

**THIS IS NOT A SOLICITATION OF ACCEPTANCE OR REJECTION OF THE PLAN. ACCEPTANCE OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT. THIS PLAN IS BEING SUBMITTED FOR APPROVAL BUT HAS NOT BEEN APPROVED BY THE BANKRUPTCY COURT.**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	)	Chapter 11
	)	
TACTICAL INTERMEDIATE	)	
HOLDINGS, INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 14-11659(KG)
	)	
Debtors.	)	(Joint Administration Requested)
	)	

**CHAPTER 11 PLAN OF LIQUIDATION OF  
TACTICAL INTERMEDIATE HOLDINGS, INC. AND ITS DEBTOR AFFILIATES  
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

**JULY 8, 2014**

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*Proposed Counsel for the Debtors  
and Debtors-in-Possession*

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-identification number, are: Tactical Intermediate Holdings, Inc. (4895); Tactical Holdings Operations, Inc. (8504); Wellco Enterprises, Inc. (9274); Ro-Search Incorporated (6293); Mo-Ka Shoe Corporation (2446); Altama Delta Corporation (6369); Altama Delta (Puerto Rico) Corporation (3459); Massif Holdings LLC (1692); and Massif Mountain Gear Company LLC (9717). The address of the Debtors' corporate headquarters is 5968 Commerce Blvd., Morristown, TN 37814.

## INTRODUCTION

Tactical Intermediate Holdings, Inc., Tactical Holdings Operations, Inc., Wellco Enterprises, Inc., Ro-Search Incorporated, Mo-Ka Shoe Corporation, Altama Delta Corporation, Altama Delta (Puerto Rico) Corporation, Massif Holdings LLC, and Massif Mountain Gear Company LLC (collectively, the "*Debtors*"), as debtors and debtors-in-possession in the above-captioned chapter 11 cases, hereby propose the following chapter 11 plan of liquidation pursuant to the provisions of chapter 11 of the Bankruptcy Code.

For a discussion of the Debtors' history, businesses, properties, key contracts, and a summary and analysis of the Plan, stakeholders of the Debtors should review the Disclosure Statement filed with the Bankruptcy Court to which the Plan is attached. ALL CLAIMHOLDERS AND INTERESTHOLDERS ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

The Plan provides for the liquidation and conversion of all of the Debtors' remaining assets to Cash and the distribution of the net proceeds realized therefrom to creditors holding Allowed Claims as of the Record Date in accordance with the relative priorities established in the Bankruptcy Code. The Plan does not provide for a distribution to Interestholders, and their votes are not being solicited. The Plan contemplates the appointment of a Plan Administrator to, among other things, resolve Disputed Claims, pursue any unreleased causes of action, implement the terms of the Plan and make Distributions.

Under section 1125(b) of the Bankruptcy Code, a vote to accept or reject the Plan cannot be solicited from a Claimholder until such time as the Disclosure Statement has been approved by the Bankruptcy Court and distributed to Claimholders.

The Debtors expressly reserve their right to alter, amend or modify the Plan, one or more times, before its substantial consummation, subject to the consent of the Prepetition Senior Secured Lender (as defined below) and the Secured Noteholder (as defined below) and the restrictions on modification set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and otherwise set forth in this Plan.

NO SOLICITATION MATERIALS, OTHER THAN THE DISCLOSURE STATEMENT AND RELATED MATERIALS TRANSMITTED THEREWITH AND APPROVED BY THE BANKRUPTCY COURT, HAVE BEEN AUTHORIZED BY THE BANKRUPTCY COURT FOR USE IN SOLICITING ACCEPTANCE OR REJECTION OF THE PLAN.

## ARTICLE I

### A. Scope of Definitions

All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in Article 1 of the Plan. Any term used in the Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules.

### B. Definitions

1.1 ***“Additional Recoveries”*** means (i) all Net Recoveries of the liquidation of the Debtors’ Assets from any source, but excluding any Sale Proceeds and (ii) the balance of any Sale Proceeds after payment in full of the DIP Facility Claim and the Prepetition Senior Secured Claim.

1.2 ***“Administrative Claim”*** means a claim for payment of an administrative expense of a kind specified in section 503(b) of the Bankruptcy Code and entitled to priority pursuant to section 507(a)(1) of the Bankruptcy Code, including, but not limited to, (a) the actual, necessary costs and expenses, incurred after the Petition Date, of preserving the Estates and operating the businesses of the Debtors, including wages, salaries or commissions for services rendered after the commencement of the Chapter 11 Cases, (b) Professional Claims, and (c) all fees and charges assessed against the Estates under chapter 123 of title 28, United States Code, and all Allowed Claims that are entitled to be treated as Administrative Claims pursuant to a Final Order of the Bankruptcy Court under section 546(c)(2)(A) of the Bankruptcy Code.

1.3 ***“Administrative Reserve”*** means a reserve in the amount of \$250,000 established for payment of incurred and anticipated reasonable and necessary expenses of administering and winding down the Chapter 11 Cases following the sales of the Massif Assets and the Footwear Assets, which amount shall be funded solely from Cash Sale Proceeds of the sale of the Massif Assets at the closing thereof, and which funds shall continue to be Cash Collateral subject to the cash collateral terms and provisions of the DIP Order.

1.4 ***“Administrative Tax Claim”*** means a claim for any tax of a kind specified in section 503(b)(1)(B) and (C) of the Bankruptcy Code and entitled to priority pursuant to section 507(a)(1) of the Bankruptcy Code.

1.5 ***“Allowed Claim” and “Allowed Interest”*** mean a Claim or Interest or any portion thereof (a) that has been allowed by a Final Order, or (b) as to which, on or by the Effective Date, (i) no proof of claim has been filed with the Bankruptcy Court and (ii) the liquidated and noncontingent amount of which is Scheduled, other than a Claim or Interest that is Scheduled in an unknown amount or as disputed, or (c) for which a proof of claim in a liquidated amount has been timely filed with the Bankruptcy Court pursuant to the Bankruptcy Code, any Final Order of the Bankruptcy Court or other applicable bankruptcy law, and as to which either (i) no objection to its allowance has been filed within the periods of limitation fixed by the Plan, the Bankruptcy Code or by any order of the Bankruptcy Court or (ii) any objection to its allowance has been settled or withdrawn, or has been denied by a Final Order, or (d) that is

expressly allowed in a liquidated amount in the Plan. The amount of an Allowed Claim or Allowed Interest shall be the lesser of the amount stated in a proof of claim filed for such Claim or Interest (if less than the amount Scheduled for such Claim or Interest), the amount agreed to in a written settlement, or the amount allowed by a Final Order. All distributions on account of an Allowed Claim or Allowed Interest will be made to the Claimholder or Interestholder of record on the Record Date.

1.6 **“Allowed [ ] Claim”** and **“Allowed [ ] Interest”** means an Allowed Claim or Allowed Interest of the type described.

1.7 **“Assets”** means all of the right, title and interest of the Debtors in and to property of whatever type or nature (real, personal, mixed, tangible or intangible), including property of each Debtors’ Estate.

1.8 **“Avoidance Actions”** means, unless otherwise released under a prior Order of the Bankruptcy Court or under the Plan, Causes of Action against Persons arising under sections 502, 510, 541, 542, 544, 545, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code, or under related state or federal statutes and common law, including fraudulent transfer laws, whether or not litigation is commenced to prosecute such Avoidance Actions.

1.9 **“B Holders”** Means Jeffrey K. Roberts, Christopher Wasgatt, Randy Benham and Christopher A. Amen, as Trustee of the Christine A. Amend Living Trust.

1.10 **“Ballot”** means each of the ballot forms that are distributed with the Disclosure Statement to Claimholders with Claims in Classes that are impaired under the Plan and entitled to vote under Article IV hereof in connection with the solicitation of acceptances of the Plan.

1.11 **“Bankruptcy Code”** means the Bankruptcy Reform Act of 1978, as amended and codified in title 11 of the United States Code, 11 U.S.C. §§ 101, et seq.

1.12 **“Bankruptcy Court”** means the United States Bankruptcy Court for the District of Delaware or such other court as may have jurisdiction over the Chapter 11 Cases.

1.13 **“Bankruptcy Rules”** means (a) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended, (b) the Federal Rules of Civil Procedure, as amended, as applicable to the Chapter 11 Cases or proceedings therein, and (c) the Local Rules of the Bankruptcy Court, as applicable to the Chapter 11 Cases or proceedings therein, as the case may be.

1.14 **“Bar Date”** means the date or dates to be established by the Bankruptcy Court by which Proofs of Claim must be filed.

1.15 **“Business Day”** means any day, excluding Saturdays, Sundays and legal holidays, on which commercial banks are open for business in Wilmington, Delaware.

1.16 **“Cash”** means currency, a certified check, cashier’s check or wire transfer of good funds from any source.

1.17 **“Cash Collateral”** has the meaning assigned to such term in section 363(a) of the Bankruptcy Code.

1.18 **“Causes of Action”** means, unless otherwise released under a prior Order of the Bankruptcy Court or under the Plan, any and all actions, causes of action, suits, accounts, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment and claims, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly or derivatively, in law, equity or otherwise.

1.19 **“Chapter 11 Cases”** means the Debtors’ bankruptcy cases pending in the Bankruptcy Court and being jointly administered with one another as case numbers [\_\_\_\_\_] and **“Chapter 11 Case”** means any one of the Chapter 11 Cases.

1.20 **“Claim”** means a claim against any one of the Debtors, whether or not asserted, as defined in section 101(5) of the Bankruptcy Code.

1.21 **“Claims Agent”** means Prime Clerk, LLC, the claims and noticing agent of the Debtors.

1.22 **“Claimholder”** means a holder of a Claim.

1.23 **“Class”** means a category of Claimholders or Interestholders described in Article III of the Plan.

1.24 **“Confirmation Date”** means the date of entry of the Confirmation Order.

1.25 **“Confirmation Hearing”** means the hearing before the Bankruptcy Court on confirmation of the Plan and related matters under section 1128 of the Bankruptcy Code.

1.26 **“Confirmation Hearing Notice”** means the notice of, among other things, the time for submitting Ballots to accept or reject the Plan, the date, time and place of the Confirmation Hearing and the time for filing objections to the confirmation of the Plan.

1.27 **“Confirmation Order”** means the order entered by the Bankruptcy Court confirming in all respects all of the provisions, terms and conditions of this Plan.

1.28 **“Creditors’ Committee”** means the Official Committee of Unsecured Creditors consisting of the Persons appointed to such Committee in the Chapter 11 Cases pursuant to section 1102(a) of the Bankruptcy Code and their appointed successors.

1.29 **“Cure”** means with respect to the assumption and assignment of an executory contract or unexpired lease pursuant to section 365(b) of the Bankruptcy Code, (a) the distribution of Cash by the Debtors at or before the closing of the Asset Sale, or (b) payment of Cash by the assignee, in an amount equal to all due and payable unpaid monetary obligations, without interest, under such executory contract or unexpired lease, or such other amount as may

be agreed upon by the parties to the extent such obligations are enforceable under the Bankruptcy Code and applicable non-bankruptcy law.

1.30 “**Debtors**” shall have the meaning ascribed thereto in the Introduction.

1.31 “**Deficiency Claim**” means, as to a Secured Creditor, that portion of such Secured Creditor's Allowed Secured Claim not paid or satisfied from the proceeds of any sale or other disposition of the Debtors' assets or return of such Secured Creditor's collateral; and, as to any other creditor asserting a claim that is subject to a lien or security interest in property of the Estates, such Claim to the extent it is (a) rendered an unsecured claim by virtue of section 506(a) of the Bankruptcy Code and (b) otherwise determined to be an Allowed Claim.

