation Hearing has been scheduled for **April 21, 2009, at 1:30 p.m.** (prevailing Eastern Time) before the Honorable Brendan Linehan Shannon, United States Bankruptcy Judge, United States Bankruptcy Court for the District of Delaware, in his Courtroom on the 6th Floor, 824 Market Street, Wilmington, Delaware 19801. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement at the Confirmation Hearing of the date to which the Confirmation Hearing has been adjourned, or an entry on the Bankruptcy Court's docket. At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if the requirements of Section 1129 of the Bankruptcy Code are met.

F. Acceptance of Plan

As a condition to confirmation, the Bankruptcy Code requires that each class of impaired claims vote to accept the Plan, except under certain circumstances. *See* "Confirmation Without

Acceptance of All Impaired Classes" below. A plan is accepted by an impaired class of claims if Holders of at least two-thirds in dollar amount and more than one-half in number of claims of those that vote in such class vote to accept the plan. Only those Holders of claims who actually vote count in these tabulations. Holders of claims who fail to vote are not counted as either accepting or rejecting a plan.

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

G. Confirmation Without Acceptance of All Impaired Classes

Because Holders of Equity Interests in Class 7 are deemed to have rejected the Plan, the Proponents are seeking confirmation of the Plan as to Class 7, and as to any other Class that votes to reject the Plan, pursuant to Section 1129(b) of the Bankruptcy Code. The Bankruptcy Code contains provisions for confirmation of a plan even if it is not accepted by all impaired classes, as long as at least one impaired class of claims or interests has accepted it. These so-called "cramdown" provisions are set forth in Section 1129(b) of the Bankruptcy Code.

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

The requirement that a plan not "discriminate unfairly" means, among other things, that a dissenting class must be treated substantially equally with respect to other classes of equal rank. The "fair and equitable" standard, also known as the "absolute priority rule," requires, among other things, that unless a dissenting unsecured class of claims or a class of interests receives full compensation for its allowed claims or allowed interests, no Holder of claims or interests in any junior class may receive or retain any property on account of such claims or interests. More specifically, Section 1129(b) of the Bankruptcy Code provides that a plan can be confirmed under that section if: (i) with respect to a secured class, (a) the Holders of such claims retain the liens securing such claims to the extent of the allowed amount of such claims and that each Holder of a claim of such class receives deferred cash payments totaling, and having a value at least equal to the allowed amount of such claim as of the plan's effective date or (b) such Holders realize the indubitable equivalent of such claims; (ii) with respect to an unsecured claim, either (a) the impaired unsecured creditor must receive property of a value equal to the amount of its allowed claim, or (b) the Holders of claims that are junior to the claims of the dissenting class may not receive any property under the plan; or (iii) with respect to a class of interests, either (a) each Holder of an interest in such class must receive or retain on account of such interest

property of a value, equal to the greater of the allowed amount of any fixed liquidation preference, to which such Holder is entitled, any fixed redemption price to which such Holder is entitled or the value of such interest, or (b) the Holder of any interest that is junior to the interest of such class may not receive or retain any property on account of such junior interest.

H. Best Interests Test

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

I. Liquidation Analysis

By the time of proposed confirmation of the Plan, the Debtors will have liquidated substantially all of their assets or will be in the process of liquidating any remaining assets. The Proponents believe that liquidation under Chapter 11 is more beneficial to the Holders of Allowed Claims than a liquidation under Chapter 7 because the Plan allows the Debtors' remaining assets to be promptly administered pursuant to the trusts formed pursuant to the Plan. To that end, the Plan provides that all Causes of Action of the Debtors or their Estates, plus any other Excluded Assets under the Asset Purchase Agreement, will vest in and be transferred to the Liquidation Trust. The Liquidation Trustee will pursue the Causes of Action on behalf of the Liquidation Trust, and the proceeds therefrom will be distributed to the Beneficiaries in accordance with the priorities set forth in the Plan. Similarly, the Lender Trust will liquidate all Sale Causes of Action.

Additionally, if these cases were to be converted to Chapter 7 cases, the Debtors' Estates would incur the costs of payment of a statutorily allowed commission to the Chapter 7 trustee, as well as the costs of counsel and other professionals retained by the trustee. The Proponents believe such amount would exceed the amount of expenses that will be incurred in implementing the Plan and winding up the affairs of the Debtors. Conversion also would likely delay the liquidation process and the ultimate distribution, if any, to Creditors. The Debtors' Estates would also be obligated to pay all unpaid expenses incurred by the Debtors during these Chapter 11 Cases (such as compensation for professionals) which are allowed in the Chapter 7 cases. Accordingly, the Proponents believe that Holders of Allowed Claims and Allowed Equity Interests would receive less than anticipated under the Plan if the Chapter 11 Cases were converted to Chapter 7 cases.

