

THIS PROPOSED DISCLOSURE STATEMENT IS A DRAFT THAT REMAINS SUBJECT TO REVISION AND IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE FIRST AMENDED JOINT PLAN OF LIQUIDATION OF TAYLOR-WHARTON INTERNATIONAL LLC AND TAYLOR-WHARTON CRYOGENICS LLC UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE. ACCEPTANCES OR REJECTIONS MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE UNITED STATES BANKRUPTCY COURT. THIS DISCLOSURE STATEMENT IS BEING SUBMITTED FOR APPROVAL, BUT HAS NOT BEEN APPROVED BY THE UNITED STATES BANKRUPTCY COURT.

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

In re:

Taylor-Wharton International LLC, *et al.*,¹
Debtors.

Chapter 11

Case No. 15-12075 (BLS)
(Jointly Administered)

DISCLOSURE STATEMENT IN SUPPORT OF FIRST AMENDED JOINT PLAN OF LIQUIDATION OF TAYLOR-WHARTON INTERNATIONAL LLC AND TAYLOR-WHARTON CRYOGENICS LLC UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE

REED SMITH LLP
J. Cory Falgowski (No. 4546)
1201 Market Street, Suite 1500
Wilmington, DE 19801
Telephone: (302) 778-7500
E-mail: jfalgowski@reedsmith.com

¹ The Debtors are the following two entities (with the last four digits of their taxpayer ID nos. in parenthesis): Taylor-Wharton International LLC (1577) and Taylor-Wharton Cryogenics LLC (1713). The Debtors' corporate address is: 5600 Rowland Road, Minnetonka, MN 55343.

Paul M. Singer, Esquire
225 Fifth Avenue, Suite 1200
Pittsburgh, PA 15222
Telephone: (412) 288-3131
Email: psinger@reedsmith.com

Derek J. Baker, Esquire
1717 Arch Street, Suite 3100
Philadelphia, PA 19103
Telephone: (215) 851-8100
Email: dbaker@reedsmith.com

Counsel for the Debtors

THIS DISCLOSURE STATEMENT FOR THE FIRST AMENDED JOINT PLAN OF LIQUIDATION OF TAYLOR-WHARTON INTERNATIONAL LLC AND TAYLOR-WHARTON CRYOGENICS LLC UNDER CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE (THE "PLAN"), THE ACCOMPANYING BALLOTS AND RELATED MATERIALS DELIVERED HERewith ARE BEING PROVIDED BY THE DEBTORS TO KNOWN HOLDERS OF CLAIMS AND INTERESTS PURSUANT TO SECTIONS 1125 AND 1126 OF THE BANKRUPTCY CODE IN CONNECTION WITH THE DEBTORS' SOLICITATION OF VOTES TO ACCEPT THE PLAN PROPOSED BY THE DEBTORS.

BY ORDER DATED _____, 2016, THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE APPROVED THIS DISCLOSURE STATEMENT AS CONTAINING ADEQUATE INFORMATION TO PERMIT THE HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS TO MAKE REASONABLY INFORMED DECISIONS IN EXERCISING THEIR RIGHT TO VOTE ON THE PLAN. APPROVAL OF THIS DISCLOSURE STATEMENT, HOWEVER, DOES NOT CONSTITUTE A DETERMINATION ON THE MERITS OF THE PLAN.

THIS DISCLOSURE STATEMENT AND THE RELATED DOCUMENTS SUBMITTED HERewith ARE THE ONLY DOCUMENTS AUTHORIZED BY THE BANKRUPTCY COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES ON THE PLAN. THE DEBTORS HAVE NOT AUTHORIZED ANY REPRESENTATIONS CONCERNING THE DEBTORS OR THE VALUE OF THEIR PROPERTY OTHER THAN THOSE SET FORTH IN THIS DISCLOSURE STATEMENT. HOLDERS OF CLAIMS SHOULD NOT RELY ON ANY INFORMATION, REPRESENTATIONS OR INDUCEMENTS MADE TO OBTAIN YOUR ACCEPTANCE OF THE PLAN THAT ARE OTHER THAN, OR INCONSISTENT WITH, THE INFORMATION CONTAINED HEREIN AND IN THE PLAN.

THERE HAS BEEN NO INDEPENDENT AUDIT OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT EXCEPT AS EXPRESSLY INDICATED HEREIN. THIS DISCLOSURE STATEMENT WAS COMPILED FROM INFORMATION OBTAINED BY THE DEBTORS FROM NUMEROUS SOURCES AND IS BELIEVED TO BE ACCURATE TO THE BEST OF THE DEBTORS' KNOWLEDGE, INFORMATION AND BELIEF. HOLDERS OF CLAIMS MUST RELY ON THEIR OWN EXAMINATION OF THE DEBTORS AND THE TERMS OF THE PLAN, INCLUDING THE MERITS AND RISKS INVOLVED. BEFORE SUBMITTING BALLOTS, HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN SHOULD CAREFULLY REVIEW THE PLAN, THIS DISCLOSURE STATEMENT AND THE EXHIBITS TO BOTH DOCUMENTS IN THEIR ENTIRETY.

THE VOTING DEADLINE TO ACCEPT OR REJECT THE PLAN IS 5:00 P.M., PREVAILING EASTERN TIME, _____, 2016 UNLESS EXTENDED BY ORDER OF THE BANKRUPTCY COURT.

THE DEBTORS BELIEVE THAT THE PLAN PRESENTS THE MOST ADVANTAGEOUS OUTCOME FOR ALL THE DEBTORS' STAKEHOLDERS UNDER THE CIRCUMSTANCES OF THESE CHAPTER 11 CASES AND THAT, THEREFORE, CONFIRMATION OF THE PLAN IS IN THE BEST INTERESTS OF THE DEBTORS' ESTATES. THE DEBTORS AND THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS (THE "COMMITTEE") RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

FOR THE CONVENIENCE OF HOLDERS OF CLAIMS AND INTERESTS, THIS DISCLOSURE STATEMENT SUMMARIZES THE TERMS OF THE PLAN BUT DOES NOT CONTAIN ALL OF ITS TERMS AND PROVISIONS. ALL PARTIES WHO ARE ENTITLED TO VOTE ON THE PLAN ARE STRONGLY ADVISED TO REVIEW THE PLAN IN ITS ENTIRETY BEFORE VOTING ON THE PLAN. TO THE EXTENT OF ANY INCONSISTENCY BETWEEN THE PLAN OR ANY PLAN SUPPLEMENT AND THE DISCLOSURE STATEMENT, THE TERMS OF THE PLAN OR THE PLAN SUPPLEMENT ARE CONTROLLING.

THIS DISCLOSURE STATEMENT MAY NOT BE RELIED ON FOR ANY PURPOSE OTHER THAN TO DETERMINE (IN CONJUNCTION WITH A REVIEW OF THE PLAN) WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. NOTHING STATED HEREIN SHALL BE DEEMED OR CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY, OR BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE PLAN ON THE DEBTORS OR HOLDERS OF CLAIMS OR INTERESTS. HOLDERS OF CLAIMS AND INTERESTS SHOULD NOT CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE. THEREFORE, EACH SUCH HOLDER SHOULD CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE SOLICITATION, THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREBY.

THE STATEMENTS CONTAINED HEREIN ARE MADE AS OF THE DATE HEREOF, UNLESS ANOTHER TIME IS SPECIFIED. CERTAIN STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT, BY THEIR NATURE, ARE FORWARD-LOOKING AND CONTAIN ESTIMATES AND ASSUMPTIONS. THERE CAN BE NO ASSURANCE THAT SUCH STATEMENTS WILL REFLECT ACTUAL OUTCOMES. THE DELIVERY OF THIS DISCLOSURE STATEMENT SHALL NOT BE DEEMED OR CONSTRUED TO CREATE ANY IMPLICATION THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS CORRECT AT ANY TIME AFTER THE DATE HEREOF.

SUMMARIES OF CERTAIN PROVISIONS OF AGREEMENTS REFERRED TO IN THIS DISCLOSURE STATEMENT DO NOT PURPORT TO BE COMPLETE AND ARE SUBJECT TO, AND ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO, THE

FULL TEXT OF THE APPLICABLE AGREEMENT, INCLUDING THE DEFINITIONS OF TERMS CONTAINED IN SUCH AGREEMENT.

ALL CAPITALIZED TERMS IN THIS DISCLOSURE STATEMENT THAT ARE NOT OTHERWISE DEFINED HEREIN HAVE THE MEANINGS GIVEN TO THEM IN THE PLAN, WHICH IS ANNEXED HERETO AS EXHIBIT 1.

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Exhibit 1	The Plan
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I. SUMMARY

On October 7, 2015, the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Court in the Bankruptcy Court. The Debtors are liquidating their assets as debtors and debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

Chapter 11 of the Bankruptcy Code allows a debtor to sponsor a plan that proposes how to dispose of a debtor's assets and treat claims against, and interests in, such debtor. A chapter 11 plan may provide for a debtor-in-possession to reorganize by continuing to operate, to liquidate by selling assets of the estate or to implement a combination of both. The Plan is a liquidating plan.

A. Why You Are Receiving This Document

The Bankruptcy Code requires that the party proposing a chapter 11 plan prepare and file with the Bankruptcy Court a document called a "disclosure statement." The Bankruptcy Code requires a disclosure statement to contain "adequate information" concerning the plan. In other words, a disclosure statement must contain sufficient information to enable parties who are affected by the plan to vote intelligently for or against the plan or object to the plan, as the case may be. ***This document, together with its attached exhibits, is the Disclosure Statement for the Plan. The Bankruptcy Court has reviewed this Disclosure Statement and has determined that it contains adequate information and may be sent to you to solicit your vote on the Plan.***

This Disclosure Statement summarizes the Plan's content and provides information relating to the Plan and the process the Bankruptcy Court will follow in determining whether to confirm the Plan. The Disclosure Statement also discusses the events leading to the Debtors' filing their Chapter 11 Cases, describes the main events that have occurred in the Debtors' Chapter 11 Cases, and, finally, summarizes and analyzes the Plan. The Disclosure Statement also describes certain U.S. Federal income tax consequences of the Plan to the Debtors and Holders of Claims and Interests, voting procedures and the confirmation process.

All Creditors should carefully review both the Disclosure Statement and the Plan before voting to accept or reject the Plan. Indeed, Creditors should not rely solely on the Disclosure Statement but should also read the Plan. Moreover, the Plan provisions will govern if there are any inconsistencies between the Plan and the Disclosure Statement.