1.32 “**DIP Budget**” means the Approved Budget attached as Exhibit A to the DIP Facility Credit Agreement.

1.33 “**DIP Facility**” means that senior secured superpriority debtor-in-possession credit facility.

1.34 “**DIP Facility Claim**” means any Claim derived from, or based upon, relating to, or arising from, the DIP Facility Credit Agreement.

1.35 “**DIP Facility Credit Agreement**” means the agreement governing the DIP Facility, date as of July 8, 2014 among the Debtors and the DIP Lender (as amended, restated, supplemented or otherwise modified from time to time), as well as any other documents entered into in connection therewith.

1.36 “**DIP Lender**” means Wells Fargo Bank, National Association, together with its successors and assigns.

1.37 “**DIP Order**” means any interim order (or orders) and the final order of the Bankruptcy Court, authorizing, *inter alia*, the Debtors to enter into the DIP Facility Credit Agreement and incur the postpetition obligations thereunder.

1.38 “**Disallowed Claim**” means a Claim, or any portion thereof, that (a) has been disallowed by a Final Order or (b) is Scheduled at zero or as contingent, disputed or unliquidated and as to which a proof of claim bar date has been established, but no proof of claim has been filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely filed under applicable law.

1.39 “**Disclosure Statement**” means the written disclosure statement that relates to the Plan, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code and Bankruptcy Rule 3017, as such disclosure statement may be amended, modified or supplemented from time to time.

1.40 “**Disclosure Statement Approval Order**” means a Final Order approving, among other things, the Disclosure Statement.

1.41 ***“Disputed Claim”*** means a Claim, or any portion thereof, that is neither an Allowed Claim nor a Disallowed Claim, and includes, without limitation, a Claim that (a) has not been Scheduled or is Scheduled by the Debtors as unknown or as contingent, unliquidated or disputed for which a proof of claim has been filed or (b) is the subject of an objection filed with the Bankruptcy Court and which objection has not been withdrawn or overruled by a Final Order of the Bankruptcy Court.

1.42 ***“Distribution Dates”*** means collectively, the First Distribution Date, any Subsequent Distribution Date and the Final Distribution Date..

1.43 ***“Distribution Record Date”*** or ***“Record Date”*** means the date that is two (2) Business Days after the entry of an order by the Bankruptcy Court approving the Disclosure Statement.

1.44 ***“Distribution Reserve”*** means Cash from the Plan Administrator in an amount equal to the distribution or distributions under applicable classes of Claims that shall be made on account of Disputed Claims when allowed, which Cash will be held by Plan Administrator pending allowance of Disputed Claims, and then distributed on account of Allowed Claims in accordance with Section 8.6(a) of the Plan. The Distribution Reserve shall be funded solely from the Plan Assets.

1.45 ***“Effective Date”*** means the first Business Day on which the conditions precedent set forth in Sections 10.2 of this Plan have been satisfied or waived as provided in Section 10.3 hereof.

1.46 ***“Estates”*** means as to each Debtor the bankruptcy estate of the Debtor arising pursuant to section 541 of the Bankruptcy Code.

1.47 ***“Exculpated Claim”*** means any Claim related to any act or omission derived from, based upon, related to or arising from the Debtors’ in or out-of-court restructuring efforts, the Chapter 11 Cases, including the negotiation, formulation, preparation or performance of the DIP Loan Facility, the Plan Support Agreement, the liquidation of assets, formulation, preparation, dissemination, negotiation, filing, confirmation, approval, implementation or administration of the Disclosure Statement, the Plan (including any term sheets related thereto), the property to be distributed under the Plan or any contract, instrument, release or other agreement or document created or entered into in connection with the Disclosure Statement, the Plan, the filing of the Chapter 11 Cases, the pursuit of Confirmation and Consummation and the administration and implementation of the Plan, or the distribution of property under the Plan or any other related agreement.

1.48 ***“Exculpated Party”*** means each of: (a) the Debtors; (b) the DIP Lender; (c) the Prepetition Senior Secured Lender; (e) the Secured Noteholder; (f) the Sponsor; (g) the Creditors Committee and with respect to clauses (a) through (g) such entities’ predecessors, successors and assigns, subsidiaries, affiliates, beneficial owners, managed accounts or funds, current and former officers, directors, principals, shareholders, direct and indirect equity holders, members, partners (general and limited), employees, agents, advisory board members, financial



advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other Professionals.

1.49 **“Exhibit”** means an exhibit annexed to the Plan.

1.50 **“Face Amount”** means (a) when used in reference to a Disputed or Disallowed Claim, the full stated amount claimed by the Claimholder in any proof of claim timely filed with the Bankruptcy Court or otherwise deemed timely filed by any Final Order of the Bankruptcy Court or other applicable bankruptcy law, and (b) when used in reference to an Allowed Claim, the allowed amount of such Claim.

1.51 **“Final Distribution Date”** means the date(s) on which a final Distribution of Plan Assets to Holders of Allowed Claims entitled to Distributions therefrom. The Final Distribution Date(s) shall be one or more dates, as determined by the Plan Administrator, with the consent of the Prepetition Senior Secured Lender and the Secured Noteholders, which is after the liquidation into Cash of all Plan Assets of the Debtors (other than those assets abandoned by the Debtors or the Plan Administrator, as applicable) and the collection of other sums due or otherwise remitted or returned to the Estates.

1.52 **“Final Distribution Report”** shall have the meaning set forth in Section 8.11 of the Plan.

1.53 **“Final Order”** means an order or judgment, the operation or effect of which has not been stayed, reversed or amended and as to which order or judgment (or any revision, modification or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, remains pending.

1.54 **“First Distribution Date”** means with respect to a Claim that is Allowed as of the Effective Date, the Effective Date or the date that is as soon as reasonably practicable after the Effective Date.

1.55 **“Footwear Assets”** means substantially all of the assets of all Debtors other than Massif Mountain Gear Company, L.L.C.

1.56 **“Footwear Sale Motion”** means, the Debtors' Combined Motion for Orders (A)(I) Approving Bidding Procedures in connection with the Sale of Substantially All Their Footwear Assets by Public Auction; (II) Scheduling a Hearing to Consider the Sale of the Footwear Assets; and (III) Approving the Form and Manner of Notices Thereof; (B)(I) Authorizing and Approving the Sale of Footwear Assets Free and Clear of Liens, Claims, Encumbrances and Interests; and (II) Approving the Assumption and Assignment of Potential Designated Certain Executory Contracts and Unexpired Leases; and (C) Granting Other Relief, filed on July 8, 2014.

1.57 **“Footwear Sale Order”** means any order or orders of the Bankruptcy Court approving the sale of the Footwear Assets pursuant to Footwear Sale Motion.



1.58 ***“General Unsecured Claim”*** means a Claim that is not an Administrative Claim, Priority Claim, Secured Claim or Miscellaneous Secured Claim, and specifically includes, without limitation, any unsecured Deficiency Claim of any holder of a Miscellaneous Secured Claim, the unsecured Deficiency Claim of the Prepetition Senior Secured Lender and the unsecured Deficiency Claim of the Secured Noteholder.

1.59 ***“Holdback Amount”*** means the amount estimated by the Debtors funded solely from the Professional Fee Escrow Account to be used to pay the Allowed Professional Claims of a Professional Person retained by the Debtors or Creditors’ Committee and the Claims Agent.

1.60 ***“Holdback Escrow Account”*** means the escrow account established by the Debtors into which Cash equal to the Holdback Amount shall be deposited on the Effective Date for the payment of Allowed Professional Claims that are subject to the Professional Fee Escrow Account and the Claims Agent to the extent not previously paid or disallowed.

1.61 ***“Impaired”*** refers to any Claim or Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

1.62 ***“Interest”*** means the rights of any current or former holder or owner of any shares of common stock, preferred stock or any other equity securities of the Debtors authorized and issued prior to the Confirmation Date, exclusive of any such interests held in treasury by the Debtors, and the rights of any member of the limited liability company Debtors.

1.63 ***“Interestholder”*** means a holder of an Interest.

1.64 ***“Internal Revenue Code”*** means the Internal Revenue Code of 1986, as amended.

1.65 ***“Massif Asset Purchase Agreement”*** means (i) that certain Asset Purchase Agreement for the sale of the Massif Assets dated as of July 3, 2014 by and between Massif Apparel Enterprises, LLC, a Delaware limited liability company, as purchaser, and Debtor Massif Mountain Gear Company, L.L.C., an Oregon limited liability company, as seller, as the same may amended from time to time, or (ii) any alternative Asset Purchase Agreement for the sale of the Massif Assets that is executed by the successful bidder for the Massif Assets pursuant to the bidding procedures approved by the Bankruptcy Court in connection with the Massif Sale Motion.

1.66 ***“Massif Assets”*** means substantially all assets of Massif Mountain Gear Company, L.L.C.

1.67 ***“Massif Sale Motion”*** means, the Debtors’ Motion for Order (A) Approving Sale Procedures and Bidding Protections in connection with the Massif Asset Purchase Agreement Pursuant to Sections 363 and 365 of the Bankruptcy Code; (B) Scheduling an Auction and Hearing to Consider Approval of the Sale of Certain of the Debtors’ Assets’ (C) Approving Notice of Respective Dates, Times, and Places for Auction and for Hearing on Approval of Asset Purchase Agreement and Sale of Certain of the Debtor’s Assets, and

Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; (D) Establishing Procedures for Noticing and Determining Cure Amounts; and (E) Granting Other Relief, filed on July 8, 2014.

1.68 **“Massif Sale Order”** means any order or orders of the Bankruptcy Court approving the sale of the Massif Assets pursuant to Massif Sale Motion.

1.69 **“Miscellaneous Secured Claim”** means any Secured Claim other than the DIP Facility Claim, the Prepetition Senior Secured Claim, and the Secured Claim of the Secured Noteholder, whether by operation of law, contract or otherwise, but solely to the extent of the value, as of the Effective Date, or such other date as is established by the Bankruptcy Court, of such security interest or lien after giving effect to all security interests or liens senior in priority

1.70 **“Net Recoveries”** shall mean the net proceeds of the liquidation of the Assets of the Debtors after payment of all necessary and actual fees and expenses associated with the liquidation of such Assets.

1.71 **“Non-Debtor Parent”** means Tactical Holdings, Inc.

1.72 **“Person”** means an individual, corporation, partnership, joint venture, association, joint stock company, limited liability company, limited liability partnership, trust, estate, unincorporated organization or other entity.

1.73 **“Petition Date”** means, as to each Debtor, July 8, 2014, which is the date on which each Debtor filed its petition commencing its Chapter 11 Case.

1.74 **“Plan”** means the plan which is herein jointly proposed by the Debtors, as consolidated entities, for the resolution of outstanding Claims and Interests in the Chapter 11 Cases, as such plan may be amended or modified from time to time in accordance with the Bankruptcy Code and subject to consent of the Prepetition Senior Secured Lender and the Secured Noteholder.

1.75 **“Plan Administrator”** means [●] and any successor appointed by the Prepetition Senior Secured Lender and Secured Noteholder pursuant to the Plan Administrator Agreement.

1.76 **“Plan Administrator Agreement”** means the agreement, established as of the Effective Date setting forth the terms and conditions of the Plan Administrator, in substantially the form to be attached hereto as Exhibit A and filed with the Plan Supplement.