J. Feasibility

Under Section 1129(a)(11) of the Bankruptcy Code, the proponent must show that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further

financial reorganization, of the Debtors or any successor to the Debtors (unless such liquidation or reorganization is proposed in the Plan). The Plan clearly complies with this requirement because all of the Debtors' remaining assets will be distributed to Creditors pursuant to the terms of the Plan and, provided the Plan is confirmed and consummated, the Estates will no longer exist to be subject to future reorganization or liquidation.

K. Compliance with the Applicable Provisions of the Bankruptcy Code

Section 1129(a)(1) of the Bankruptcy Code requires that the Plan comply with the applicable provisions of the Bankruptcy Code. The Proponents have considered each of these issues in the development of the Plan and believes that the Plan complies with all applicable provisions of the Bankruptcy Code.

ARTICLE VI
ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Proponents believe the Plan affords Creditors the potential for the greatest realization on the Debtors' assets and, therefore, is in the best interests of the Estates. If the Plan is not confirmed, the only viable alternatives are dismissal of the Chapter 11 Cases or conversion to Chapter 7 of the Bankruptcy Code. Neither of these alternatives is preferable to confirmation and consummation of the Plan.

If the Chapter 11 Cases were dismissed, creditors would revert to a "race to the courthouse," the result being that creditors would not receive a fair and equitable distribution of the Debtors' remaining assets. The Proponents believe that the Plan provides a greater recovery to creditors than would be achieved in a Chapter 7. Therefore, a Chapter 7 case is not an attractive or superior alternative to the Plan. Thus, the Plan represents the best available alternative for maximizing returns to Creditors.

ARTICLE VII
RISK FACTORS

A. Allowed Claims May Receive No Distributions

The Liquidation Trust Assets that will be available for distributions to the Liquidation Trust Beneficiaries consist, in large part, of Causes of Action. There is no assurance that the Liquidation Trustee, on behalf of the Liquidation Trust, will be able to liquidate the Causes of Action and the other Liquidation Trust Assets in an amount, after payment of other trust expenses, that will be able to produce a distribution to the Beneficiaries of the Liquidation Trust. Similarly, there is no assurance with respect to beneficiaries of the Lender Trust.

B. Plan May Not Be Accepted or Confirmed

The Proponents cannot provide assurances that the Plan will ultimately be confirmed by the Bankruptcy Court. Among other things, there is no certainty the Plan will be accepted by the

requisite Classes entitled to vote under the Plan. Thus, while the Proponents believe the Plan will be confirmable under the standards set forth in Section 1129 of the Bankruptcy Code, there is no guarantee that the Bankruptcy Court will confirm the Plan.

ARTICLE VIII
CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

Any discussion of United States federal tax issues set forth in this Disclosure Statement is written in connection with the solicitation of acceptance of a liquidation plan. Such discussion is not intended or written to be legal or tax advice to any person and is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding any U.S. federal tax penalties that may be imposed on such person. Each creditor should seek advice based on its particular circumstances from an independent tax advisor.

The following discussion addresses certain United States federal income tax consequences of the consummation of the Plan. This discussion is based upon the Internal Revenue Code of 1986, as amended (the "**Tax Code**"), existing and proposed regulations thereunder, current administrative rulings, and judicial decisions as in effect on the date hereof, all of which are subject to change, possibly retroactively. No rulings or determinations by the Internal Revenue Service have been obtained or sought by the Proponents with respect to the Plan. An opinion of counsel has not been obtained with respect to the tax aspects of the Plan. This discussion does not purport to address the federal income tax consequences of the Plan to particular classes of taxpayers (such as foreign persons, S corporations, mutual funds, small business investment companies, regulated investment companies, broker-dealers, insurance companies, tax-exempt organizations and financial institutions) or the state, local or foreign income and other tax consequences of the Plan. **NO REPRESENTATIONS ARE MADE REGARDING THE PARTICULAR TAX CONSEQUENCES OF THE PLAN TO ANY HOLDER OF A CLAIM OR INTEREST. EACH HOLDER OF A CLAIM OR INTEREST IS STRONGLY URGED TO CONSULT ITS OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE TRANSACTIONS DESCRIBED HEREIN AND IN THE PLAN.**

A. Federal Income Tax Consequences to Holders of Claims and Interests

A Holder of an Allowed Claim will generally recognize ordinary income to the extent that the amount of Cash or property received (or to be received) under the Plan is attributable to interest that accrued on a Claim but was not previously paid by the Debtors or included in income by the Holder of the Allowed Claim. Holders previously required to include in their gross income any accrued but unpaid interest on a Claim may be entitled to recognize a deductible loss to the extent such interest is not satisfied under the Plan. A Holder of an Allowed Claim will generally recognize gain or loss equal to the difference between the Holder's adjusted basis in its Claim and the amount realized by the Holder upon consummation of the Plan that is not attributable to accrued but unpaid interest. The amount realized will equal the sum of Cash and the fair market value of other consideration received (or to be received).