B. Plan Overview

1. Purpose – Liquidation

The purpose of the Plan is to conclude the Debtors' orderly liquidation of assets and govern distributions to Creditors. If the Plan is not confirmed, the Debtors believe that they will be forced either to liquidate under chapter 7 of the Bankruptcy Code or dismiss their Chapter 11 Cases. In either event, the Debtors believe that the Debtors' unsecured Creditors would receive smaller distributions, or, in certain cases, none at all, for their Claims.

2. Substantive Consolidation or Merger

On the Effective Date, each of the Debtors' estates will be substantively consolidated pursuant to section 105(a) of the Bankruptcy Code to the extent provided in the Plan for the limited purposes of allowance, treatment and distributions under the Plan. As a result of the substantive consolidation, on the Effective Date, and to the extent provided in the Plan, all property, rights and claims of the Debtors shall be deemed pooled for purposes of allowance, treatment and distributions under the Plan. As an alternative to limited substantive consolidation, the Debtors may effectuate a merger under applicable nonbankruptcy law.

3. Plan Treatment**UNCLASSIFIED AND UNIMPAIRED CLAIMS**

<u>Unclassified Claims</u>	<u>Plan Treatment</u>	<u>Estimated Allowed Claims²</u>	<u>Estimated Recovery³</u>
Administrative Claims (other than Professional Fee Claims or Committee Professional Fee Claims)	The Liquidating Trustee shall pay each Holder of an Allowed Administrative Claim (excluding Professional Fee Claims and Committee Professional Fee Claims) the full amount of such Allowed Administrative Claim, without interest, in Cash, as soon as practicable after the later of: (i) the occurrence of the Effective Date, or (ii) the date such Administrative Claim becomes an Allowed Claim. Notwithstanding anything in the Plan to the contrary, a Holder of an Allowed Administrative Claim may be paid on such other date or dates and upon such other less favorable terms as may be agreed upon by such Holder and the Liquidating Trustee. All outstanding fees payable to the Office of the United States Trustee under 28 U.S.C. § 1930 and any interest that accrues thereon under 31 U.S.C. § 3717 shall be paid in full on the Effective	Approx. \$100,000 ⁴	100%

² The amounts set forth herein are estimates only. The actual amount of Allowed Claims for certain Classes of Claims cannot be determined with certainty until the Claims reconciliation and objection process is complete.

³ The percentages set forth herein are estimates only. The actual recoveries of certain Classes of Claims cannot be determined with certainty until the Claims reconciliation and objection process is complete.

⁴ The estimated range of Administrative Claims (other than Professional Fee Claims or Committee Professional Fee Claims) set forth herein includes amounts subject to Proofs of Claim for which the Claims reconciliation and objection process has not been completed. Due to the uncertainty and inherent risk involved, the actual amount of Administrative Claims (other than Professional Fee Claim or Committee Professional Fee Claims) cannot be determined with any degree of certainty until the Claims reconciliation and objection process is completed.

<u>Unclassified Claims</u>	<u>Plan Treatment</u>	<u>Estimated Allowed Claims²</u>	<u>Estimated Recovery³</u>
	Date. All fees that arise under 28 U.S.C. § 1930 and any interest that accrues thereon under 31 U.S.C. § 3717 after the Effective Date shall be paid in full when due until the Chapter 11 Cases are closed, dismissed, or converted, whichever occurs first. The United States Trustee shall not be required to file a proof of claim or a request for payment of quarterly fees.		
Professional Fee Claims and Committee Professional Fee Claims	<p>From and after the Effective Date, the Liquidating Trustee shall pay Professionals and the Committee Professionals the respective Professional Fees and the Committee Professional Fees awarded by Final Order of the Bankruptcy Court, as soon as practicable after the later of (i) the Effective Date, and (ii) the date upon which any order awarding fees and expenses becomes a Final Order, in accordance with the terms of any order entered by the Bankruptcy Court governing the payment of fees and expenses during the course of the Chapter 11 Case; provided however, by agreement of the Committee Professionals, in no event shall the payments of Committee Professional Fees since the Petition Date exceed \$1,600,000.00 in the aggregate.</p> <p>On the Effective Date, any objections previously filed by the Debtors, the DIP Parties, the Prepetition First Lien Parties, and the Prepetition Second Lien Parties, to any applications for payment of the Committee Professional Fee shall be deemed withdrawn (with prejudice) on the Effective Date. Further, after the occurrence of the Effective Date, so long as of the aggregate Committee Professional Fees do not exceed \$1,600,000, neither the Debtors, the DIP Parties, the Prepetition First Lien Parties, the Prepetition Second Lien Parties, the Liquidating Trustee or the Liquidating Trust Oversight Committee shall assert any objection to any Committee Professional Fee Claims.</p> <p>Allowed Professional Fee Claims and Committee Professional Fee Claims must be paid in full (subject to the limitation on the Committee</p>	<p>Approx. \$1,100,000</p> <p>Committee Professional Fee Claims: Approx. \$1,200,000</p>	100%

<u>Unclassified Claims</u>	<u>Plan Treatment</u>	<u>Estimated Allowed Claims²</u>	<u>Estimated Recovery³</u>
	Professional Fees in paragraph above) and Professional Fee Claims and Committee Professional Fee Claims pending allowance by the Bankruptcy Court must be reserved for in full prior to any payment to Holders of Allowed Claims in (a) Class 3 (Prepetition First Lien Claims arising under Term Loan C), (b) Class 4 (Prepetition Second Lien Claims); and (c) Class 5 (General Unsecured Claims).		
Priority Tax Claims	The Liquidating Trustee shall pay each Holder of an Allowed Priority Tax Claim in full, in Cash, as soon as practicable after the later of (i) the Effective Date, or (ii) the date such Priority Tax Claim becomes an Allowed Claim. All Allowed Priority Tax Claims against the Debtors, that are not due and payable on or before the Effective Date, shall be paid in the ordinary course of business in accordance with the terms thereof. The Liquidating Trustee can prepay any Allowed Priority Tax Claim at any time after the Effective Date, without any penalty or charge. Holders of Allowed Priority Tax Claims will not be entitled to receive any payment on account of any penalty arising with respect to or in connection with such Claims. Any Claim for any such penalty, or demand for any such penalty, will be deemed disallowed by Confirmation of the Plan.	Approx. \$450,000	100%
DIP Claims	The DIP Claims are Allowed Claims. On the Effective Date, and prior to any transfer by the Debtors of any Assets to the Liquidating Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the DIP Claims, the Debtors (a) shall transfer Cash to the DIP Agent, by wire transfer of immediately available funds, in an amount equal to all outstanding principal (including reimbursement obligations in respect of drawn but not reimbursed letters of credit under the DIP LC Sub-Facility (as defined in the DIP Credit Agreement)), if any, and accrued but unpaid interest, costs, fees and expenses (including fees and expenses of professionals) owing as of the Effective Date pursuant to the DIP	Approx. \$25,200,000	100%

<u>Unclassified Claims</u>	<u>Plan Treatment</u>	<u>Estimated Allowed Claims²</u>	<u>Estimated Recovery³</u>
	<p>Credit Agreement or otherwise under the Final DIP Order and (b) shall transfer Cash to the DIP Agent, by wire transfer of immediately available funds, an amount equal to 5% of the total face amount of the Letters of Credit. Upon delivery of Cash to the DIP Agent in accordance with the prior sentence and the occurrence of the Effective Date, the DIP Claims are deemed Paid In Full (as such term is defined in the Final DIP Order).</p> <p>From and after the Effective Date, the DIP Agent shall be authorized, without any further order of the Court, immediately upon notice to the Liquidating Trustee, to apply the LC Cash Collateral to any and all obligations relating to the Letters of Credit, including, but not limited to, the fees and expenses owing to the DIP Agent or any other DIP Party in connection therewith and any amounts drawn thereunder, and the LC Cash Collateral shall secure such amounts. Following the LC Termination Date, the DIP Agent shall remit any LC Cash Collateral not applied in accordance with the immediately preceding sentence to the Liquidating Trust in accordance with directions to be provided by the Liquidating Trustee. Prior to the LC Termination Date, the DIP Agent shall have full dominion and control over the LC Cash Collateral and no other party shall have any right or interest therein other than the contingent right of the Liquidating Trustee to any LC Cash Collateral that remains unapplied on the LC Termination Date. From and after the Effective Date, no Holder of any DIP Claims shall be entitled to receive any further payment or distribution from the Debtors, the Liquidating Trust or the General Unsecured Fund under the Plan.</p>		

CLASSIFIED CLAIMS

<u>Class</u>	<u>Claim</u>	<u>Plan Treatment of Class</u>	<u>Estimated Allowed Claims</u> ⁵	<u>Estimated Recovery</u> ⁶
1	Other Priority Non-Tax Claims	<p>As soon as practicable after the later of (i) the Effective Date, or (ii) the date on which the Other Priority Non-Tax Claim becomes an Allowed Claim, in full settlement, release, and satisfaction of, and in exchange for each Allowed Other Priority Non-Tax Claim that is due and payable, the Disbursing Agent shall pay each Holder of an Allowed Class 1 Claim, in relative order of priority pursuant to section 507 of the Bankruptcy Code in full, in Cash, without interest.</p> <p>Class 1 is Unimpaired and the Holders of Class 1 Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.</p>	Approx. \$600,000 ⁷	100%
2	Other Secured Claims that are not Class 3 or Class 4 Claims	On the Effective Date or as soon as practicable thereafter, each Holder of an Allowed Other Secured Claim (e.g. PMSI Holders, equipment financing lenders, etc.) shall receive one of the following treatments, at the option of the Liquidating Trustee after consultation with the Liquidating Trust Oversight Committee, such that they	Approx. \$0	100%

⁵ The amounts set forth herein are estimates only. The actual amount of Allowed Claims for certain Classes of Claims cannot be determined with certainty until the Claims reconciliation and objection process is complete.

⁶ The percentages set forth herein are estimates only. The actual recoveries of certain Classes of Claims cannot be determined with certainty until the Claims reconciliation and objection process is complete.

⁷ The estimated range of Other Priority Non-Tax Claims set forth herein includes amounts subject to Proofs of Claim for which the Claims reconciliation and objection process has not been completed. Due to the uncertainty and inherent risk involved, the actual amount of Other Priority Non-Tax Claims cannot be determined with any degree of certainty until the Claims reconciliation and objection process is completed.