1.77 **“Plan Administrator Expense Reserve”** shall mean the amount, determined from time to time by the Plan Administrator, that the Plan Administrator estimates will be required to perform his duties and pay expenses in accordance with the Plan and the Plan Administrator Agreement, including the fees and expenses of the professionals retained by the Plan Administrator, the cost to obtain and maintain any kind of insurance or indemnity policy for the Plan Administrator, the fees, costs and expenses of the Plan Administrator, any taxes, interest or penalties, payments, fees, charges or expenses of any kind that the Plan Administrator may

incur pursuant to the Plan and the Plan Administrator Agreement and/or under applicable law or by order of the Court.

1.78 ***“Plan Assets”*** means (a) the cash balance of the Administrative Reserve on the Effective Date plus (b) the Additional Recoveries, plus (c) the Net Recoveries of Avoidance Actions, if any.

1.79 ***“Plan Supplement”*** means the compilation of documents and forms of documents, schedules and Exhibits to the Plan to be Filed no later than seven days before the Confirmation Hearing, which documents shall be in form and substance acceptable to the Prepetition Senior Secured Lender and Secured Noteholder on notice to parties in interest, and additional documents Filed before the Effective Date as supplements or amendments to the Plan Supplement (all in form and substance acceptable to the Prepetition Senior Secured Lender and Secured Noteholder). The Debtors shall have the right to amend the documents contained in, and Exhibits to, the Plan Supplement through the Effective Date with the consent of the Prepetition Senior Secured Lender and Secured Noteholder.

1.80 ***“Plan Support Agreement”*** means the Plan Support Agreement entered into as of July 7, 2014 by and among the Debtors (with the with the support of the Non-Debtor Parent and the Sponsor), the Prepetition Senior Secured Lender and the Secured Noteholder.

1.81 ***“Post-Effective Date Claims”*** means all Claims against and obligations incurred by the Plan Administrator on and after the Effective Date other than the Administrative Claims and Claims and Interests treated in Classes 1 through 6 of the Plan.

1.82 ***“Prepetition Senior Secured Credit Agreement”*** means the Amended and Restated Loan and Security Agreement by and among the Borrower and the Prepetition Senior Secured Lender, dated as of July 12, 2013 (as amended, restated, supplemented or otherwise modified from time to time).

1.83 ***“Prepetition Senior Secured Credit Facility”*** means that certain prepetition senior secured credit facility established by the Prepetition Senior Secured Credit Agreement.

1.84 ***“Prepetition Senior Secured Claim”*** means those claims held by the Prepetition Senior Secured Lender on account of amounts owed under the Prepetition Senior Secured Credit Facility. The Prepetition Senior Secured Claim shall be an Allowed Claim in the amount of \$48,208,493.86.

1.85 ***“Prepetition Senior Secured Lender”*** means Wells Fargo Bank, National Association, together with its successors and assigns.

1.86 ***“Priority Non-Tax Claim”*** means any Claim of a kind specified in section 507(a)(3), (4), (5), (6), (7) or (9) of the Bankruptcy Code other than an Administrative Claim.

1.87 ***“Priority Tax Claim”*** means any Claim of a governmental unit of the kind specified in sections 502(i) or 507(a)(8) of the Bankruptcy Code.

1.88 ***“Pro Rata”*** means, at any time, the proportion that the Face Amount of a Claim in a particular Class bears to the aggregate Face Amount of all Claims (including Disputed Claims, but excluding Disallowed Claims) in such Class, unless the Plan provides otherwise.

1.89 ***“Professional Claim”*** means a Claim of a professional retained in the Chapter 11 Cases pursuant to sections 327, 328 and 1103 of the Bankruptcy Code, or otherwise, for compensation or reimbursement of costs and expenses relating to services rendered after the Petition Date and prior to and including the Effective Date

1.90 ***“Professional Claim Bar Date”*** shall have the meaning set forth in Section [2.1(a)] of the Plan.

1.91 ***“Professional Fee Escrow Account”*** means the escrow account established pursuant to the DIP Order and funded by the Debtors and maintained by counsel to the Debtors for payment of Professional Claims.

1.92 ***“Professional Fee Order”*** means an order or orders establishing procedures for the interim compensation for Professionals that may be entered by the Bankruptcy Court.

1.93 ***“Record Date”*** or ***“Distribution Record Date”*** means the date that is two (2) Business Days after the entry of an order by the Bankruptcy Court approving the Disclosure Statement.

1.94 ***“Released Party”*** means each of: (a) the Debtors; (b) the Non-Debtor Parent; (c) the DIP Lender; (d) the Prepetition Senior Secured Lender; (e) the Secured Noteholder; (f) the Sponsor; (g) the B Holders and with respect to clauses (a) through (g) such entities predecessors, successors and assigns, parents, subsidiaries, affiliates, beneficial owners, managed accounts or funds, current and former officers, directors (including officers and directors of any of the Non-Debtor Parent), principals, shareholders, direct and indirect equity holders, members, partners (general and limited), employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other Professionals.

1.95 ***“Sale Proceeds”*** means, collectively, the proceeds received from the consummation of any sale approved by the Massif Sale Order and/or Footwear Sale Order net of ordinary and customary seller costs of closing, fees payable to seller’s investment banker, Houlihan Lokey Capital, Inc. on account of the closing of such sale, seller’s pro rata share of accrued and unpaid real and personal property ad valorem taxes on the assets sold, and applicable state and local transfer taxes, if any, payable by seller on account of the sale of such assets.

1.96 ***“Scheduled”*** means, with respect to any Claim or Interest, the status and amount, if any, of such Claim or Interest as set forth in the Schedules.

1.97 ***“Schedules”*** means the schedules of assets and liabilities filed in the Bankruptcy Court by the Debtors, as such schedules have been or may be amended or

supplemented from time to time in accordance with Bankruptcy Rule 1009 or orders of the Bankruptcy Court.

1.98 **“Section 503 Deadline”** shall have the meaning ascribed thereto in Section 2.3 of the Plan.

1.99 **“Secured Claim”** means a Claim secured by a properly perfected and unavoidable security interest in or lien upon property of the Estates to the extent of the value of such security interest or lien as determined by a Final Order of the Bankruptcy Court pursuant to section 506 of the Bankruptcy Code or as otherwise agreed upon in writing by the Debtors and the Claimholder. Without limiting the generality of the foregoing, the DIP Facility Claim, the Prepetition Senior Secured Claim and the Secured Noteholder Claim shall be deemed to be a Secured Claim to the extent of the value of the property of the Estates that secure such Claim.

1.100 **“Secured Creditor”** means any Creditor that holds a Secured Claim.

1.101 **“Secured Note Documents”** means all documents relating to the 12% Secured Promissory Note in the original face amount of \$7,000,000 issued by the Debtors to GGC Tactical Debt Holdings, LLC.

1.102 **“Secured Noteholder”** means GGC Tactical Debt Holdings, LLC, together with its successors and assigns.

1.103 **“Secured Noteholder Claim”** means the secured Claim held by the Secured Noteholder.

1.104 **“Sponsor”** means Golden Gate Private Equity, Inc., Golden Gate Capital Management, L.L.C., Golden Gate Capital Management II, L.L.C., GGC Administration, L.L.C., Golden Gate Capital Investment Fund II, L.P., Golden Gate Capital Investment Fund II-A, L.P., Golden Gate Capital Investment Fund II, (AI) L.P., Golden Gate Capital Investment Fund II-A, (AI) L.P., Golden Gate Capital Associates II-QP, L.L.C., Golden Gate Capital Associates II-AI, L.L.C., CCG AV, L.L.C. (with respect to Series A, Series C and Series I of CCG AV, L.L.C.), GGC Opportunity Fund Management GP, Ltd., acting in its capacity as general partner of GGC Opportunity Fund Management, L.P., acting in its capacity as general partner of Golden Gate Capital Opportunity Fund, L.P., Golden Gate Capital Opportunity Fund-A, L.P., GGCOF Co-Invest, L.P. and GGCOF Third-Party Co-Invest, L.P.

1.105 **“Subsequent Distribution Date”** means any date, as determined by the Plan Administrator, with the consent of the Prepetition Senior Secured Lender and the Secured Noteholder, which is after the First Distribution Date and prior to the Final Distribution Date, on which the Plan Administrator commences a Distribution to Holders of Allowed Claims pursuant to the Plan.

1.106 **“Tax Refunds”** means the Claim of a Debtor for a refund of state or federal income taxes other than any refund of state income taxes received by a Debtor prior to the Petition Date.

1.107 ***“Third Party Claim”*** means a claim that is an Avoidance Action or other cause of action of one or more Debtors as of the Effective Date against any Person not otherwise released under a prior Order of the Bankruptcy Court or under the Plan.

1.108 ***“Unimpaired”*** refers to any Claim or Interest which is not Impaired.

**C. Rules of Interpretation: Application of Definitions, Rules of Construction, and Computation of Time**

Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and neuter. For purposes of the Plan: (a) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the document shall be substantially in that form or substantially on those terms and conditions; (b) any reference in the Plan to an existing document or exhibit filed or to be filed means the document or exhibit as it may have been or may be amended, modified, or supplemented; (c) unless otherwise specified, all references in the Plan to Sections, Schedules, and Exhibits are references to sections, schedules, and exhibits of or to the Plan. Unless otherwise specified, the words "herein," "hereof," "hereto," "hereunder," and other words of similar meaning refer to the Plan as a whole and not to any particular section, subsection, or clause contained in the Plan. The rules of construction contained in Bankruptcy Code section 102 shall apply to the construction of the Plan. The headings in the Plan are for convenience of reference only and shall not expand, limit, or otherwise affect the provisions of the Plan. Unless otherwise indicated herein, all references to dollars are to United States dollars. Unless otherwise expressly provided herein, in computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

**D. Exhibits**

All Exhibits are incorporated into and are a part of the Plan as if set forth in full herein and as may be filed with the Plan Supplement.

**ARTICLE II  
ADMINISTRATIVE CLAIMS**

2.1 ***DIP Facility Claim.*** To the extent not earlier paid, any amounts outstanding under the DIP Facility shall be paid in full in cash on the Effective Date. Under no circumstances shall the DIP Lender or the Prepetition Senior Secured Lender be required to pay, nor shall any Sale Proceeds be used to pay, any Administrative Claim, Administrative Reserve, Administrative Tax Claim, Cure, Distribution Reserve, Priority Non-Tax Claim, Priority Tax Claim, Professional Claim or any other Claim with a priority junior to the DIP Facility Claim and the Prepetition Senior Secured Claim except as funded by and through the DIP Facility and in amounts not to exceed the amounts specified in the DIP Budget. In addition, nothing in the Plan shall be construed to reduce, diminish or offset the distribution to which the DIP Lender is entitled to receive under the Plan, and no portion of the distribution to which DIP Lender is



entitled under the Plan may be used for payment or satisfaction of any other Claim with a priority junior to the DIP Facility Claim and the Prepetition Senior Secured Claim.

## 2.2 *Administrative Claims - Professional Claims.*

(a) *Final Fee Applications.* All final requests for payment of Professional Claims must be filed no later than thirty (30) days after the Effective Date (the "**Professional Claim Bar Date**"). After notice and a hearing in accordance with the procedures established by the Bankruptcy Code, the Bankruptcy Rules, and prior orders of the Bankruptcy Court, the allowed amounts of such Professional Claims shall be determined by the Bankruptcy Court, and the balance due thereon shall thereafter be immediately paid in full in Cash by the Debtors from the Holdback Escrow Account to the extent such Professional Claims are entitled to be paid from the Professional Fee Escrow Account.

(b) *Holdback Escrow Account.* The Debtors' counsel shall maintain the Holdback Escrow Account. On the Effective Date, the Debtors shall fund the Holdback Escrow Account with the Holdback Amount. The unpaid balance of Allowed Professional Claims shall be paid by the Debtors from the Holdback Escrow Account. All amounts remaining in the Holdback Escrow Account after payment of such Professional Claims, if any, shall be released to the Plan Administrator as Plan Assets.