The character of any gain or loss that is recognized will depend upon a number of factors, including the status of the Creditor, the nature of the Claim or Equity Interest in its hands, whether the Claim or Equity Interest was purchased at a discount, whether and to what extent the Creditor has previously claimed a bad debt deduction with respect to the Claim or Equity Interest, and the creditor's holding period of the Claim or Equity Interest. If the Claim or Equity Interest in the creditor's hands is a capital asset, the gain or loss realized will generally be characterized as a capital gain or loss. If the Creditor is a non-corporate taxpayer, such gain or loss will constitute long-term capital gain or loss if the creditor held such Claim or Equity Interest for longer than one year or short-term capital gain or loss if the creditor held such Claim or Equity Interest for one year or less.

A Holder of an Allowed Claim who receives, in respect of its Claim, an amount that is less than its tax basis in such Claim may be entitled to a bad debt deduction if either: (i) the Holder is a corporation or (ii) the Claim constituted (a) a debt created or acquired (as the case may be) in connection with a trade or business of the Holder or (b) a debt the loss from the worthlessness of which is incurred in the Holder's trade or business. A Holder that has previously recognized a loss or deduction in respect of its Claim may be required to include in its gross income (as ordinary income) any amounts received under the Plan to the extent such amounts exceed the Holder's adjusted basis in such Claim.

Holders of Claims who were not previously required to include any accrued but unpaid interest in their gross income with respect to a Claim or Interest may be treated as receiving taxable interest income to the extent any consideration they receive under the Plan is allocable to such interest.

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

The Holders of Claims in Classes 5 and 6 may receive only a partial distribution on their Claims. The Holders of Equity Interests in Class 7 will not retain any interest in the Liquidation Trust as described above. Whether the Holder of such Claims or Interests will recognize gain or loss, a deduction for worthless securities or any other tax treatment will depend upon facts and circumstances that are specific to the nature of the Holder and its Claims or Interests. Accordingly, to determine any tax consequences as a result of consummation of the Plan, Holders of Claims and Interests should consult their respective tax advisors.

Under backup withholding rules, a Holder of an Allowed Claim may be subject to backup withholding at the rate of twenty-eight percent (28%) with respect to payments made pursuant to the Plan unless such Holder (a) is a corporation or is otherwise exempt from backup withholding and, when required, demonstrates this fact or (b) provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the Holder is not subject to backup withholding because of failure to report all dividend and interest income. Any amount withheld under these rules will be credited against the Holder's

federal income tax liability. Holders of Claims may be required to establish an exemption from backup withholding or to make arrangements with regard to payment thereof.

B. Federal Income Tax Consequences to the Debtors

1. Cancellation of Indebtedness

Under the Tax Code, a taxpayer generally must include in gross income the amount of any cancellation of indebtedness income (**"COD Income"**) realized during the taxable year. Section 108 of the Tax Code provides an exception to this general rule, however, if the cancellation occurs in a case under the Bankruptcy Code, but only if the taxpayer is under the jurisdiction of the Bankruptcy Court and the cancellation is granted by the Bankruptcy Court or is pursuant to a plan approved by the Bankruptcy Court.

Section 108 of the Tax Code requires the amount of COD Income so excluded from gross income to be applied to reduce certain tax attributes of the taxpayer. It is uncertain how these rules should apply in a liquidating plan which does not provide for a formal cancellation of claims. In any event, however, even if COD Income is realized and excluded by the Debtors and the tax attributes of the Debtors are reduced or eliminated, this should have no material affect, however, as following the Effective Date the Debtors will not own non-Cash assets of significant value.

C. Importance of Obtaining Professional Tax Assistance

The foregoing is intended to be only a summary of certain of the United States federal income tax consequences of the Plan and is not a substitute for careful tax planning with a tax professional. Holders of Claims or Interests are strongly urged to consult with their own tax advisors regarding the federal, state, local and foreign income and other tax consequences of the Plan, including, in addition to the issues discussed above, whether a bad debt deduction may be available with respect to their Claims and if so, when such deduction or loss would be available.

THE FOREGOING DISCUSSION OF CERTAIN FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. ACCORDINGLY, HOLDERS OF CLAIMS OR INTERESTS SHOULD CONSULT THEIR OWN TAX ADVISORS WITH RESPECT TO THE TAX CONSEQUENCES OF THE PLAN, INCLUDING THE APPLICABILITY AND EFFECT OF FEDERAL, STATE, LOCAL, FOREIGN AND OTHER TAX LAWS.

ARTICLE IX
RECOMMENDATION AND CONCLUSION

THE PROPONENTS OF THE PLAN BELIEVE THAT CONFIRMATION AND CONSUMMATION OF THE PLAN IS IN THE BEST INTERESTS OF CREDITORS AND THAT THE PLAN SHOULD BE CONFIRMED. THE DEBTORS AS PROPONENTS, STRONGLY RECOMMEND ALL CREDITORS WHO RECEIVE A BALLOT TO VOTE IN FAVOR OF THE PLAN.

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