<u>Class</u>	<u>Claim</u>	<u>Plan Treatment of Class</u>	<u>Estimated Allowed Claims⁵</u>	<u>Estimated Recovery⁶</u>
		<p>shall be rendered unimpaired pursuant to section 1124 of the Bankruptcy Code: (i) the payment of such Holder's Allowed Other Secured Claim in full, in Cash; (ii) the sale or disposition proceeds of the property securing such Allowed Other Secured Claim to the extent of the value of the Holder's interests in such property; or (iii) the surrender to the Holder of the property securing such Claim.</p> <p>Class 2 is Unimpaired and Holders of Class 2 Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.</p>		
3	Prepetition First Lien Claims	<p>The Prepetition First Lien Claims are Allowed Claims. If not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Liquidating Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Senior Prepetition First Lien Claims, the Debtors shall pay Cash to the Prepetition First Lien Agent, by wire transfer of immediately available funds, in an amount equal to all outstanding principal, if any, and accrued but unpaid interest, costs, fees and expenses (including fees and expenses of professionals) owing as of the Effective Date with respect to the Senior Prepetition First Lien Claims other than the Prepetition First Lien Claims arising solely under Term Loan C. Upon payment of the remaining amounts due on the Senior Prepetition First Lien Claims and the occurrence of the Effective Date, the Senior</p>	<p>Prepetition First Lien Claims (other than those arising under Term Loan C)</p> <p>Prepetition First Lien Claims arising under Term Loan C Approx. \$16,886,122.16</p>	<p>100%</p> <p>30%</p>

<u>Class</u>	<u>Claim</u>	<u>Plan Treatment of Class</u>	<u>Estimated Allowed Claims⁵</u>	<u>Estimated Recovery⁶</u>
		<p>Prepetition First Lien Claims shall be deemed Paid In Full (as such term is defined in the Final DIP Order).</p> <p>The Holders of Prepetition First Lien Claims arising under Term Loan C shall receive, in full and complete settlement, release and satisfaction of such Claims, interests in the Liquidating Trust such that each Holder will receive their Ratable Proportion of the first \$6 million of Liquidation Proceeds (the “<u>Initial Prepetition First Lien Distribution</u>”) after the prior payment/reserve of (i) all DIP Claims, (ii) all Prepetition First Lien Claims other than the Prepetition First Lien Claims arising solely under Term Loan C, (iii) all Administrative Claims, (iv) all Professional Fee Claims; (v) all Committee Professional Fee Claims, (vi) all Priority Tax Claims, (vii) the Administrative Fund, and (viii) the General Unsecured Fund. After payment of the Initial Prepetition First Lien Distribution set forth in the prior sentence, such Holder of the Prepetition First Lien Claims arising under Term Loan C shall also receive the Ratable Proportion of 60% of all Remaining Liquidation Proceeds until such claims are paid in full.</p> <p>Effective as of the Effective Date, the Debtors’ Stipulations set forth in the Final DIP Order shall be final, binding in accordance with the terms of the Final DIP Order and without exception.</p> <p>Class 3 is Impaired and Holders of Class 3 Claims are entitled to vote to accept or reject the Plan.</p>		

<u>Class</u>	<u>Claim</u>	<u>Plan Treatment of Class</u>	<u>Estimated Allowed Claims⁵</u>	<u>Estimated Recovery⁶</u>
4	Prepetition Second Lien Claims	<p>In full, in full settlement, release, and satisfaction of, and in exchange for each Allowed Class 4 Claim that is due and payable, as soon as practicable after funding the General Unsecured Fund and payment of the Initial Prepetition First Lien Distribution, the Disbursement Agent shall distribute to each Holder of an Allowed Class 4 Claim the Ratable Proportion of 30% of all Remaining Liquidation Proceeds; provided however, after all Allowed Class 3 Claims are paid in full, the Disbursement Agent shall distribute to each Holder of an Allowed Class 4 Claim the Ratable Proportion of 75% of all Remaining Liquidation Proceeds thereafter.</p> <p>Effective as of the Effective Date, the Debtors' Stipulations set forth in the Final DIP Order shall be final, binding in accordance with the terms of the Final DIP Order and without exception.</p> <p>Class 4 is Impaired and Holders of Class 4 Claims are entitled to vote to accept or reject the Plan.</p>	Approx. \$39,523,000	2-3%
5	General Unsecured Claims	<p>In full settlement, release, and satisfaction of, and in exchange for each Allowed Class 5 Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, the Disbursing Agent shall distribute to each Holder of an Allowed Class 5 Claim the Ratable Proportion of the</p>	Approx. \$56,000,000 ⁸	2-3%

⁸ The estimated range of General Unsecured Claims set forth herein includes amounts subject to Proofs of Claim for which the Claims reconciliation and objection process has not been completed. Due to the uncertainty and inherent risk involved, the actual amount of General Unsecured Claims cannot be determined with any degree of certainty until the Claims reconciliation and objection process is completed.

<u>Class</u>	<u>Claim</u>	<u>Plan Treatment of Class</u>	<u>Estimated Allowed Claims⁵</u>	<u>Estimated Recovery⁶</u>
		<p>General Unsecured Fund (after payment of Committee Professional Fee Claims) and, after payment of the Initial Prepetition First Lien Distribution, the Ratable Proportion of 10% all Remaining Liquidation Proceeds; provided however, after all Allowed Class 3 Claims are paid in full, the Disbursement Agent shall distribute to each Holder of an Allowed Class 5 Claim the Ratable Proportion of 25% of all Remaining Liquidation Proceeds thereafter.</p> <p>Class 5 is Impaired and Holders of Class 5 Claims are entitled to vote to accept or reject the Plan.</p>		
6	Interests	<p>On the Effective Date, all Interests shall be deemed cancelled and of no further force and effect, whether surrendered for cancellation or otherwise.</p> <p>Class 6 is Impaired, but because no distributions will be made to Holders of Class 6 Interests, such Holders are deemed to have rejected the Plan pursuant to 1126(g) of the Bankruptcy Code.</p>	Cancelled	0%
7	Intercompany Claims	<p>Holders of Class 7 Claims receive no distribution and Class 7 Claims are cancelled as of the Effective Date.</p> <p>Class 7 is Impaired, but because no distributions will be made to Holders of Class 7 Claims nor will such Holders retain any property, such Holders are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.</p>	Cancelled	0%

THE BANKRUPTCY COURT HAS NOT YET CONFIRMED THE PLAN DESCRIBED IN THIS DISCLOSURE STATEMENT. IN OTHER WORDS, THE TERMS OF THE PLAN ARE NOT YET BINDING ON ANYONE. HOWEVER, IF THE BANKRUPTCY COURT LATER CONFIRMS THE PLAN, THEN THE PLAN WILL BE BINDING ON ALL HOLDERS OF CLAIMS AND INTERESTS.

4. Executory Contracts and Unexpired Leases

On the Effective Date, except for (i) any Executory Contract that was previously assumed or rejected by an order of the Bankruptcy Court pursuant to section 365 of the Bankruptcy Code, and (ii) any Executory Contract identified in Clause IV.H of the Plan, each Executory Contract that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to Bankruptcy Code §§ 365 and 1123, effective as of the Confirmation Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejection pursuant to Bankruptcy Code §§ 365 and 1123 as of the Confirmation Date.

Except to the extent a bar date other than the Claims Bar Date of June 1, 2016 applies pursuant to an order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts under the Plan must be filed with the Bankruptcy Court, and a copy served on counsel for the Debtors and the Liquidating Trustee, within thirty (30) days of the Effective Date, or such Claim shall be forever barred and shall not be entitled to a distribution or be enforceable against the Debtors, its Estate, the Liquidating Trust, the Liquidating Trustee, their successors, their assigns or their Assets. Any timely filed Claim arising from the rejection of an Executory Contract shall be treated as a Claim in Class 5 (General Unsecured Claims). Nothing in the Plan extends or modifies any previously applicable Claims Bar Date.

C. Voting and Confirmation

Classes 1 and 2 are deemed to accept the Plan. Each Holder of a Claim in Classes 3, 4 and 5 shall be entitled to vote either to accept or reject the Plan. Classes 3, 4 and 5 shall have accepted the Plan if: (i) the Holders of at least two-thirds in dollar amount of the Allowed Claims actually voting in each such Class have voted to accept the Plan and (ii) the Holders of more than one-half in number of the Allowed Claims actually voting in each such Class have voted to accept the Plan. Classes 6 and 7 are deemed to reject the Plan. Assuming the requisite acceptances are obtained, the Debtors intend to seek confirmation of the Plan at the Confirmation Hearing scheduled to commence on _____, 2016 at ____m. before the Bankruptcy Court.

Article II of this Disclosure Statement specifies the deadlines, procedures and instructions for voting to accept or reject the Plan and the applicable standards for tabulating Ballots. The Bankruptcy Court has established _____, 2016 (the "Voting Record Date") as the date for determining which Holders of Claims are eligible to vote on the Plan. Ballots will be mailed to all registered Holders of Claims as of the Voting Record Date who are entitled to vote to accept or reject the Plan. An appropriate return envelope will be included with your Ballot, if necessary. Beneficial Holders of Claims who receive a return envelope addressed to their bank, brokerage firm or other Nominee, or any agent thereof, (each, a "Nominee") should allow

sufficient time for the Nominee to receive their votes, process them on a master Ballot and forward them to Logan & Company, Inc. (the “Solicitation Agent”) before the Voting Deadline, as defined below.

The Debtors have engaged the Solicitation Agent to assist in the voting process. The Solicitation Agent will answer questions, provide additional copies of all materials and oversee the voting tabulation. The Solicitation Agent will also process and tabulate Ballots for each Class entitled to vote to accept or reject the Plan.

D. Risk Factors and Disclaimer

Prior to deciding whether and how to vote on the Plan, each Holder of a Claim should carefully read this Disclosure Statement, with all attachments and enclosures, in its entirety, in order to formulate an informed opinion as to the manner in which the Plan affects their Claim(s) against the Debtors and to determine whether to vote to accept the Plan. Holders of Claims should particularly consider the risk factors described in Article VII hereof.

Holders of Claims should also read the Plan carefully and in its entirety. The Disclosure Statement contains a summary of the Plan for convenience, but the terms of the Plan, itself, supersede and control the summary.