(c) *Payment of Interim Amounts.* The provisions of the Professional Fee Order shall remain in effect as to amounts owing to professionals prior to the Effective Date.

(d) *Post-Effective Date Services.* After the Effective Date, any requirement that Professionals comply with the Professional Fee Order or sections 327 through 331 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate.

2.3 *Administrative Claims - Substantial Contribution Compensation and Expenses Bar Date.* Any person or entity who requests compensation or expense reimbursement for making a substantial contribution ("**Substantial Contribution Claim**") in the Chapter 11 Cases pursuant to sections 503(b)(3), (4) and (5) of the Bankruptcy Code must file an application with the clerk of the Bankruptcy Court on or before a date that is thirty (30) days subsequent to the Effective Date (the "**Section 503 Deadline**") and serve such application on counsel for the Debtors, counsel for the Prepetition Senior Secured Lender, counsel for the Secured Noteholder, counsel for the Creditors' Committee and on all other parties as otherwise required by the Bankruptcy Court and the Bankruptcy Code on or before the Section 503 Deadline, or be forever barred from seeking such compensation or expense reimbursement. All Allowed Substantial Contribution Claims shall be paid by the Plan Administrator from the Administrative Reserve within thirty (30) days of allowance by the Bankruptcy Court.

2.4 *Administrative Claims – Allowed Claims under section 503(b)(9) of the Bankruptcy Code.* Allowed Administrative Claims under section 503(b)(9) of the Bankruptcy Code shall be paid by the Plan Administrator from the Administrative Reserve within thirty (30) days of allowance by the Bankruptcy Court.



2.5 ***Administrative Claims – Allowed Administrative Tax Claims under section 503(b)(1)(B) and (C) of the Bankruptcy Code.*** Allowed Administrative Claims under section 503(b)(1)(B) and (C) of the Bankruptcy Code shall be paid by the Plan Administrator from the Administrative Reserve as soon as practicable after the Effective Date.

2.6 ***Administrative Claims - Ordinary Course Expenses.*** Allowed Administrative Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases shall be paid by the Plan Administrator from the Administrative Reserve in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto.

2.7 ***Other Administrative Claims Bar Date.*** All requests for payment of an Administrative Claim other than Professional Claims and DIP Facility Claims as set forth in Sections 2.3, 2.4, 2.5 and 2.6 of the Plan incurred on or after [August 15], 2014 must be filed with the Bankruptcy Court and served on counsel to the Debtors and counsel to the Plan Administrator no later than thirty (30) days after the Effective Date. Unless the Plan Administrator objects to an Administrative Claim within ninety (90) days after the Effective Date, such Administrative Claim shall be deemed allowed in the amount requested. In the event that the Plan Administrator objects to an Administrative Claim, the Bankruptcy Court shall determine the allowed amount of such Administrative Claim. All such Allowed Administrative Claims shall be paid by the Plan Administrator from the Administrative Reserve, then from the Plan Assets within thirty (30) days of allowance by the Bankruptcy Court.

2.8 ***Priority Tax Claims.*** On the Effective Date, or as soon as practicable after a Priority Tax Claim becomes an Allowed Claim if the date of allowance is later than the Effective Date, each holder of an Allowed Priority Tax Claim against any of the Debtors shall be paid by the Plan Administrator in full in cash from the Plan Assets.

2.9 ***Remaining Cash.*** After the payment in full of all Allowed Administrative Claims, any Cash remaining in the Administrative Reserve after the final payment of such Administrative Claims and Allowed Priority Tax Claims shall be held by the Plan Administrator as Plan Assets to fund other payments under the Plan.

### **ARTICLE III CLASSIFICATION OF CLAIMS AND INTERESTS**

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of classes of Claims against and Interests in the Debtors. A Claim or Interest is placed in a particular Class for the purposes of voting on the Plan and receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified and their treatment is set forth in Article 2 above.

This Plan provides for the substantive consolidation of the Debtors. All Allowed Claims and Allowed Interests are consolidated into the Classes set forth below.

- 3.1      *Class 1.*      Class 1 consists of the Prepetition Senior Secured Claim
- 3.2      *Class 2.*      Class 2 consists of the Secured Noteholder Claim
- 3.3      *Class 3.*      Class 3 consists of all Miscellaneous Secured Claims.
- 3.4      *Class 4*      Class 4 consists of all Priority Non-Tax Claims.
- 3.5      *Class 5*      Class 5 consists of all General Unsecured Claims, including all Deficiency Claims.
- 3.6      *Class 6*      Class 6 consists of all Interests.

**ARTICLE IV  
IDENTIFICATION OF CLASSES OF CLAIMS AND INTERESTS  
IMPAIRED AND NOT IMPAIRED BY THE PLAN**

4.1      ***Unimpaired Classes of Claims and Interests.*** Class 4 Priority Non-Tax Claims is not Impaired by the Plan.

4.2      ***Impaired Classes of Claims and Interests Entitled to Vote.*** Class 1 Prepetition Senior Secured Financing Claim, Class 2 Secured Noteholder Claim, Class 3 Miscellaneous Secured Claims, and the Class 5 General Unsecured Claims are Impaired under the Plan and are entitled to vote on the Plan.

4.3      ***Impaired Classes of Claims and Interests Deemed to Have Rejected the Plan.*** Class 6 Interests are Impaired under the Plan, shall receive no distributions under the Plan on account of their Interests and are deemed to have rejected the Plan.

**ARTICLE V  
PROVISIONS FOR TREATMENT OF CLAIMS AND INTERESTS**

5.1      ***Class 1 (Prepetition Senior Secured Claim).*** In exchange for full and final satisfaction, settlement, release and discharge of the Prepetition Senior Secured Claim, the Holder of the Prepetition Senior Secured Claim shall, after payment in full of the DIP Facility Claim, (i) be paid (or allowed to retain without provision or condition) all Cash Sale Proceeds from the sale of the Massif Assets, less the amount of the Administrative Reserve, and all Cash Sale Proceeds from the sale of the Footwear Assets; (ii) retain without provision or condition all Footwear Assets, if any, purchased by the Prepetition Senior Secured Lender or its assignee with a successful credit bid in conjunction with the sale of the Footwear Assets; (iii) receive payment in Cash of all holdbacks and escrows established at the closings of the sale of the Massif Assets and the closing of the Footwear Assets as and when payable to the seller; (iv) be assigned all rights of the seller to receive any future payment or other consideration owed to the seller under any asset purchase agreement, order, or other agreement related to the sale of the Massif Assets, including without limitation the seller's right to the "Earnout" under the Massif Asset Purchase

Agreement, and to the sale of the Footwear Assets; (v) receive payment in Cash of all Plan Assets that constitute Cash Collateral of the Prepetition Senior Secured Lender from whatever source that has not been paid to the DIP Lender or to the Prepetition Senior Secured Lender prior to or on the Effective Date; and (vi) receive relief from the automatic stay or other appropriate authority to pursue state law enforcement remedies against collateral for the Prepetition Senior Secured Credit Facility that has not been liquidated or collected as of the Effective Date. However, for purposes of voting, the Prepetition Senior Secured Claim shall be considered an Allowed Claim with the value of \$[13,000,000] for voting under Class 1 of this Plan and \$[35,208,493.86] for voting its Deficiency Claim in Class 5 of this Plan. To the extent the Class 1 Claim is not paid in full, the Deficiency Claim of the Prepetition Senior Secured Lender shall be treated as an Allowed Class 5 General Unsecured Claim. Nothing in the Plan shall be construed to reduce, diminish or offset the distribution to which the Prepetition Senior Secured Lender is entitled to receive under the Plan, and no portion of the distribution to which Prepetition Senior Secured Lender is entitled under the Plan may be used for payment or satisfaction of any other Claim with a priority junior to the Prepetition Senior Secured Claim. For avoidance of doubt, the Prepetition Senior Secured Lender is only entitled to payment on account of its Prepetition Senior Secured Claim up to the amount of its Allowed Prepetition Senior Secured Claim.

5.2 ***Class 2 (Secured Noteholder Claim).*** In exchange for full and final satisfaction, settlement, release and discharge of the Allowed Secured Noteholder, but only in the event that all obligations owed under the Prepetition Senior Secured Credit Facility are indefeasibly paid in full, the Holder of each Secured Noteholder Claim shall, receive payment in cash, after payment of the DIP Facility Claim, the Professional Claims, all Administrative Claims, all Priority Claims (including but not limited to Class 4 Priority Non-Tax Claims), the Distribution Reserves and the Class 1 Prepetition Senior Secured Claim, the remaining Plan Assets on the First Distribution Date. If such Plan Assets are insufficient to satisfy Secured Noteholder in full, the Holder of the Secured Noteholder shall receive the Plan Assets distributed by the Plan Administrator upon each Subsequent Distribution Date and the Final Distribution Date until the Secured Noteholder is satisfied in full. However, for purposes of voting, the Secured Noteholder Claim shall be considered an Allowed Claim with the value of \$[●] for voting under Class 2 of this Plan and \$[●] for voting its Deficiency Claim in Class 5 of this Plan. To the extent the Class 2 Claim is not paid in full, the Deficiency Claim of the Secured Noteholder shall be treated as an Allowed Class 5 General Unsecured Claim.

5.3 ***Class 3 (Miscellaneous Secured Claims).*** Except to the extent that a Holder of an Allowed Class 3 Claim agrees to a less favorable treatment, the holder of each Allowed Class 3 Claim shall receive at the discretion of the Plan Administrator from the Plan Assets: (i) Cash in an amount equal to the lesser of (a) the amount of Allowed Secured Claim and (b) the value of the Debtors' property securing such Allowed Secured Claim currently in the possession of the Debtors minus the amount of claims secured by such property with legal priority senior to the lien priority of the holder of such Allowed Class 3 Claim; (ii) delivery of the property securing such Allowed Class 3 Claim; or (iii) other treatment such that the Allowed Class 3 Claim shall be rendered Unimpaired. Any Allowed Deficiency Claim of a Holder of an Allowed Class 3 Claim shall be treated as a Class 5 General Unsecured Claim.

5.4 ***Class 4 (Priority Non-Tax Claims).*** Except to the extent that a Holder of an Allowed Priority Non-Tax Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release and discharge of each Allowed Priority Non-Tax Claim, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash on or as soon as practicable after the Effective Date. Allowed Priority Non-Tax Claims shall be paid as soon as reasonably practicable after the reconciliation of all Disputed Priority Non-Tax Claims.

5.5 ***Class 5 (General Unsecured Claims).*** Except to the extent that a Holder of an Allowed Class 5 General Unsecured Claim agrees to a less favorable treatment, the holders of each Allowed Class 5 General Unsecured Claim shall receive its Pro Rata share of the Plan Assets after payment of all Administrative Claims, Priority Claims, Allowed Class 1 Claims, Allowed Class 2 Claims, Allowed Class 3 Claims, Allowed Class 4 Claims and the funding of the Plan Administrator Expense Reserve. If, as of the Final Distribution Date, there are no available Plan Assets to satisfy any Allowed General Unsecured Claims, Holders of General Unsecured Claims shall not receive any distribution on account of such General Unsecured Claims.

5.6 ***Class 6 (Interests).*** The holders of the Allowed Interests and Claims in Class 5 shall have their Interests against the Debtors extinguished as of the Effective Date and shall receive no distributions under this Plan.