In formulating the Plan, the Debtors relied on financial data derived from their books and records. The Debtors therefore represent that everything stated in this Disclosure Statement is true to the best of their knowledge. The Debtors nonetheless cannot, and do not, confirm the current accuracy of all statements appearing in this Disclosure Statement.

The discussion in this Disclosure Statement regarding the Debtors may contain “forward looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995. Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward-looking terminology such as “may,” “expect,” “believe,” “anticipate,” “estimate” or “continue” or the negative thereof or other variations thereon or comparable terminology. The reader is cautioned that all forward looking statements are necessarily speculative, and there are certain risks and uncertainties that could cause actual events or results to differ materially from those referred to in such forward looking statements. Any forward-looking statements are qualified in their entirety by reference to the factors discussed throughout this Disclosure Statement. The liquidation analyses, distribution projections and other information described herein are estimates only, and the timing and amounts of actual distributions to creditors may be affected by many factors that cannot be predicted. Therefore, any analyses, estimates or recovery projections may or may not turn out to be accurate.

Nothing contained in this Disclosure Statement is, or shall be deemed to be, an admission or statement against interest by the Debtors for purposes of any pending or future litigation matter or proceeding.

Although the attorneys, accountants, advisors and other professionals employed by the Debtors have assisted in preparing this Disclosure Statement based upon factual information and assumptions respecting financial, business and accounting data found in

the books and records of the Debtors, they have not independently verified such information and make no representations as to the accuracy thereof. The attorneys, accountants, advisors and other professionals employed by the Debtors shall have no liability for the information in this Disclosure Statement.

The Debtors and their professionals also have made a diligent effort to identify in this Disclosure Statement and in the Plan pending Litigation Claims and projected Causes of Action and objections to Claims. However, no reliance should be placed on the fact that a particular Litigation Claim or projected Cause of Action or objection to Claim is, or is not, identified in this Disclosure Statement or the Plan. The Debtors or Liquidating Trustee, as applicable, may seek to investigate, file and prosecute Litigation Claims and projected Causes of Action and objections to Claims after the Confirmation Date or Effective Date of the Plan irrespective of whether this Disclosure Statement or the Plan identifies any such Claims, Causes of Action or objections to Claims.

II. VOTING ON AND CONFIRMATION OF THE PLAN

A. Deadline for Voting For or Against the Plan

If one or more of your Claims is in a voting Class, the Debtors have sent you one or more individual Ballots, with return envelopes (WITHOUT POSTAGE ATTACHED) for voting to accept or reject the Plan. The Debtors urge you to accept the Plan by completing, signing and returning the enclosed Ballot(s) in the return envelope(s) (WITH POSTAGE AFFIXED BY YOU) to the Solicitation Agent as follows:

Logan & Company, Inc.
Taylor-Wharton Balloting Agent
546 Valley Road
Upper Montclair, New Jersey 07043

TO BE COUNTED, THE SOLICITATION AGENT MUST RECEIVE YOUR BALLOT (OR MASTER BALLOT OF YOUR NOMINEE HOLDER) INDICATING ACCEPTANCE OR REJECTION OF THE PLAN **NO LATER THAN 5:00 P.M., PREVAILING EASTERN TIME, ON _____, 2016** (THE "VOTING DEADLINE"), UNLESS THE BANKRUPTCY COURT EXTENDS OR WAIVES THE PERIOD DURING WHICH VOTES WILL BE ACCEPTED BY THE DEBTORS, IN WHICH CASE THE TERM "VOTING DEADLINE" FOR SUCH SOLICITATION SHALL MEAN THE LAST TIME AND DATE TO WHICH SUCH SOLICITATION IS EXTENDED. ANY EXECUTED BALLOT OR COMBINATION OF BALLOTS REPRESENTING CLAIMS IN THE SAME CLASS OR SUBCLASS HELD BY THE SAME HOLDER THAT DOES NOT INDICATE EITHER AN ACCEPTANCE OR REJECTION OF THE PLAN OR THAT INDICATES BOTH AN ACCEPTANCE AND REJECTION OF THE PLAN SHALL NOT BE COUNTED. ANY BALLOT RECEIVED AFTER THE VOTING DEADLINE MAY NOT BE COUNTED AT THE DISCRETION OF THE DEBTORS.

Detailed voting instructions are printed on and/or accompany each Ballot. Any Ballot and master Ballot sent by mail must be received by the Solicitation Agent at the appropriate

address set forth above by no later than 5:00 p.m. Prevailing Eastern Time on the Voting Deadline. Any Ballot or master Ballot sent by any other means must be physically received by the Solicitation Agent by 5:00 p.m. Prevailing Eastern Time on the Voting Deadline or it shall not be counted. Any unsigned Ballot or any Ballot that has no original signature, including any Ballot received by facsimile or other electronic means, or any Ballot with only a photocopy of a signature shall not be counted. Any Ballot that is not clearly marked as voting for or against the Plan, or marked as both voting for and against the Plan, shall not be counted. Any Ballot that is properly completed and timely received shall not be counted if such Ballot was sent in error to, or by, the voting party, because the voting party did not have a Claim that was entitled to be voted in the relevant voting Class as of the Voting Record Date. A Beneficial Holder (but not an entity voting acting in a fiduciary capacity and on behalf of more than one Beneficial Holder, such as a Nominee) that is voting more than one Claim or Interest in a voting Class must vote all of its Claims or Interests within a particular voting Class either to accept or to reject the Plan and may not split its vote in the same voting Class, and thus, any Ballot (or Ballots in the same voting Class) of a Beneficial Holder that partially rejects and partially accepts the Plan shall be deemed as accepting the Plan. Whenever a Holder of a Claim in a voting Class casts more than one Ballot voting the same Claim prior to the Voting Deadline, the last Ballot physically received by the Solicitation Agent prior to the Voting Deadline shall be deemed to reflect the voter's intent and thus shall supersede and replace any prior cast Ballot(s), and any prior cast Ballot(s), shall not be counted. The Debtors, without notice, subject to contrary Order of the Bankruptcy Court, may waive any defect in any Ballot or master Ballot at any time, either before or after the close of voting. Such determinations will be disclosed in the voting report and any such determinations by the Debtors shall be subject to de-novo review by the Bankruptcy Court.

On June 13, 2016, the Debtors filed their initial Plan (D.I. 711) and initial Disclosure Statement (D.I. 710). On June 30, 2016, the Debtors filed their Motion for an Order: (I) Approving Their Disclosure Statement, (II) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject their Plan of Liquidation, (III) Establishing the Confirmation Hearing and Related Deadlines, and (IV) Granting Related Relief (the "Solicitation Motion") (D.I. 727). On _____, 2016, the Debtors filed their Plan (D.I. ___) and Disclosure Statement (D.I. _____), as amended or modified. On _____, 2016, the Bankruptcy Court entered its Order granting the relief requested in the Solicitation Motion (the "Solicitation Order"), which, among other things, approved the voting procedures addressed herein (D.I. _____). You should carefully read the Solicitation Order, which is annexed hereto as Exhibit 2. It establishes, among other things: (a) the deadlines, procedures and instructions for voting to accept or reject the Plan; (b) the Voting Record Date, which is _____, 2016, (c) the applicable standards for tabulating Ballots; (d) the deadline for filing objections to Confirmation of the Plan; and (e) the date and time of the Confirmation Hearing (also set forth below).

The Solicitation Order should be referred to if you have any questions concerning the procedures described herein. If there are any inconsistencies or ambiguities between this Disclosure Statement and the Solicitation Order, the Solicitation Order will control.

B. Confirmation Hearing for the Plan

The Bankruptcy Court has set a hearing on the confirmation of the Plan (the “Confirmation Hearing”) to consider objections to Confirmation, if any. The Confirmation Hearing shall commence at _____**.m., Prevailing Eastern Time** on _____, **2016**, in the United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801. The Confirmation Hearing may be continued from time to time, without notice, other than an announcement of a continuance date at such hearing or a continued hearing, or by posting such continuance on the Court’s docket.

C. Any Objections to Confirmation of the Plan

Any interested party may respond or object to Confirmation of the Plan. Any responses or objections to confirmation of the Plan must be in writing and must be filed with the Clerk of the Bankruptcy Court with a copy to the Court’s Chambers, together with a proof of service thereof, and served on counsel for the Debtors, counsel for the Committee and the Office of United States Trustee **ON OR BEFORE** _____, **2016** at _____**M, Prevailing Eastern Time**. Bankruptcy Rule 3020 governs the form of any such objection.

Counsel on whom objections must be served are:

Counsel for the Debtors

Reed Smith LLP
Attn: J. Cory Falgowski
1201 Market Street, Suite 1500
Wilmington, DE 19801

Counsel for the United States Trustee

Office of the United States Trustee
Attn: Benjamin Hackman
844 N. King Street, Suite 2207
Wilmington, DE 19801

Counsel for the Committee

Lowenstein Sandler LLP
Attn: Mary E. Seymour
Cassandra Porter
65 Livingston Avenue
Roseland, NJ 07068

D. Recommendations for Voting

The Debtors strongly recommend that you vote in favor of the Plan. Non-acceptance of the Plan may result in protracted delays, a Chapter 7 liquidation or the confirmation of another less favorable Chapter 11 plan. These alternatives may not provide for distribution of as much value to Holders of Allowed Claims as does the Plan. The Debtors believe that unsecured creditors will receive a greater distribution under the Plan than they would in a Chapter 7 liquidation, as more fully discussed in Article VI.B hereof.

THE DEBTORS BELIEVE THAT THE PLAN IS IN THE BEST INTEREST OF ALL OF THEIR CREDITORS AS A WHOLE. THE DEBTORS THEREFORE RECOMMEND THAT ALL HOLDERS OF CLAIMS SUBMIT BALLOTS TO ACCEPT THE PLAN.