## ARTICLE VI MEANS FOR IMPLEMENTATION OF THE PLAN

After the Effective Date, the Plan shall be implemented as follows:

6.1 ***Revesting of Assets.*** Except as otherwise expressly provided in this Plan, on the Effective Date, title to all Assets and property of the Debtors shall not revert in the Reorganized Debtors and shall not be released or waived. Rather, the Debtors' Assets shall remain property of the Estate of the Debtors. The Plan Administrator, after consultation with the Plan Administrator Oversight Committee, may affect the dissolution of any one or more of the Debtors at any time after the Effective Date.

### 6.2 ***The Plan Administrator.***

(a) **Appointment of the Plan Administrator.** As of the Effective Date, the Plan Administrator shall be vested with full legal power, capacity and authority, and shall be directed to administer, collect and liquidate the Debtors' remaining Assets and to implement the Plan. The Plan Administrator shall be [●] under the Plan and Plan Administrator Agreement and approved by the Bankruptcy Court without bond, unless otherwise ordered by the Bankruptcy Court.

(b) **Powers of the Plan Administrator.** The Plan Administrator shall be deemed to be a judicial substitute for each of the Debtors as the party-in-interest in these Bankruptcy Cases, under the Plan or in any judicial proceeding or appeal to which the Debtor is a party, consistent with section 1123 (b)(3)(B) of the Bankruptcy Code and section 303 of the Delaware General Corporation Law, and is appointed as the representative of the Estates for all purposes, including for the retention and enforcement of all claims and rights, known and

unknown, which arose prior to the Confirmation Date. On the Effective Date, the current officers and directors of each of the Debtors shall be deemed to have resigned and shall be fully discharged from their responsibilities and duties as officers and directors of the Debtors. In general and subject to the protective provisions in the Plan, the Plan Administrator shall act for the Debtors and their respective estates in a fiduciary capacity as applicable to a board of directors.

(c) Authorization. The Plan Administrator shall be empowered and authorized to, among other things: (a) collect and liquidate the Debtors' remaining Assets; (b) make the distributions required under the Plan; (c) pursue, subject to the provisions of the DIP Order and in accordance with his (her or its) reasonable business judgment, Avoidance Actions; (d) retain and/or employ professionals; (e) exercise all power and authority that may be exercised by any officer, director or Holder of an Interest in such Debtor with like effect as if authorized, exercised and taken by unanimous consent of such officers, directors or Holders of Interests including, without limitation, amending any Debtor's organizational documents or dissolving any Debtor; (f) pursuing objections to, and estimations and settlements of, Claims subject to the consent of the Creditors' Committee solely with respect to General Unsecured Claims and the consent of the Prepetition Senior Secured Lender and the Secured Noteholder with respect to all other Claims; (g) prosecuting, to the extent not otherwise released herein, any causes of action of the Estates, including, subject to the provisions of the DIP Order, Avoidance Actions, if any; (h) calculating and implementing all distributions to be made under this Plan to Creditors holding Allowed Claims; (i) marketing, selling, leasing or otherwise disposing of or realizing the value of all Assets; (j) filing all required tax returns and paying taxes and all other obligations on behalf of the Debtors; (k) file required operating reports; and/or (l) take all other actions required under the Plan to complete the liquidation, dissolution and wind-up of the Debtors in accordance with applicable non-bankruptcy law and the Plan. The Plan Administrator shall serve as the Disbursing Agent under the Plan. The Plan Administrator may also be authorized and directed to review, object to, prosecute, negotiate, settle or otherwise compromise any Claims, pending causes of action or other Avoidance Actions, subject to the consent of (i) the Prepetition Senior Secured Lender (with respect to any claim or cause of action that may generate proceeds constituting Cash Collateral of the Prepetition Senior Secured Lender), (ii) the Prepetition Senior Secured Lender and Secured Noteholder (with respect to Avoidance Actions), and (iii) the Creditors' Committee (with respect to General Unsecured Claims), in each case in accordance with Bankruptcy Rule 9019. The powers granted to the Plan Administrator shall be exercisable without further approval of the Court and for avoidance of doubt, the Plan Administrator shall have no power, standing or authority to review, object to, prosecute, negotiate, settle or otherwise compromise any Claims, pending causes of action, Third Party Claims or other Avoidance Actions otherwise released under a prior Order of the Bankruptcy Court or under the Plan.

(d) Liquidation of Assets. The Plan Administrator shall pursue recovery of Assets under the Plan in a commercially reasonable manner.

(e) Compensation of the Plan Administrator's Professionals. The Plan Administrator may compensate professionals retained by the Plan Administrator at the rates agreed upon by and between the Plan Administrator and his retained professionals without further order of the Court. The Plan Administrator shall maintain appropriate reserves to fund

confirmation administrative expenses, post-confirmation administrative expenses, and operating expenses during the implementation of the Plan. Such reserves shall be established in consultation with the Plan Oversight Committee.

(f) Execution of Documents. The Debtors (or the Plan Administrator on behalf of the Debtors) may execute any and all documents and instruments necessary to effectuate the provisions of the Plan.

(g) Standard of Care and Exculpation. The Plan Administrator, its professionals and its employees are exonerated, held harmless and indemnified by the Debtors and their Estates for any act or omission in respect of the Plan Administrator's duties under the Plan, except for gross negligence and willful misconduct (and may, but are not required to, maintain insurance for the purpose of such indemnification), as set forth in a Plan Administrator Agreement.

6.3 ***Transfer Taxes.*** Any transfer of the Plan Assets or any portion(s) of the Plan Assets pursuant to the Plan shall constitute a "transfer under a plan" within the purview of section 1146(c) of the Bankruptcy Code and shall not be subject to transfer, stamp or similar Taxes.

6.4 ***Avoidance and other Third Party Claims.*** The Plan Administrator may pursue any Third Party Claim by informal demand and/or by the commencement of litigation. The Net Recoveries of such Third Party Claims will be Plan Assets.

6.5 ***Effective Date.*** On the Effective Date, the Plan Administrator shall have the rights and powers set forth herein in order to carry out and implement the purposes and intent of the Plan.

6.6 ***Records.*** The Plan Administrator shall be provided with originals or copies of all documents and business records of the Debtors necessary for the analysis and prosecution of Third Party Claims. The Plan Administrator shall maintain such records until the earlier of: (i) the Final Distribution Date; or (ii) five years from the effective date of such document. Thereafter, said records may be destroyed or otherwise disposed of, provided that 20 days prior notice of such intention to dispose of the records shall be provided to the Persons on the Debtors' Bankruptcy Rule 2002 service list. If the Plan Administrator seeks to destroy or otherwise dispose of any records of the Debtors' Estates prior to the time periods set forth herein, the Plan Administrator shall be entitled to do so upon order of the Bankruptcy Court obtained on motion on twenty days negative notice to the Debtors' Bankruptcy Rule 2002 service list.

6.7 ***Substantial Consummation.*** The Plan shall be deemed to be substantially consummated on the first date distributions are made in accordance with the terms of this Plan to any Claimholders.



## ARTICLE VII UNEXPIRED LEASES AND EXECUTORY CONTRACTS

7.1 ***Contracts and Leases.*** On the Effective Date, all Pre-Petition Date executory contracts, employment agreements and unexpired leases other than those leases and contracts that were previously assumed or rejected, except as set forth in Section 7.2 herein, shall be deemed automatically rejected as of that date or such earlier date as the Debtors may have unequivocally terminated such lease or contract. The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejections, pursuant to section 365 of the Bankruptcy Code.

7.2 ***Employment, Indemnification and Other Agreements.*** The Plan Administrator may enter into employment, indemnification and other agreements with individuals who may be required to assist the Plan Administrator after the Effective Date. Such agreements, in addition to director and officer liability policies and other insurance policies, shall remain in place after the Effective Date until such time as the Plan Administrator shall determine to either terminate or amend such agreements.

7.3 ***Payments Related to Assumption of Executory Contracts and Unexpired Leases.*** Except with respect to executory contracts and unexpired leases assumed under the prior Court orders, to the extent not already paid prior to plan confirmation, any monetary amounts by which each executory contract and unexpired lease to be assumed may be in default shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by Cure. In the event of a dispute regarding (a) the nature or the amount of any Cure, (b) the ability of any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the executory contract or unexpired lease to be assumed, or (c) any other matter pertaining to assumption, Cure shall occur following the entry of a Final Order resolving the dispute and approving the assumption and assignment.

7.4 ***Rejection Damages Bar Date.*** If the rejection by the Debtors, pursuant to the Plan or otherwise, of an executory contract or unexpired lease results in a Claim, then such Claim shall be forever barred and shall not be enforceable against the Debtors, the Plan Administrator or the properties of any of them unless a proof of claim is filed with the clerk of the Bankruptcy Court and served upon counsel to the Debtors and the Plan Administrator within thirty (30) days after entry of an Order authorizing the Debtors to reject an executory contract or unexpired lease; provided, however, that notwithstanding the foregoing, in the case of an executory contract or unexpired lease "deemed rejected" pursuant to Section 7.1 of this Plan which results in a Claim, such Claim shall be forever barred and shall not be enforceable against the Debtors, the Plan Administrator or the properties of any of them unless a proof of claim is filed with the clerk of the Bankruptcy Court and served upon counsel to the Debtors and the Plan Administrator within thirty (30) days after the Effective Date.

7.5 ***Objections to Rejection Damage Claims.*** Objections to proofs of Claim for damages resulting from rejected executory contracts or unexpired leases shall be filed by the Plan Administrator with the Bankruptcy Court any time prior to the later of ninety (90) days after the Effective Date or sixty (60) days following the filing of such proofs of Claim for damages. Said objections shall be served upon the holder of the Claim to which such objection is made (or



holder's counsel, when applicable) and any Rejection Claim that is Allowed shall be paid from the Plan Assets.

## ARTICLE VIII PROVISIONS GOVERNING DISTRIBUTIONS

8.1 ***Time of Distributions.*** Except as otherwise provided for herein, ordered by the Bankruptcy Court, or otherwise, distributions under the Plan shall be made as soon as is practicable on the later to occur of (a) the Effective Date, (b) the date a Claim becomes an Allowed Claim, or (c) the date that Cash becomes available for distribution to a particular Class pursuant to the treatment of such Class under the Plan. The Plan Administrator shall provide for a holdback of a sufficient amount of Cash, which holdback shall be estimated to be sufficient to satisfy incurred and anticipated Post-Effective Date Claims incurred by the Plan Administrator and to provide for a hold-back with respect to Disputed Claims before making distributions under this Plan. The Plan Administrator may make additional distributions of Cash and property received after the initial distributions. Such additional distributions may be made at such times and in such amounts as determined by the Plan Administrator in consultation with the Plan Administrator Oversight Committee.

8.2 ***Interest on Claims.*** Unless otherwise specifically provided for in the Plan or Confirmation Order, or as required by section 506 of the Bankruptcy Code, post-Petition Date interest shall not accrue or be paid on Claims, and no Claimholder shall be entitled to interest accruing on or after the Petition Date on any Claim. Interest shall not accrue or be paid upon any Disputed Claim in respect of the period from the Petition Date to the date a final distribution is made thereon if and after such Disputed Claim becomes an Allowed Claim.

8.3 ***Claims Administration Responsibility.*** The Plan Administrator shall retain sole responsibility for administering, disputing, objecting to, compromising or otherwise resolving issues related to distributions to Claimholders.