III. ORGANIZATION AND ACTIVITIES OF THE DEBTORS

A. The Debtors' Business

The Debtors in these cases are Taylor-Wharton International LLC, a Delaware limited liability holding company, formed in 2007 ("TWI"), and its wholly-owned operating subsidiary, Taylor-Wharton Cryogenics LLC, a Delaware limited liability company, f/k/a TW Cryogenics LLC ("Cryogenics"). Cryogenics was a leading designer, engineer and manufacturer of cryogenic equipment designed to transport and store liquefied atmospheric and hydrocarbon gases. Cryogenics served three different end markets through three business divisions: CryoIndustrial, CryoScience and CryoLNG. CryoIndustrial produced cryogenic equipment to store industrial gases, with products ranging from large, on-site storage tanks to mobile cylinders used to deliver gas to customers. CryoScience produced smaller cryogenic containers used for biological research and laboratory applications (e.g., preservation of stem cells, artificial insemination for animal breeding, etc.). CryoLNG was launched in 2012 in response to the expanding use of liquid natural gas and the potential for utilization of cryogenic manufacturing expertise in growing end-markets. CryoLNG's product offerings included liquid natural gas storage tanks for numerous applications, including bulk storage, fueling stations, marine and vehicle applications. Geographically, the Debtors had a corporate office in Minnetonka, Minnesota, Cryogenics had manufacturing operations in Theodore, Alabama, and Cryogenics' wholly owned non-debtor foreign subsidiaries had manufacturing operations in China, Malaysia, Slovakia, and maintained warehouses in Germany and Australia.

As of Petition Date, the Debtors employed approximately 164 employees in the United States (collectively referred to as the "Employees"). The Debtors had the following general categories of Employees: (1) corporate support personnel that primarily worked out of the Debtors' corporate office in Minnetonka, Minnesota; and (2) personnel who supported the Debtors' manufacturing businesses at the Debtors' facility in Theodore, Alabama. Approximately 96 employees at the Theodore facility are represented by the Local #441 Sheet Metal Workers International Association labor union.

B. Corporate History and Structure

TWI originally owned five distinct subsidiary limited liability companies (including Cryogenics), each of which engaged in specific manufacturing operations in the field of gas technology (the "Operating Companies"). TWI acquired the Operating Companies in December 2007 from Harsco Corporation ("Harsco"). At the time of the acquisition, the Operating Companies were the leading global manufacturers, refurbishers, and providers of propane and cryogenic tanks, high and low pressure cylinders, composite cylinders and valves and pressure gauges for gas applications.

On November 18, 2009, the Debtors, the Operating Companies, and certain affiliates filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code with the Bankruptcy Court, which cases were jointly administered as Case No. 09-14089 (BLS). On May 26, 2010, the Bankruptcy Court confirmed their Joint Plan of Reorganization. They exited from chapter 11 on June 16, 2010. During the course of those prior bankruptcy cases, TWI sold assets of certain Operating Companies pursuant to 11 U.S.C. § 363, and pursuant to the confirmed chapter 11

plan, and effectuated a debt and equity restructuring of its remaining businesses. Thereafter remaining Operating Companies were sold over time to generate funds to support operating losses, which had developed as a result of substantially decreased revenue attributable to the 2008 financial crisis, and to pay debt. Of the five original distinct Operating Companies, only Cryogenics remains.

TWI is a Delaware limited liability holding company and is a wholly owned subsidiary of non-debtor Taylor Wharton Intermediate Holdings LLC. TWI has two wholly owned subsidiaries: Cryogenics and non-debtor Crossmont Holdings LLC. Crossmont Holdings LLC has no operations and merely holds, through a wholly-owned subsidiary (Fremont Land LLC), a parcel of real estate of *de minimis* value.

Cryogenics is a Delaware limited liability holding company, whose assets other than certain equity interests were sold in November 2015. Cryogenics is the direct or indirect parent of several foreign non-debtor subsidiaries (and one non-debtor Delaware limited liability holding company). Cryogenics is the direct parent of non-debtor TWC Australia Pty. Ltd., an Australian company, and thereby the indirect parent of non-debtor Taylor-Wharton Pty. Ltd., an Australian company (together, “Taylor-Wharton Australia”), whose assets are in the process of being sold. Cryogenics is also the direct parent of non-debtor Endurium Holding Limited, a limited liability company organized under the laws of Republic of Cyprus (“Endurium”), and thereby the indirect parent of non-debtors (1) Taylor-Wharton Germany GmbH, a German company (“Taylor-Wharton Germany”), whose assets are in the process of being sold; (2) TW Slovakian Acquisition Company LLC, a Delaware limited liability company, and its subsidiary Taylor-Wharton Slovakia s.r.o., a Slovakian company (together, “Taylor-Wharton Slovakia”), whose assets are in the process of being sold; (3) GasServ V.B.V., a company organized under the laws of the Netherlands, and its subsidiary Taylor-Wharton Cryogenics E.G. Co. Ltd., a company organized under the laws of China (together, “Taylor-Wharton China”), whose assets are in the process of being sold; and (4) Taylor-Wharton Malaysia SDN. BHD., a corporation organized under the laws of Malaysia (“Taylor-Wharton Malaysia”), whose assets were sold in February 2016.

Cryogenics and its subsidiaries engaged principally in the manufacturing and distribution of cryogenic portable and bulk storage tanks. These tanks are used for storing cryogenic liquids, providing economical solutions for transporting, storing and dispensing liquefied gasses, medical applications, beverage carbonation applications and other related storage and delivery solutions. Customers for these products include liquid gas distribution and production companies, cryoscience equipment distributors, carbonation system retailers and distributors, and others engaged in the cryogenics business. Cryogenics also developed a line of small tanks used in the medical and scientific industries through its CryoScience division. CryoScience tanks were highly engineered and much smaller than the tanks manufactured in Cryogenics’ historical CryoIndustrial business.

C. Pre-Petition Capitalization

As of August 31, 2015, the Debtors had approximately \$45 million outstanding under a senior secured debt facility pursuant to a Second Amended and Restated Credit Agreement, dated as of May 24, 2013 (as amended, restated and supplemented from time to time, the “Credit”

Agreement”), by and among the Debtors, Antares Capital LP, as agent (the “Agent”) and lender, and certain other lenders thereto from time to time. The senior debt consisted of: (a) Term Loan A with an aggregate outstanding principal amount of approximately \$29.4 million accruing interest at 7.75% per annum, (b) Term Loan B with an aggregate outstanding principal amount of approximately \$11 million accruing interest at 8% per annum, (c) Term Loan C as described in more detail below, (d) a Revolving Loan A facility with an aggregate outstanding principal amount of approximately \$4.5 million accruing interest at 7.75% per annum, and (e) a Revolving Loan B facility with an aggregate outstanding principal amount of approximately \$80,000 accruing interest at 7.75% per annum and approximately \$7.2 million of outstanding Letters of Credit accruing interest at 5.5% (which Letters of Credit were fully cash collateralized) (the “Senior Debt”). All of the Debtors’ obligations to the Agent and the holders of the Senior Debt under the Credit Agreement were secured by liens on and security interests in substantially all of the property of the Debtors.

On January 8, 2014, by way of an Amendment No. 2, the Credit Agreement was amended to authorize \$10 million of additional loan commitments under a new tranche, Term Loan C (the “Term Loan C”), accruing interest at 10% per annum and having a maturity date of August 30, 2017. Pursuant to a Junior Participation Agreement, junior lenders purchased 100% of the participations in the Term Loan C. Term Loan C was increased by an additional \$5 million on November 14, 2014. Term Loan C is administered by the Agent under the Credit Agreement and is secured by liens on and security interests in substantially all of the now existing and hereafter acquired real and personal property of the Debtors. However, Term Loan C was subordinate in all respects to the Senior Debt. As of August 31, 2015, the aggregate outstanding balance under the Term Loan C was approximately \$16.9 million.

In connection with its emergence from chapter 11 in 2010, TWI obtained exit financing through, *inter alia*, the sale of paid-in-kind interest bearing notes in the principal amount of \$12,000,000, accruing interest at 15% per annum (the “2010 PIK Notes”) pursuant to a Note Purchase Agreement dated as of June 15, 2010 (as amended, restated and supplemented from time to time, the “NPA”) by and among the Debtors, Antares Capital LP, as collateral agent, and certain other purchasers party thereto from time to time. On August 30, 2012, via amendment to the NPA, TWI sold additional paid-in-kind interest bearing notes in the principal amount of \$10,000,000, accruing interest at 12% per annum (the “2012 PIK Notes” and collectively with the 2010 PIK Notes, the “PIK Notes”). The PIK Notes are secured by junior liens on substantially all of the Debtors’ assets, subordinate to the Senior Debt and Term Loan C. As of August 31, 2015, the aggregate outstanding balance under the PIK Notes was approximately \$40 million.

D. Events Leading to the Debtors’ Bankruptcy Filing

Upon emerging from chapter 11 in 2010, TWI worked to achieve profitability but was unable to do so. TWI sold several of the Operating Companies to reduce debt. Specifically, in May of 2013, substantially all of the assets of the American Welding & Tank LLC and TW

Express LLC businesses were sold.⁹ More recently, in June of 2015, TWI sold its membership interests in Sherwood Valve LLC.¹⁰ The proceeds of those sales were applied to reduce the Senior Debt. Despite efforts to streamline the Debtors' businesses, infusion of new capital through the PIK Notes and the Term Loan C, and the sale of certain Operating Companies, the Debtors' businesses have been unable to achieve profitability.

The Debtors' financial issues were compounded by products liabilities. In connection with the acquisition of the Operating Companies from Harsco, the Debtors assumed certain liabilities for products manufactured by Harsco prior to the closing of the sale. Although the Debtors maintained insurance for the Debtors' products liabilities and those of Harsco that they had assumed, the cost of defense and indemnity associated with such liabilities, specifically various self-insured retentions, resulted in cash challenges, which along with the loss of revenues resulting from the 2008 financial crisis, were difficult to overcome.

As a result of these challenges facing their businesses, the Debtors sought to sell their assets in early 2015. As a result of extensive marketing efforts by the Debtors and their advisors, the Debtors received an offer to purchase the assets of the CryoScience business division for \$24 million in cash and the assumption of certain liabilities from Haier Medical and Laboratory Products USA, Inc. Thereafter, the Debtors commenced these Chapter 11 Cases in order to preserve and maximize the value of their businesses for the benefit of their stakeholders.

In the Chapter 11 Cases, in consultation with their advisors, the Debtors completed an orderly liquidation of substantially all of their assets. Primarily, there was an auction of the CryoScience business and any and all other assets of the Debtors on November 16, 2015, which resulted in a sale of the CryoScience Business and certain other assets for a base purchase price of \$33,250,000.

IV. THE CHAPTER 11 CASES

At the commencement of the Chapter 11 Cases, the Debtors filed certain significant first day motions to obtain relief necessary to allow the Debtors to continue to operate their businesses in bankruptcy with as little disruption as possible. During the pendency of the Chapter 11 Cases, the Debtors filed motions to, among other things, (a) retain certain professionals to assist the Debtors in carrying out their duties under the Bankruptcy Code; and (b) implement the orderly liquidation of their assets. Below are summaries of significant motions filed in the Chapter 11 Cases.

⁹ American Welding & Tank LLC's businesses involved the design, manufacturing, repair, refurbishment and conversion of propane tanks for residential commercial, industrial and agricultural applications. American Welding & Tank LLC's products included bulk steel above-ground and underground propane storage tanks as well as tanks designed for anhydrous ammonia.

¹⁰ Sherwood Valve LLC's businesses involved production of industrial gas valves, propane tank valves and regulators, air conditioning and refrigeration products and SCBA, life support, SCUBA and oxygen valves.

A. Summary of “First Day” Motions and Orders

1. Post-Petition Financing Motion

MOTION OF DEBTORS PURSUANT TO 11 U.S.C. § 105, 361, 362, 363(b), 363(c)(2), 364(c)(1), 364(c)(2), 364(c)(3), 364(d)(1), 364(e), 507, AND 552 FOR INTERIM AND FINAL ORDERS (I) AUTHORIZING DEBTORS TO OBTAIN POSTPETITION FINANCING, (II) AUTHORIZING THE USE OF CASH COLLATERAL, (III) GRANTING ADEQUATE PROTECTION TO THE PREPETITION SECURED PARTIES, (IV) GRANTING LIENS AND SUPERPRIORITY CLAIMS, (V) MODIFYING THE AUTOMATIC STAY, AND (VI) SCHEDULING A FINAL HEARING (D.I. 12).

Pursuant to the Post-Petition Financing Motion, the Debtors sought approval to obtain senior secured priming and superpriority postpetition financing, which when approved on a final basis would consist of (collectively, the “DIP Facility”): (i) a revolving credit facility for up to \$13,250,000, including a letter of credit sub-facility for up to \$7,250,000, and (ii) conversion of \$12,000,000 of the outstanding principal amount of the Term Loan A, Term Loan B, and Revolving Loan A into post-petition obligations. On October 13, 2015, the Bankruptcy Court approved the revolving credit facility on an interim basis in an amount of up to \$10,850,000, pending entry of a Final Order on the DIP Facility (D.I. 56). On November 5, 2015, the Bankruptcy Court entered a Final Order which approved the DIP Facility (D.I. 168).

Pursuant to the terms and conditions of the DIP Facility, all of the obligations thereunder are accorded superpriority status, having priority over any and all administrative expenses of any kind and nature, subject to certain exceptions. The Debtors’ obligations under the DIP Facility are also secured by first priority liens on substantially all of the Debtors’ pre-petition and post-petition assets, subject to certain exceptions.

The revolving loan commitments under the DIP Facility expired pursuant to their terms on April 13, 2016.

2. Cash Management Motion

DEBTORS’ MOTION PURSUANT TO 11 U.S.C. §§ 105(a) AND 345(b), FED. R. BANKR. P. 2015 AND DEL. BANKR. L.R. 2015-2 FOR AN ORDER (I) AUTHORIZING AND APPROVING USE OF PREPETITION CASH MANAGEMENT SYSTEM, (II) AUTHORIZING CONTINUED USE OF PREPETITION BANK ACCOUNTS AND BUSINESS FORMS, (III) WAIVING THE REQUIREMENTS OF 11 U.S.C. § 345(b) ON AN INTERIM BASIS, AND (IV) ALLOWING BANKS TO CONTINUE TO SETOFF ORDINARY ADMINISTRATIVE FEES AGAINST THE DEBTORS’ BANK ACCOUNTS (D.I. 8).

In an effort to lessen the disruption caused by the bankruptcy filings and maximize the value of their estates, the Debtors requested authorization from the Bankruptcy Court to continue to utilize the centralized cash management system, bank accounts and investment practices, among other things, that had been in place prior to the Petition Date, as more particularly set forth in the Cash Management Motion. On October 13, 2015, the Bankruptcy Court entered a Final Order granting the Debtors’ request (D.I. 57).

3. Joint Administration Motion

DEBTORS' MOTION PURSUANT TO FED. R. BANKR. P. 1015 AND BANKR. D. DEL. LR 1015-1 FOR ORDER AUTHORIZING JOINT ADMINISTRATION (D.I. 4).

On October 13, 2015, the Bankruptcy Court entered a Final Order granting the Debtors' request to authorize the joint administration, for procedural purposes only, of the Debtors' Chapter 11 Cases (D.I. 50).

4. Employee Wages and Benefits Motion

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a), 363, AND 507(a) FOR AN ORDER (I) AUTHORIZING THE DEBTORS, IN THEIR DISCRETION, TO PAY CERTAIN PREPETITION EMPLOYEE WAGES, COMPENSATION AND EMPLOYEE BENEFITS AND CONTINUE PAYMENT OF WAGES, COMPENSATION AND EMPLOYEE BENEFITS IN THE ORDINARY COURSE OF BUSINESS; AND (II) AUTHORIZING THE DEBTORS' BANKS AND OTHER FINANCIAL INSTITUTIONS TO PROCESS, HONOR AND PAY CERTAIN CHECKS PRESENTED FOR PAYMENT AND FUND TRANSFER REQUESTS (D.I. 11).

Pursuant to the Employee Wages and Benefits Motion, the Debtors requested authorization to pay certain obligations related to Employees that arose prior to the Petition Date in an aggregate amount not to exceed \$477,000. Specifically, the Debtors requested permission to pay earned, but unpaid, pre-petition wages and salaries in an aggregate amount not to exceed \$155,000, with no single employee receiving more than \$12,475, plus related withholdings for payroll taxes. Additionally, the Debtors requested authorization to reimburse employees for pre-petition business expenses in the maximum aggregate amount of \$6,000, pay the outstanding pre-petition balance on corporate credit cards in the maximum aggregate amount of \$130,000, and pay and/or remit applicable accrued and outstanding tax obligations, other withholdings, employee benefit obligations, medical, prescription drug, vision, stop loss, and dental plan obligations in a pre-petition amount not to exceed \$90,000, 401k contributions in a pre-petition amount not to exceed \$4,000, pre-petition non-qualified deferred compensation plan obligations in a pre-petition amount not to exceed \$56,000, and other miscellaneous benefits. On October 13, 2015, the Bankruptcy Court granted the relief requested in the Employee Wages and Benefits Motion (D.I. 54). Pursuant to such authority, the Debtors have made payments in the aggregate amount of \$301,920.00 as of the date hereof.

5. Pre-Petition Tax Motion

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(A), 363(B), 507(A)(8), AND 541 FOR AN ORDER (I) AUTHORIZING THE DEBTORS, IN THEIR DISCRETION, TO PAY CERTAIN PREPETITION TAXES AND (II) AUTHORIZING THE DEBTORS' BANKS AND OTHER FINANCIAL INSTITUTIONS TO PROCESS, HONOR AND PAY CERTAIN CHECKS PRESENTED FOR PAYMENT AND FUND TRANSFER REQUESTS (D.I. 13).

Pursuant to the Pre-Petition Tax Motion, the Debtors requested approval to pay up to \$10,000 on account of sales and use taxes arising before the Petition Date. On October 13,

2015, the Bankruptcy Court granted the relief requested in the Pre-Petition Tax Motion (D.I. 52). Pursuant to such authority, the Debtors have made payments in the aggregate amount of \$9,287.00 as of the date hereof.

6. Critical Vendor Motion

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a) AND 363(b) FOR AN ORDER AUTHORIZING THE PAYMENT OF CERTAIN PRE-PETITION CLAIMS OF CERTAIN CRITICAL VENDORS (D.I. 10).

Pursuant to the Critical Vendor Motion, the Debtors requested authority to pay outstanding pre-petition claims, in an aggregate amount not to exceed \$2,000,000, to certain vendors and service providers deemed critical to the Debtors' operations (the "Critical Vendor Claims"). The Critical Vendor Motion contemplated that any critical vendor or service provider receiving payment of its Critical Vendor Claim could be required, at the Debtors' discretion, to execute a trade agreement obligating such vendor or service provider to extend customary trade terms (consistent with the parties' pre-petition dealings) to the Debtors post-petition. On October 13, 2015, the Bankruptcy Court granted the relief requested in the Critical Vendor Motion on an interim basis (D.I. 55). On November 6, 2015, the Bankruptcy Court entered a Final Order granting the Debtors' request (D.I. 181). Pursuant to such authority, the Debtors have made payments in the aggregate amount of \$77,079.00 as of the date hereof.

7. Motion for Consolidated List of Creditors

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(A) AND 521(A), FED. R. BANKR. P. 1007, AND BANKR. D. DEL. LR 1007-2(A) FOR ORDER AUTHORIZING THE DEBTORS TO FILE (I) CONSOLIDATED LIST OF CREDITORS AND (II) CONSOLIDATED LIST OF DEBTORS' THIRTY (30) LARGEST NON-INSIDER UNSECURED CREDITORS (D.I. 5).

On October 13, 2015, the Bankruptcy Court entered a Final Order granting the Debtors' request to file a consolidated list of creditors and consolidated list of the Debtors' thirty (30) largest non-insider unsecured creditors (D.I. 49).

8. Claims and Noticing Agent Application

DEBTORS' APPLICATION PURSUANT TO 28 U.S.C. § 156(c), FED. R. BANKR. P. 2002 AND DEL. BANKR. L. R. 2002-1(f) FOR ENTRY OF AN ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION OF LOGAN & COMPANY, INC. AS CLAIMS AND NOTICING AGENT FOR THE CLERK OF THE COURT (D.I. 6).

On October 13, 2015, the Bankruptcy Court entered a Final Order granting the Debtors' request to authorize them to appoint Logan & Company, Inc. as claims and noticing agent in these Chapter 11 Cases (D.I. 47).

9. Utilities Motion

DEBTORS' MOTION PURSUANT TO 11 U.S.C. § 366 FOR INTERIM AND FINAL ORDERS (I) FINDING UTILITIES ADEQUATELY ASSURED OF PAYMENT AND (II) ESTABLISHING FURTHER PROCEDURES (D.I. 7).