8.4 ***W-9 Forms from Holders of Claims.*** The Plan Administrator may issue W-9 Forms to all creditors entitled to distribution to either (i) their last known addresses per the records obtained by the Plan Administrator from the Debtor or (ii) forwarding addresses provided by the United States Postal Service or by creditors themselves. Creditors failing to return completed W-9 Forms to the Plan Administrator within 30 days of the Plan Administrator's request for a completed W-9 Form (or within any further time period expressly agreed to in writing between the Plan Administrator and such Creditor), shall not share in any distribution provided for under the Plan.

8.5 ***Distribution to General Unsecured Creditors.*** The Plan Administrator shall make distributions to Allowed Class 5 Claims, after satisfaction of the Claims in Classes 1, 2 and 3 and Administrative Claims as required by the Plan and setting aside a reserve for expenses of the Plan Administrator, from the remaining Plan Assets.

8.6 ***Procedures for Treating and Resolving Disputed Claims. No Distributions Pending Allowance.*** Except as set forth in Section 8.6(c) of this Plan, no payments or distributions will be made with respect to all or any portion of a Disputed Claim

unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by a Final Order, and the Disputed Claim has become an Allowed Claim. All objections to Claims must be filed by the Plan Administrator on or before the Business Day which is one hundred twenty (120) days after the Effective Date, unless such time period is extended by the Bankruptcy Court.

(h) ***Distribution Reserve.*** The Plan Administrator will withhold the Distribution Reserve from the property to be distributed under the Plan to Claimholders. The Plan Administrator may request estimation for any Disputed Claim that is contingent or unliquidated, and the Plan Administrator will withhold the Distribution Reserve based upon the estimated amount of each such Claim as determined by the Bankruptcy Court. If the Plan Administrator elects not to request such an estimation from the Bankruptcy Court with respect to a Disputed Claim that is contingent or unliquidated, the Plan Administrator will withhold the Distribution Reserve based upon the appropriate pro rata percentage distribution of the Face Amount of such Claim.

(i) ***Distributions After Allowance.*** Payments and distributions from the Distribution Reserve on account of a Disputed Claim, to the extent that such Disputed Claim ultimately becomes an Allowed Claim, will be made in accordance with provisions of the Plan that govern the Class in which such Claim is classified. Promptly after the date when the order or judgment of the Bankruptcy Court allowing all or part of such Claim becomes a Final Order, the Plan Administrator shall distribute to the holder of such Claim any Cash allocated to such Claim in the Distribution Reserve that would have been distributed on the dates distributions were previously made on account of Allowed Claims had such Claim been an Allowed Claim on such dates. All distributions made under this Section of the Plan on account of an Allowed Claim shall be made as if such Claim had been an Allowed Claim on the dates distributions were previously made to Allowed Claims.

(j) ***Partial Distributions.*** Notwithstanding any other provision of this Plan or the documents referred to by this Plan, the Plan Administrator may make one or more distributions to the holders of Disputed Claims, based on the distributions which such holders would otherwise be entitled to receive based on the undisputed portions of such Disputed Claims if same had not been objected to, if any. This power of direction may not be used to select individual Disputed Claims for payment. The Plan Administrator may make distributions on the undisputed portions of all Disputed Claims, or none at all. Notwithstanding the foregoing, the Plan Administrator may not authorize or pay any distribution to entities who may be liable to the Plan Administrator with respect to a Third Party Claim or otherwise, which Disputed Claim may be paid, if at all, only after the holder of such Disputed Claim has discharged its liability to the Plan Administrator on account of the Third Party Claim or otherwise.

(k) ***Claims Allowable Against Multiple Debtors.*** Notwithstanding anything herein or in the Schedules to the contrary, to the extent a Claimholder has a Claim that is an Allowed Claim against more than one of the Debtors based upon the same ground or theory of liability, such Claim shall only be counted once for determination of distributions under the Plan.

8.7 ***Delivery of Distributions.*** Distributions to Allowed Claims, other than Class 1 Claims, shall be delivered by the Plan Administrator (a) to the addresses set forth on the

proofs of claim filed by such Claimholders (or at the last known addresses of such Claimholders if no proof of claim is filed or if the Debtors have been notified of a change of address), (b) to the addresses set forth in any written notices of address changes delivered to the Plan Administrator after the date of any related proof of claim, (c) to the addresses reflected in the Schedules if no proof of claim has been filed and the Plan Administrator has not received a written notice of a change of address, or (d) in the case of a Claimholder whose Claim is governed by an agreement and is administered by an agent or servicer, to the agent or servicer which shall then be responsible for making delivery of the distribution to such Claimholder.

8.8 ***Unclaimed or Undeliverable Distributions.*** If the distribution of any Claimholder, other than holders of Class 1 Claims, is returned as undeliverable, no further distributions to such Claimholder shall be made unless and until the Plan Administrator is notified of such Claimholder's then current address, at which time all missed distributions shall be made to such Claimholder without interest. Amounts in respect of undeliverable distributions shall be returned to the Plan Administrator until such distributions are claimed. All claims for undeliverable distributions shall be made on or before the thirtieth (30th) day after the Plan Administrator's final distribution under the Plan. After such date, all property unclaimed by Claimholder shall revert to the Plan Administrator to be distributed in accordance with this Plan without regard to the application of escheat or similar laws.

8.9 ***Minimum Distribution.*** Notwithstanding any other provision of the Plan, the Disbursing Agent will not be required to make distributions of Cash less than \$25.00 in value.

8.10 ***Manner of Payment Under this Plan.*** The Cash distributions made pursuant to this Plan shall be made in U.S. dollars by checks drawn on domestic banks selected by the Plan Administrator, as applicable, or by wire transfer from a domestic bank selected at the option of the Plan Administrator.

8.11 ***Final Distribution Report.*** The Plan Administrator shall prepare and file with the Bankruptcy Court a final report (the "***Final Distribution Report***") twenty (20) days prior to making the final distribution under this Plan. The report shall disclose the total amount distributed or to be distributed under this Plan.

8.12 ***Post-Final Distribution Assets.*** Any assets received by the Plan Administrator after the filing of the Final Distribution Report shall be tendered to the Holders of Allowed Claims in accordance with the distribution requirements otherwise set forth in this Plan.

## ARTICLE IX SETTLEMENT, RELEASE, INJUNCTION AND RELATED PROVISIONS

9.1 ***Compromise and Settlement of Claims, Interests and Controversies.*** Pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests and controversies relating to the contractual, legal and subordination rights that a holder of a Claim may have with respect to any Allowed Claim or Interest or any distribution to be made on

account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates and holders, and is fair, equitable and reasonable. In accordance with the provisions of the Plan, pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any further notice to or action, order or approval of the Bankruptcy Court, after the Effective Date, the Plan Administrator may compromise and settle Claims against them and Causes of Action against other Entities.

9.2 ***Release of Liens.*** Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges or other security interests against any property of the Estates shall be fully released and discharged, and all of the right, title and interest of any holder of such mortgages, deeds of trust, Liens, pledges or other security interests shall revert to the Estate and its successors and assigns.

9.3 ***Releases by the Debtors.*** ON THE EFFECTIVE DATE OF THE PLAN, THE RELEASED PARTIES WILL BE EXPRESSLY, UNCONDITIONALLY, GENERALLY AND INDIVIDUALLY AND COLLECTIVELY RELEASED, ACQUITTED AND DISCHARGED BY THE DEBTORS AND THEIR ESTATES FROM ANY AND ALL ACTIONS, CLAIMS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, CAUSES OF ACTION, REMEDIES AND LIABILITIES WHATSOEVER, INCLUDING ANY DERIVATIVE CLAIMS ASSERTED ON BEHALF OF THE DEBTORS OR NON-DEBTOR PARENT, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, MATURED OR UNMATURED, EXISTING OR HEREINAFTER ARISING, IN LAW, EQUITY, CONTRACT, TORT OR OTHERWISE, BY STATUTE OR OTHERWISE, THAT THE DEBTORS, THE PLAN ADMINISTRATOR, THE DEBTORS' ESTATES OR THEIR AFFILIATES (WHETHER INDIVIDUALLY OR COLLECTIVELY) OR ON BEHALF OF THE HOLDER OF ANY CLAIM OR INTEREST OR OTHER ENTITY, EVER HAD, NOW HAS OR HEREAFTER CAN, SHALL OR MAY HAVE, BASED ON OR RELATING TO, OR IN ANY MANNER ARISING FROM, IN WHOLE OR IN PART, THE DEBTORS, THE DEBTORS' LIQUIDATION, THE CHAPTER 11 CASES, THE PURCHASE, SALE OR RESCISSION OF THE PURCHASE OR SALE OF ANY SECURITY OF THE DEBTORS, THE SUBJECT MATTER OF, OR THE TRANSACTIONS OR EVENTS GIVING RISE TO, ANY CLAIM OR INTEREST THAT IS TREATED IN THE PLAN, THE BUSINESS OR CONTRACTUAL ARRANGEMENTS BETWEEN THE DEBTORS AND ANY RELEASED PARTY, THE RESTRUCTURING OF CLAIMS AND INTERESTS BEFORE OR DURING THE CHAPTER 11 CASES, THE NEGOTIATION, FORMULATION, PREPARATION, OR PERFORMANCE OF THE DIP LOAN FACILITY, THE PLAN SUPPORT AGREEMENT, THE PLAN, THE DISCLOSURE STATEMENT OR RELATED AGREEMENTS, INSTRUMENTS OR OTHER DOCUMENTS OR ANY OTHER ACT OR OMISSION, TRANSACTION, AGREEMENT, EVENT OR OTHER OCCURRENCE RELATING TO THE DEBTORS TAKING PLACE ON OR BEFORE THE CONFIRMATION DATE OF THE PLAN, EXCEPT FOR ANY CLAIMS AND CAUSES OF ACTION FOR ACTUAL FRAUD.

9.4 ***Releases by Holders.*** ON THE EFFECTIVE DATE OF THE PLAN, EACH HOLDER OF A CLAIM OR AN INTEREST IN THE DEBTORS SHALL BE DEEMED TO HAVE EXPRESSLY, UNCONDITIONALLY, GENERALLY AND INDIVIDUALLY AND COLLECTIVELY, RELEASED, ACQUITTED AND DISCHARGED THE RELEASED PARTIES (INCLUDING THE RELEASED PARTIES PREDECESSORS, SUCCESSORS AND ASSIGNS, SUBSIDIARIES, AFFILIATES, MANAGED ACCOUNTS OR FUNDS, CURRENT AND FORMER OFFICERS, DIRECTORS, PRINCIPALS, SHAREHOLDERS, DIRECT AND INDIRECT EQUITY HOLDERS, MEMBERS, PARTNERS (GENERAL AND LIMITED), EMPLOYEES, AGENTS, ADVISORY BOARD MEMBERS, FINANCIAL ADVISORS, ATTORNEYS, ACCOUNTS, INVESTMENT BANKERS, CONSULTANTS, REPRESENTATIVES, MANAGEMENT COMPANIES, FUND ADVISORS AND OTHER PROFESSIONALS) AND THE RELEASED PARTIES FROM ANY AND ALL ACTIONS, CLAIMS, INTERESTS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, CAUSES OF ACTION, REMEDIES AND LIABILITIES WHATSOEVER, INCLUDING ANY DERIVATIVE CLAIMS ASSERTED ON BEHALF OF THE DEBTORS OR NON-DEBTOR PARENT, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, MATURED OR UNMATURED, EXISTING OR HEREAFTER ARISING, IN LAW, EQUITY, CONTRACT, TORT OR OTHERWISE, THAT SUCH HOLDER (WHETHER INDIVIDUALLY OR COLLECTIVELY) EVER HAD, NOW HAS OR HEREAFTER CAN, SHALL OR MAY HAVE, BASED ON OR RELATING TO, OR IN ANY MANNER ARISING FROM, IN WHOLE OR IN PART, THE DEBTORS, THE DEBTORS' LIQUIDATION, THE CHAPTER 11 CASES, THE PURCHASE, SALE OR RESCISSION OF THE PURCHASE OR SALE OF ANY SECURITY OF THE DEBTORS, THE SUBJECT MATTER OF, OR THE TRANSACTIONS OR EVENTS GIVING RISE TO, ANY CLAIM OR INTEREST THAT IS TREATED IN THE PLAN, THE BUSINESS OR CONTRACTUAL ARRANGEMENTS BETWEEN THE DEBTORS AND ANY RELEASED PARTY, THE RESTRUCTURING OF CLAIMS AND INTERESTS BEFORE OR DURING THE CHAPTER 11 CASES, INCLUDING THE NEGOTIATION, FORMULATION, PREPARATION OR PERFORMANCE OF THE DIP LOAN FACILITY, THE PLAN SUPPORT AGREEMENT, THE PLAN, THE DISCLOSURE STATEMENT, OR RELATED AGREEMENTS, INSTRUMENTS OR OTHER DOCUMENTS OR ANY OTHER ACT OR OMISSION, TRANSACTION, AGREEMENT, EVENT OR OTHER OCCURRENCE RELATING TO THE DEBTORS TAKING PLACE ON OR BEFORE THE CONFIRMATION DATE OF THE PLAN, EXCEPT FOR ANY CLAIMS AND CAUSES OF ACTION FOR ACTUAL FRAUD.

9.5 ***Liabilities to, and Rights of, Governmental Units.*** Nothing in the Plan or Confirmation Order shall discharge, release, or preclude: (1) any liability to a Governmental Unit that is not a Claim; (2) any Claim of a Governmental Unit arising on or after the Confirmation Date; (3) any liability to a Governmental Unit on the part of any Person or Entity other than the Debtors or Plan Administrator; (4) any valid right of setoff or recoupment by a Governmental Unit; or (5) any criminal liability. Nothing in the Plan or Confirmation Order shall enjoin or otherwise bar any Governmental Unit from asserting or enforcing, outside the Bankruptcy Court, any liability described in the preceding sentence. The discharge and injunction provisions contained in the Plan and Confirmation Order are not intended and shall not be construed to bar any Governmental Unit from, after the Confirmation Date, pursuing any police or regulatory action.



9.6 ***Exculpation.*** EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THE PLAN, NO EXCULPATED PARTY SHALL HAVE OR INCUR, AND EACH EXCULPATED PARTY IS HEREBY RELEASED AND EXCULPATED FROM ANY EXCULPATED CLAIM, OBLIGATION, CAUSE OF ACTION OR LIABILITY FOR ANY EXCULPATED CLAIM, EXCEPT FOR GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, BUT IN ALL RESPECTS SUCH ENTITIES SHALL BE ENTITLED TO REASONABLY RELY UPON THE ADVICE OF COUNSEL WITH RESPECT TO THEIR DUTIES AND RESPONSIBILITIES PURSUANT TO THE PLAN. THE DEBTORS AND THE PLAN ADMINISTRATOR (AND EACH OF THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, OFFICERS, EMPLOYEES, ADVISORS AND ATTORNEYS) HAVE PARTICIPATED IN COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE WITH REGARD TO THE SOLICITATION AND DISTRIBUTION OF THE SECURITIES PURSUANT TO THE PLAN AND, THEREFORE, ARE NOT, AND ON ACCOUNT OF SUCH DISTRIBUTIONS SHALL NOT BE, LIABLE AT ANY TIME FOR THE VIOLATION OF ANY APPLICABLE LAW, RULE OR REGULATION GOVERNING THE SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN OR SUCH DISTRIBUTIONS MADE PURSUANT TO THE PLAN.

9.7 ***Injunction.*** FROM AND AFTER THE EFFECTIVE DATE, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE PLAN OR RELATED DOCUMENTS, ALL ENTITIES ARE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER, ANY CAUSE OF ACTION RELEASED OR TO BE RELEASED PURSUANT TO THE PLAN OR THE CONFIRMATION ORDER.

9.8 FROM AND AFTER THE EFFECTIVE DATE, TO THE EXTENT OF THE RELEASES AND EXCULPATION GRANTED IN ARTICLE IX, THE DEBTORS AND HOLDERS OF CLAIMS OR INTERESTS SHALL BE PERMANENTLY ENJOINED FROM COMMENCING OR CONTINUING IN ANY MANNER AGAINST THE RELEASED PARTIES AND THE EXCULPATED PARTIES AND THEIR ASSETS AND PROPERTIES, AS THE CASE MAY BE, ANY SUIT, ACTION OR OTHER PROCEEDING, ON ACCOUNT OF OR RESPECTING ANY CLAIM, DEMAND, LIABILITY, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, INTEREST OR REMEDY RELEASED OR TO BE RELEASED PURSUANT TO ARTICLE VIII.

9.9 EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE PLAN OR RELATED DOCUMENTS, OR IN OBLIGATIONS ISSUED PURSUANT TO THE PLAN, ALL ENTITIES WHO HAVE HELD, HOLD OR MAY HOLD CLAIMS OR INTERESTS THAT HAVE BEEN RELEASED OR DISCHARGED PURSUANT TO ARTICLE 9.3 OR ARTICLE 9.4, OR ARE SUBJECT TO EXCULPATION PURSUANT TO ARTICLE 9.6 ARE PERMANENTLY ENJOINED, FROM AND AFTER THE EFFECTIVE DATE, FROM TAKING ANY OF THE FOLLOWING ACTIONS: (1) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; (2) ENFORCING, ATTACHING, COLLECTING OR RECOVERING BY ANY MANNER OR MEANS ANY JUDGMENT, AWARD, DECREE OR ORDER AGAINST SUCH ENTITIES ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; (3) CREATING, PERFECTING OR ENFORCING

ANY ENCUMBRANCE OF ANY KIND AGAINST SUCH ENTITIES OR THE PROPERTY OR ESTATE OF SUCH ENTITIES ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS; AND (4) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH CLAIMS OR INTERESTS RELEASED OR SETTLED PURSUANT TO THE PLAN.

9.10 THE RIGHTS AFFORDED IN THE PLAN AND THE TREATMENT OF ALL CLAIMS AND INTERESTS HEREIN SHALL BE IN EXCHANGE FOR AND IN COMPLETE SATISFACTION OF CLAIMS AND 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, PROPERTY OR ESTATES. ON THE EFFECTIVE DATE, ALL SUCH CLAIMS AGAINST THE DEBTORS SHALL BE FULLY RELEASED AND DISCHARGED, AND THE INTERESTS SHALL BE CANCELLED.

9.11 EXCEPT AS OTHERWISE EXPRESSLY PROVIDED FOR HEREIN OR IN OBLIGATIONS ISSUED PURSUANT HERETO FROM AND AFTER THE EFFECTIVE DATE, ALL CLAIMS SHALL BE FULLY RELEASED, AND THE INTERESTS SHALL BE CANCELLED, AND THE DEBTORS' LIABILITY WITH RESPECT THERETO SHALL BE EXTINGUISHED COMPLETELY, INCLUDING ANY LIABILITY OF THE KIND SPECIFIED UNDER SECTION 502(G) OF THE BANKRUPTCY CODE.

9.12 ALL ENTITIES SHALL BE PRECLUDED FROM ASSERTING AGAINST THE DEBTORS, THE DEBTORS' ESTATES, THE PLAN ADMINISTRATOR, EACH OF THEIR RESPECTIVE SUCCESSORS AND ASSIGNS AND EACH OF THEIR ASSETS AND PROPERTIES, ANY OTHER CLAIMS OR INTERESTS BASED UPON ANY DOCUMENTS, INSTRUMENTS OR ANY ACT OR OMISSION, TRANSACTION OR OTHER ACTIVITY OF ANY KIND OR NATURE THAT OCCURRED BEFORE THE EFFECTIVE DATE.

9.13 ***Term of Injunctions or Stays.*** Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and 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 Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

9.14 ***No Liability for Solicitation or Participation.*** As specified in section 1125(e) of the Bankruptcy Code, Persons that solicit acceptances or rejections of this Plan, in good faith and in compliance with the applicable provisions of the Bankruptcy Code are not liable, on account of such solicitation or participation, for violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of this Plan or the offer, issuance, sale or purchase of securities.



9.15 ***Compromises and Settlements.*** Pursuant to Bankruptcy Rule 9019(a), the Debtors may compromise and settle various (a) Claims against them, and (b) claims that they have against other Persons. The Debtors expressly reserve the right (with Bankruptcy Court approval, following appropriate notice and opportunity for a hearing) to compromise and settle up to and including the Effective Date, Claims against them and claims that they may have against other Persons. After the Effective Date, such right shall pass exclusively to the Plan Administrator to which such claims shall be conveyed pursuant to the Plan.

9.16 ***Cancellation of Agreements.*** On the Effective Date, except to the extent of a right to receive a distribution under this Plan and as otherwise provided herein, any note, bond, Indentures or other instrument or document evidencing or creating any indebtedness or obligation of the Debtors shall be deemed automatically cancelled; *provided, however*, that each agreement that governs the rights of the Claimholder and that is administered by an agent or a servicer, shall continue in effect solely for the purposes of allowing such agent or servicer to make the distributions to be made on account of such Claims or Interests under the Plan.

9.17 ***Objections to Claims.*** The failure by the Debtors or the Plan Administrator to object to, or examine, any Claim or Interest for purposes of voting shall not be deemed a waiver of any such entities' right to object to (to the extent of any Claim that is not expressly Allowed in the Plan) or reexamine the Claim or Interest in whole or in part for any other purpose, including, but not limited to, distribution of property.

## ARTICLE X CONDITIONS PRECEDENT

10.1 ***Conditions to Confirmation.*** The following is a condition precedent to confirmation of the Plan that may be satisfied or waived in accordance with Section 10.3 of the Plan:

(l) The sale of the Massif Assets in accordance with the Massif Sale Motion shall have been approved by the Bankruptcy Court, such sale shall have closed based on a sale price of not less than \$8,000,000, and all Sale Proceeds payable at closing of the sale of the Massif Assets shall have been paid at closing to the DIP Lender to pay in full any outstanding balance of the DIP Facility and the remaining Sale Proceeds shall have been paid at closing to the Prepetition Senior Secured Lender for provisional application to the unpaid balance of the Prepetition Senior Secured Claim.

(m) The sale of the Footwear Assets in accordance with the Footwear Sale Motion shall have been approved by the Bankruptcy Court, such sale or sales shall have closed, and all Sale Proceeds payable at closing of the sale or sales of the Footwear Assets shall have been paid at closing to the DIP Lender to pay in full any outstanding balance of the DIP Facility and the remaining Sale Proceeds shall have been paid at closing to the Prepetition Senior Secured Lender for provisional application to the unpaid balance of the Prepetition Senior Secured Claim.

(n) The Confirmation Order shall be in form and substance reasonably acceptable to the Debtors, the Prepetition Senior Secured Lender and the Secured Noteholder.

10.2 ***Conditions to Effective Date.*** The following are conditions precedent to the occurrence of the Effective Date, each of which may be satisfied or waived in accordance with Section 10.3 of the Plan:

- (o) The Confirmation Order shall have been entered by the Bankruptcy Court;
- (p) No stay shall be in effect with respect to the Confirmation Order;
- (q) The Plan Administrator Agreement has been executed (no later than 30 days after entry of the Confirmation Order); and
- (r) The Debtors shall be in compliance with the Budget approved under the DIP Order.