Pursuant to the Utilities Motion, the Debtors requested that the Court enter an order (i) prohibiting the Debtors' utility providers (the "Utility Providers") from altering, refusing, or discontinuing services; (ii) approving the Debtors' establishment of a deposit account to be held by PNC Bank, N.A. and a deposit therein in an amount of up to \$125,000 as affording the Utility Providers with adequate assurance of payment and deeming the Utility Providers to have received adequate assurance of payment pursuant to section 366(b) of the Bankruptcy Code; (iii) establishing procedures and mechanisms under which the parties may determine adequate assurance of future payment; and (iv) authorizing the Debtors to supplement, as necessary, the utility service list of Utility Providers and providing that any newly added Utility Provider will be subject to such terms. On October 13, 2015, the Bankruptcy Court granted the relief requested in the Utilities Motion on an interim basis (D.I. 58). No Utility Provider sought additional adequate assurance of payment. On November 6, 2015, the Bankruptcy Court entered a Final Order granting the Debtors' request (D.I. 182).

10. Motion to Pay Carriers and Warehouses

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a) AND 363 FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS, IN THEIR DISCRETION, TO PAY CERTAIN PREPETITION CLAIMS HELD BY THE DEBTORS' WAREHOUSEMEN, FREIGHT CARRIERS, AND SIMILAR CLAIMANTS; AND (II) GRANTING RELATED RELIEF (D.I. 9).

Pursuant to the Motion to Pay Carriers and Warehouses, the Debtors requested authority to pay outstanding pre-petition claims, in an aggregate amount not to exceed \$50,000, to certain freight and transportation companies operated by third parties to transport the Debtors' products (collectively, the "Freight Carriers") and certain warehouse owners with whom certain products of the Debtors are stored prior to or during transit (the "Warehousemen"). The Motion to Pay Carriers and Warehouses contemplated that any Freight Carrier or Warehouseman receiving payment of its pre-petition claim could be required, at the Debtors' discretion, to execute a trade agreement obligating such person to extend customary trade terms (consistent with the parties' pre-petition dealings) to the Debtors post-petition. On October 13, 2015, the Bankruptcy Court granted the relief requested in the Motion to Pay Carriers and Warehouses (D.I. 53). Pursuant to such authority, the Debtors have made payments in the aggregate amount of \$48,849.00 as of the date hereof.

B. Retention of Professionals

At various times during the Chapter 11 Cases, the Bankruptcy Court has approved the retention of certain professionals to represent and assist the Debtors in connection with the Chapter 11 Cases. These professionals were intimately involved with the negotiation and development of the Plan. These professionals include, among others: (i) Stifel, Nicolaus & Company, Incorporated and Miller Buckfire & Company LLC, as investment banker to the

Debtors (D.I. 201); (ii) Reed Smith LLP as bankruptcy counsel (D.I. 202); and (iii) Paul E. Saperstein Co., Inc., as auctioneer for the Debtors (D.I. 479).

The Bankruptcy Court also approved requests to retain other professionals to assist the Debtors in ongoing specialized matters. These professionals include, but are not limited to: (i) KPMG LLP, as tax consulting professionals (D.I. 365); (ii) Cunningham Bounds LLC, as co-counsel with respect to the Debtor's claim for damages arising out of the Deepwater Horizon oil spill disaster based by BP PLC and/or related BP entities (D.I. 365); (iii) Cabaniss, Johnston, Gardner, Dumas & O'Neal LLP, as co-counsel with respect to the Debtor's claim for damages arising out of the Deepwater Horizon oil spill disaster based by BP PLC and/or related BP entities (D.I. 365); and (iv) Nixon Peabody LLP, as special counsel (D.I. 372).

C. Employment of Interim Management and Chief Executive Officer

DEBTORS' MOTION PURSUANT TO 11 U.S.C. § 363 FOR AN ORDER AUTHORIZING THE DEBTORS TO (I) EMPLOY AND RETAIN ARGUS MANAGEMENT CORPORATION TO PROVIDE INTERIM MANAGEMENT SERVICES AND (II) DESIGNATE THOMAS DOHERTY AS CHIEF RESTRUCTURING OFFICER NUNC PRO TUNC TO THE PETITION DATE (D.I. 98)

On November 6, 2015, the Bankruptcy Court entered a Final Order granting the Debtors' request to authorize them to employ and retain Argus Management Corporation to provide interim management services to the Debtors and designate Thomas Doherty as the Debtors' Chief Restructuring Officer (D.I. 179).

D. Appointment of Committee

On October 16, 2015, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors (D.I. 68). The following creditors were appointed to the Committee:

- (a) Pension Benefit Guaranty Corp.;
- (b) O'Neal Steel, Inc.; and
- (c) Harsco Corporation.

Subsequently, Harsco Corporation resigned from the Committee (D.I. 197).

The Bankruptcy Court approved the retention of the following professionals to represent and assist the Committee in connection with these Chapter 11 Cases: (i) Lowenstein Sandler LLP, as counsel to the Official Committee of Unsecured Creditors (D.I. 432); (ii) The Rosner Law Group LLC, as Delaware counsel to the Official Unsecured Committee of Creditors (D.I. 430); and (iii) EisnerAmper LLP, as financial advisor to the Official Committee of Unsecured Creditors (D.I. 431).

E. Schedules and Statements of Financial Affairs

The Debtors filed their respective schedules of assets and liabilities (the “Schedules”) and statements of financial affairs (the “SOFAs”) with the Bankruptcy Court on November 18, 2015 (D.I. 236-239). On April 12 and 13, 2015, the Debtors filed amendments to the Schedules and SOFAs (D.I. 610, 612 & 615). The Schedules and SOFAs can be reviewed at the office of the Clerk of the Bankruptcy Court for the District of Delaware or can be obtained from the Solicitation Agent.

F. Debtor-in-Possession Operating Reports

Consistent with the operating guidelines and reporting requirements established by the United States Trustee (the “Guidelines”) in these Chapter 11 cases, the Debtors have satisfied their initial reporting requirements (D.I. 226), have filed consolidated Monthly Operating Reports (D.I. 119, 330, 388, 496, 561, and 627), and will continue to file such Monthly Operating Reports as required by the Guidelines. Each Monthly Operating Report includes for the relevant period, among other things, (a) information regarding the Debtors’ cash receipts and disbursements, (b) an income statement (prepared on an accrual basis), (c) a balance sheet (prepared on an accrual basis), (d) a statement regarding the status of the Debtors’ post-petition taxes, and (e) statement regarding the status of accounts receivable reconciliation and aging.

G. Claims Bar Date and Review Process

1. Claims Bar Date

On April 14, 2016, the Bankruptcy Court entered a consensual order (D.I. 616) (the “Bar Date Order”) establishing 5:00 P.M. Prevailing Eastern Time on June 1, 2016 as the bar date (the “Bar Date”) for all Persons and Entities (other than those Persons and Entities excepted from the obligation to file a Proof of Claim under the Final DIP Order), including governmental units, to file Proofs of Claim for pre-petition Claims in these Chapter 11 Cases, including Claims arising under section 503(b)(9) of the Bankruptcy Code. The Bar Date Order further provides that, among other things, any Person or Entity that is required to file a Proof of Claim in these Chapter 11 Cases but fails to do so in a timely manner shall not be treated as a Creditor with respect to such Claim for purposes of voting and distribution in these Chapter 11 Cases, and such Person or Entity shall not be permitted to vote to accept or reject any Chapter 11 plan or participate in any distributions thereunder on account of such Claim.

2. Claims Review Process

The Debtors are in the beginning stages of evaluating the numerous Claims filed in these Chapter 11 Cases to determine, among other things, whether it is necessary and appropriate to file objections seeking to disallow, reduce and/or reclassify such Claims. The Debtors expect to reconcile the Claims against their Schedules in an effort to (a) eliminate duplicative or erroneous Claims and (b) ensure that the Bankruptcy Court allows only valid Claims.

As provided in Article VIII of the Plan, upon the Effective Date, the Liquidating Trust and the Liquidating Trustee shall have exclusive authority to file objections, settle, compromise, withdraw or litigate to judgment objections to Claims on behalf of the Debtors. If the Debtors, the Liquidating Trust or the Liquidating Trustee, as applicable, objects to a Claim, a hearing regarding such objection will be held and notice of such objection and notice of the related hearing will be provided to affected Claim Holders as well as to other parties entitled to receive notice. To the extent necessary, the Bankruptcy Court will rule on the objection and ultimately determine whether, and in what amount and priority, to allow the applicable Claim. If the Debtors, the Liquidating Trust or the Liquidating Trustee, as applicable, do not object to a Claim by the Objection Deadline, such Claim will be deemed Allowed and will receive the treatment accorded such Claim under the Plan. As appropriate, the Debtors, the Liquidating Trust or the Liquidating Trustee, as applicable, may seek to negotiate and/or settle disputes regarding a Claim or Claims as an alternative to filing objections to the allowance or treatment of such Claims.

H. Retention and Incentive Plans

1. Key Employee Retention Plan - Cryogenics

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a), 363(b)(1) AND 503(c)(3) FOR AN ORDER AUTHORIZING THE DEBTORS TO ADOPT AND IMPLEMENT A NON-INSIDER EMPLOYEE RETENTION PLAN (D.I. 90).

On November 10, 2015, the Bankruptcy Court entered a Final Order granting the Debtors' request to authorize them to adopt and implement The Taylor-Wharton Cryogenics LLC Non-Insider Employee Retention Plan (D.I. 209). Pursuant to such retention plan and such authority, the Debtors were authorized to pay not more than five (5) eligible employees retention bonuses up to an aggregate amount of \$91,000. As of the date hereof, the Debtors have paid or anticipate paying retention bonuses under such retention plan in the aggregate amount of \$90,168.00.

2. Key Employee Retention Plan & Key Employee Incentive Plan

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a), 363(b)(1) AND 503(c)(3) FOR AN ORDER AUTHORIZING THE DEBTORS TO ADOPT AND IMPLEMENT (I) A NON-INSIDER KEY EMPLOYEE RETENTION PLAN AND (II) A KEY EMPLOYEE INCENTIVE PROGRAM (D.I. 150).

On November 23, 2015, the Bankruptcy Court entered a Final Order granting the Debtors' request to authorize them to adopt and implement (i) a key employee retention plan for ten (10) essential non-insider employees; and (ii) a key employee incentive program for two (2) senior level employees (D.I. 266).

Pursuant to such retention plan and such authority, the Debtors were authorized to pay not more than ten (10) eligible employees retention bonuses up to an aggregate amount of \$155,000. As of the date hereof, the Debtors have paid and anticipate paying retention bonuses under such retention plan in the aggregate amount of \$108,001.00.