10.3 ***Waiver of Conditions to Confirmation and Effective Date.*** The conditions set forth in Sections 10.1 and 10.2 of the Plan may be waived by the Debtors with the consent of the Prepetition Senior Secured Lender and the Secured Noteholder without any notice to parties in interest or the Bankruptcy Court and without a hearing. The failure to satisfy or waive any condition to the Confirmation Date or the Effective Date may be asserted by the Debtors with the consent of the Prepetition Senior Secured Lender and Secured Noteholder regardless of the circumstances giving rise to the failure of such condition to be satisfied (including any action or inaction by the Debtors). The failure of the Debtors to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right, which may be asserted at any time.

## **ARTICLE XI RETENTION OF JURISDICTION**

11.1 Pursuant to sections 105(a) and 1142 of the Bankruptcy Code, the Bankruptcy Court shall have exclusive jurisdiction of all matters arising out of, and related to, the Chapter 11 Cases and the Plan, including, among other things, the following matters:

- (s) to hear and determine pending motions for the assumption and assignment of or rejection of executory contracts or unexpired leases to which the Debtors are a party or with respect to which the Debtors may be liable, and to hear and determine the allowance of Claims resulting therefrom, including the amount of Cure, if any, required to be paid in connection with such assumption and assignment;
- (t) to adjudicate any and all adversary proceedings, applications and contested matters that may be commenced or maintained pursuant to the Chapter 11 Cases or the Plan, including, without limitation, any actions to recover any transfers, assets, properties or damages to which the Debtors may be entitled under applicable contract provisions, the provisions of this Plan or under applicable provisions of the Bankruptcy Code or any other federal, state or local laws;
- (u) to ensure that distributions to Allowed Claimholders and Allowed Interestholders are accomplished as provided herein;

(v) to hear and determine any and all objections to the allowance or estimation of Claims and Interests filed both before and after the Confirmation Date, including any objections to the classification of any Claim or Interest, and to allow or disallow any Claim or Interest in whole or in part;

(w) to determine requests for the payment of Claims entitled to priority under section 507(a)(1) of the Bankruptcy Code, including compensation of and reimbursement of expenses of parties entitled thereto;

(x) to enter and implement such orders as may be appropriate if the Confirmation Order is for any reason stayed, revoked, modified or vacated;

(y) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan, including disputes arising under agreements, documents or instruments executed in connection with the Plan or regarding the rights of the Plan Administrator;

(z) to issue orders in aid of execution, implementation or consummation of the Plan;

(aa) to consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(bb) to hear and determine all applications for compensation and reimbursement of Professional Claims under the Plan or under sections 330, 331, 503(b), 1103 and 1129(a)(4) of the Bankruptcy Code;

(cc) to hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

(dd) to hear any other matter not inconsistent with the Bankruptcy Code;

(ee) to hear and determine all disputes involving the existence, nature or scope of the releases provided for in the Plan;

(ff) to hear and determine any Claims of or against the Debtors;

(gg) to enforce all orders previously entered by the Bankruptcy Court; and

(hh) to enter a final decree closing the Chapter 11 Cases.

Notwithstanding anything contained herein to the contrary and only to the extent the Bankruptcy Court has previously ordered otherwise, the Bankruptcy Court retains exclusive jurisdiction to hear and determine disputes concerning Claims, Interests, Third Party Claims and any motions to compromise or settle such disputes. Despite the foregoing, if the Bankruptcy Court is determined not to have jurisdiction with respect to the foregoing, or if the Plan Administrator chooses to pursue any Third Party Claim in another court of competent jurisdiction, the Plan

Administrator will have authority to bring such action in any other court of competent jurisdiction.

**ARTICLE XII**  
**ACCEPTANCE OR REJECTION OF THE PLAN;**  
**EFFECT OF REJECTION BY ONE OR MORE**  
**IMPAIRED CLASSES OF CLAIMS OR INTERESTS**

12.1 ***Impaired Classes of Claims and Interests Entitled to Vote.*** Claimholders and Interestholders in each Impaired Class of Claims or Interests are entitled to vote as a class to accept or reject the Plan. The Debtors will tabulate votes on the Plan.

12.2 ***Acceptance by an Impaired Class.*** In accordance with section 1126(c) of the Bankruptcy Code and except as provided in section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims or Interests shall have accepted the Plan if the Plan is accepted by the holders of at least two-thirds in dollar amount and more than one-half (½) in number of the Allowed Claims or Allowed Interests of such Class that have timely and properly voted to accept or reject the Plan.

12.3 ***Presumed Acceptances by Unimpaired Classes.*** Class 3 Priority Non-Tax Claims are Unimpaired by the Plan. Under section 1126(f) of the Bankruptcy Code, such Claimholders are conclusively presumed to accept the Plan, and the votes of such Claimholders will not be solicited.

12.4 ***Class Deemed to Reject Plan.*** In the event the Court were to conclude that Class 6 Interests were impaired by virtue of the Debtors' estimate that the holders of Common Stock and Other Interests will not receive any distribution, Class 6 would also be conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. In either event, the votes of Class 6 Interestholders will not be solicited.

12.5 ***Non-Consensual Confirmation.*** In the event that less than all classes vote to accept the Plan, the Debtors will seek Confirmation of the Plan under section 1129(b) of the Bankruptcy Code.

12.6 ***Confirmability and Severability of the Plan.*** The confirmation requirements of section 1129 of the Bankruptcy Code must be satisfied. A determination by the Bankruptcy Court that the Plan is not confirmable pursuant to section 1129 of the Bankruptcy Code shall not limit or affect the Debtors' ability to modify the Plan, subject to the consent of the Prepetition Senior Secured Lender and Secured Noteholder, to satisfy the confirmation requirements of section 1129 of the Bankruptcy Code.

**ARTICLE XIII**  
**MISCELLANEOUS PROVISIONS**

13.1 ***Binding Effect.*** The Plan shall be binding upon and inure to the benefit of the Debtors, the Plan Administrator, all present and former Claimholders, all present and former Interestholders, other parties in interest and their respective successors and assigns.

13.2 ***Modification and Amendments.*** The Debtors may alter, amend or modify the Plan or any Exhibits thereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Hearing, but any such alteration, amendment, or modification shall require the consent of the Prepetition Senior Secured Lender and the Secured Noteholder. After the Confirmation Date and prior to substantial consummation of the Plan as defined in section 1101(2) of the Bankruptcy Code, the Plan Administrator may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan, so long as such proceedings do not materially adversely affect the treatment of Claimholders or Interestholders under the Plan; *provided, however*, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

13.3 ***Withholding and Reporting Requirements.*** In connection with the Plan and all instruments issued in connection therewith and distributions thereon, the Debtors shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements.

13.4 ***Creditors' Committee.*** From and after the Effective Date, the Creditors' Committee shall exist for the sole purposes of: (a) consenting to the Claims reconciliation, objection, negotiation and settlement process conducted by the Plan Administrator solely with respect to General Unsecured Claims; (b) to enforce the terms of the Plan and payments on account of Allowed General Unsecured Claims; and (c) appearing before and being heard by the Bankruptcy Court and other courts of competent jurisdiction in connection with the above duties; provided, however, the Debtors shall no longer be responsible for paying any fees or expenses incurred by members of the Creditors' Committee after the Effective Date, including fees and expenses of professionals of the Creditors' Committee.

13.5 ***Third Party Claims/Causes of Action.*** Unless otherwise released under a prior Order of the Bankruptcy Court or under the Plan, all Third Party Claims and Causes of Action are hereby preserved for prosecution and enforcement by the Plan Administrator. The Plan Administrator, after consultation with the Plan Administrator Advisory Committee, shall have no obligation to perform an analysis of any Third Party Claims and Causes of Action.

13.6 ***Revocation, Withdrawal or Non-Consummation Right to Revoke or Withdraw.*** The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Effective Date so long as the Debtors obtain the consent of the Prepetition Senior Secured Lender and the Secured Noteholder for such revocation or withdrawal.

13.7 ***Severability of Plan Provisions.*** If prior to Confirmation any term or provision of this Plan which does not govern the treatment of Claims or Interests or the conditions to the Effective Date is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid and enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such

term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

13.8 ***Trustee's Fees.*** All fees due and owing under 28 U.S.C. §1930 shall be paid on the Effective Date and thereafter, as due, until the cases are closed, converted or dismissed and final decreed, from the Plan Assets.

13.9 ***Notices.*** Pursuant to Bankruptcy Rule 2002 and any applicable local Bankruptcy Rules, notice of all post-Confirmation matters for which notice is required to be given shall be deemed sufficient if served upon the U.S. Trustee's Office, counsel to the Debtors, counsel to the Prepetition Senior Secured Lender, counsel to the Secured Noteholder and counsel to the Plan Administrator and all persons on the Debtors' Bankruptcy Rule 2002 service list. With the exception of the Debtors, the Plan Administrator and the United States Trustee, any Person desiring to remain on the Debtors' Bankruptcy Rule 2002 service list shall be required to file a request for continued service and to serve such request upon counsel to the Plan Administrator and the Debtors within thirty (30) days subsequent to the Effective Date. Persons shall be notified of such continued notice requirements in the notice of entry of the Confirmation Order. Persons who do not file a request for continued service shall be removed from the Bankruptcy Rule 2002 service list. Any notice required or permitted to be provided to the Debtors, the Reorganized Debtors, the Creditors' Committee, the Prepetition Senior Secured Lender, or the Secured Noteholder under the Plan shall be in writing and served by (a) certified mail, return receipt requested, (b) hand delivery, or (c) overnight delivery service, to be addressed as follows:

If to the Debtors or the Reorganized Debtors:

Klehr Harrison Harvey Branzburg LLP  
919 N. Market Street, Suite 1000  
Wilmington, DE 19801  
Attn: Domenic E. Pacitti

If to the Plan Administrator:

[\_\_\_\_\_]

*with a copy to:*

[\_\_\_\_\_]

If to the Prepetition Senior Secured Lender:

Winston & Strawn LLP  
100 North Tryon Street  
Charlotte, NC 28202-1078  
Attn: Felton E. Parrish

If to the Secured Noteholder:

Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, New York 10022  
Attn: Joshua A. Sussberg  
E-mail address: [jsussberg@kirkland.com](mailto:jsussberg@kirkland.com)

If to the Creditors Committee:

[\_\_\_\_\_]

13.10 ***Term of Injunctions or Stays.*** Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under section 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date, shall remain in full force and effect until the Effective Date.

13.11 ***Governing Law.*** Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of Delaware shall govern the construction and implementation of the Plan, any agreements, documents and instruments executed in connection with the Plan, and corporate governance matters.

13.12 ***Waiver and Estoppel.*** Each Claimholder or Interestholder shall be deemed to have waived any right to assert that, by virtue of an agreement made with the Debtors and/or their counsel, the Creditors' Committee and/or its counsel, or any other party, its Claim or Interest should be allowed in a certain amount, in a certain priority, secured or not subordinated if such agreement was not disclosed in the Plan, the Disclosure Statement or papers filed with the Bankruptcy Court.

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Dated: July 8, 2014

Respectfully submitted,

Tactical Intermediate Holdings, Inc.  
Tactical Holdings Operations, Inc.  
Wellco Enterprises, Inc.  
Ro-Search Incorporated  
Mo-Ka Shoe Corporation  
Altama Delta Corporation  
Altama Delta (Puerto Rico) Corporation  
Massif Holdings, LLC  
Massif Mountain Gear Company, LLC

By: /s/ Carlin Adrianopoli  
Carlin Adrianopoli  
Chief Restructuring Officer

**EXHIBIT A**

**Plan Administrator Agreement**

*To Be Supplied Prior to Disclosure Statement Hearing*