Pursuant to such incentive plan and such authority, the Debtors were authorized to pay not more than two (2) eligible employees incentive bonuses up to an aggregate estimated amount of \$65,000. As of the date hereof, the Debtors have paid and anticipate paying incentive bonuses under such incentive plan in the aggregate amount of \$59,965.00.

I. Committee Adversary Proceeding

Pursuant to the Final DIP Order, the Committee preserved the right to investigate potential claims and Causes of Action against the Debtors' prepetition secured Creditors and other parties. On February 9, 2016, pursuant to the Final DIP Order, the Committee filed the Motion of the Official Committee of Unsecured Creditors for an Order Granting the Committee Standing and Authorizing the Committee to Commence, Prosecute, Settle and Recover Certain Actions on Behalf of the Debtors' Estates (D.I. 428) (the "Standing Motion"). Attached to the Standing Motion was a copy of the Committee's draft complaint (the "Complaint"). The Complaint identified a number of Causes of Action attributable to the Prepetition First Lien Secured Parties and Prepetition Second Lien Secured Parties. The Standing Motion was scheduled to be heard by the Court on March 17, 2016 (the "Standing Motion Hearing"). After the Standing Motion was filed, the Committee, the Debtors, and Wind Point Capital Partners in its capacity as the Term Loan C Lender ("Wind Point"), reached a global settlement that resolved all of the claims asserted in the Complaint ("Settlement"). As a result, all parties (including the DIP Agent and Prepetition First Lien Agent) agreed to adjourn the Standing Motion Hearing several times. The Settlement provides for a recovery to general unsecured creditors of no less than \$1.1 million which, absent the Settlement or a successful prosecution of the Complaint, would not receive a distribution in these Chapter 11 Cases. The Settlement is memorialized in the Plan.

J. Orderly Liquidation

The purpose of these Chapter 11 Cases was for the Debtors to sell all of their remaining assets and businesses, including the assets related to the Debtors' CryoIndustrial, CryoScience and CryoLNG businesses, Cryogenics' Theodore, Alabama plant, and the stock and/or assets of the Debtors' foreign subsidiaries. Accordingly, in consultation with their advisors, the Debtors formulated and implemented a strategy for an orderly liquidation of their assets. The Debtors' orderly liquidation involved, among other things, (i) an initial auction of the CryoScience business and any and all other assets of the Debtors; (ii) after such initial auction, the collection of remaining receivables and the sale of remaining inventory by the Debtors; (iii) a final auction of any remaining unsold inventory; and (iv) stock and/or asset sales with respect to Cryogenics' foreign subsidiaries. The results of such strategy are discussed below.

1. CryoScience Business Sale

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a), 363, 365 AND FED. R. BANKR. P. 2002, 6004, 6006 FOR (A) ORDER (I) ESTABLISHING SALE PROCEDURES RELATING TO THE SALE OF (1) THE DEBTORS' CRYOSCIENCE BUSINESS AND (2) ANY OR ALL OF THE DEBTORS' ASSETS; (II) APPROVING BID PROTECTIONS IN CONNECTION WITH THE SALE OF THE DEBTORS' CRYOSCIENCE BUSINESS; (III) ESTABLISHING PROCEDURES RELATING TO THE ASSUMPTION AND ASSIGNMENT OF

CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES, INCLUDING NOTICE OF PROPOSED CURE AMOUNTS; (IV) APPROVING FORM AND MANNER OF NOTICE OF ALL PROCEDURES, PROTECTIONS, SCHEDULES, AND AGREEMENTS; (V) SCHEDULING A HEARING TO CONSIDER THE PROPOSED SALES; AND (VI) GRANTING CERTAIN RELATED RELIEF AND (B) AN ORDER (I) AUTHORIZING THE SALE OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS; (II) AUTHORIZING THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND UNEXPIRED LEASES; AND (III) GRANTING CERTAIN RELATED RELIEF (D.I. 15).

As a result of extensive pre-petition marketing efforts in early 2015 by the Debtors and their advisors, the Debtors received an offer to purchase the assets of the CryoScience business division for \$24 million in Cash and the assumption of certain liabilities (the "Stalking Horse Bid") from Haier Medical and Laboratory Products USA, Inc. (the "Stalking Horse Buyer"). By this motion, the Debtors sought to establish bidding and auction procedures (the "Bidding & Sale Procedures") to allow the Debtors to solicit higher and better offers for the CryoScience Business and for authority to sell its CryoScience Business at auction. The Debtors also sought authority to solicit, consider and accept offers at auction to purchase all of the Debtors' assets located in the United States and the interests or assets owned by the Debtors' subsidiaries located outside the United States. Accordingly, under the Bidding & Sale Procedures, the Debtors sought to solicit bids for, and sell at auction, the Debtors' U.S. assets and businesses as well as the assets and businesses of the Debtors' foreign subsidiaries.

On October 19, 2015, the Committee filed an Objection and Reservation of Rights to this motion (D.I. 78). The original October 20, 2015 hearing was adjourned to October 28, 2015. On October 29, 2015, the Bankruptcy Court approved the Bidding & Sale Procedures (D.I. 142).

Pursuant to the Bidding & Sale Procedures, on November 16, 2015 at 10:00 a.m. Prevailing Eastern Time, the Debtors held an auction of the CryoScience Business and the Debtors' other U.S. assets and businesses. Though the Debtors received offers for the assets and businesses of the Debtors' foreign subsidiaries prior to the auction, the Debtors determined not to include such assets and businesses in the auction process. The auction concluded at approximately 5:00 p.m. Prevailing Eastern Time. After the conclusion of the auction, the Debtors announced that Worthington Cylinder Corp. ("Worthington") was the successful bidder (D.I. 235).

On November 23, 2015, the Bankruptcy Court entered the Order (I) Authorizing the Sale of the Debtors' CryoScience Business and Certain Other Assets Free and Clear of All Liens, Claims, Encumbrances, and Interests; (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (III) Granting Certain Related Relief (D.I. 267). Pursuant to such Order, the Bankruptcy Court approved the Debtors' sale of their CryoScience Business and certain other assets to Worthington (the "Worthington Sale"), under the parties' Asset Purchase Agreement (the "Worthington APA"), for a base purchase price of \$33,250,000. The Worthington APA excluded receivables and inventory of the Debtors exclusively or primarily related to the CryoIndustrial Business or the CryoLNG Business and certain equipment and other assets not located at Cryogenics' Theodore, Alabama plant.

The Worthington Sale closed on December 7, 2015. The net proceeds of the Worthington Sale were paid to the DIP Agent for application to the DIP Claims and Prepetition First Lien Claims pursuant to the Final DIP Order.

2. Private Sale of Certain Remaining Finished and Semi-Finished Inventory

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a) AND 363, FED. R. BANKR. P. 6004, AND DEL. BANKR. L. R. 6004-1 FOR AN ORDER AUTHORIZING THE SALE OF CERTAIN INVENTORY FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS (D.I. 393).

After the Worthington Sale, the Debtors pursued the collection of their remaining receivables, and the sale of their remaining inventory, in each case exclusively or primarily related to the CryoIndustrial Business or the CryoLNG Business. As part of the Debtors' liquidation efforts, the Debtors sought authority to sell substantially all of the remaining CryoIndustrial and CryoLNG Inventory consisting of finished and semi-finished goods in a private sale to Air Water Inc., a corporation organized under the laws of Japan, or its designee ("Air Water"), for the aggregate purchase price of \$1,227,922.00 (the "Air Water Inventory Sale"). Such sale was to be made in connection with Air Water's purchase of the equity interests of Taylor-Wharton Malaysia from Endurium. On February 19, 2016, the Bankruptcy Court granted the authority requested by the Debtors (D.I. 482).

3. Malaysia Stock Sale

On February 17, 2016, Endurium closed a sale of its equity interests in Taylor-Wharton Malaysia to Air Water (the "Malaysia Stock Sale"), which transaction included the Air Water Inventory Sale, for over \$19 million. The net proceeds of the Malaysia Stock Sale totaled \$18,200,000.00 and the Air Water Inventory Sale totaled \$1,227,922.00. Endurium used such net proceeds to repay amounts owed by it to Cryogenics under an intercompany promissory note. Cryogenics, in turn, paid such proceeds to the DIP Agent for application to the DIP Claims and Prepetition First Lien Claims pursuant to the Final DIP Order.

4. Sales of Remaining Inventory

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a), 327, 328, 330, 331 AND 363, FED. R. BANKR. P. 2014 AND 6004, AND DEL. BANKR. L. R. 2014-1 AND 6004-1 FOR AN ORDER (I) AUTHORIZING DEBTORS TO ENTER INTO AUCTIONEER AGREEMENT, (II) APPROVING RETENTION AND COMPENSATION OF PAUL E. SAPERSTEIN CO., INC., AND (III) AUTHORIZING THE SALE OF CERTAIN INVENTORY FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS (D.I. 395).

Following the Worthington Sale and the Air Water Inventory Sale, the Debtors sought authority to sell all remaining CryoIndustrial and CryoLNG inventory, primarily consisting of raw materials and parts, in private sales leading up to a final auction sale in order to complete the Debtors' liquidation efforts with respect to their remaining inventory (the "Inventory Sales"). On February 18, 2016, the Bankruptcy Court granted the authority requested by the Debtors (D.I. 478). Pursuant to such authority, the Debtors completed the Inventory Sales. As part of that process, on March 3, 2016, the Debtors conducted an auction of certain

inventory, which resulted in \$243,756.00 of net proceeds. The net proceeds of the Inventory Sales were paid to the DIP Agent for application to the DIP Claims and Prepetition First Lien Claims pursuant to the Final DIP Order.

5. GRI Sale

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a), 363, AND 365, FED. R. BANKR. P. 6004 AND 6006, AND DEL. BANKR. L. R. 6004-1 FOR AN ORDER AUTHORIZING (I) THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS; (II) THE REJECTION OF CERTAIN EXECUTORY CONTRACTS; (III) THE DEBTORS TO ENTER INTO A CERTAIN LICENSE AGREEMENT; AND (IV) THE SALE OF CERTAIN MATERIALS AND EQUIPMENT FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS (D.I. 512).

As part of the Debtors' liquidation efforts with respect to their remaining assets, the Debtors sought authority to sell certain equipment and materials not located at Cryogenics' Theodore, Alabama plant to Great River Industries, LLC, a Mississippi limited liability company, for \$285,000.00 (the "GRI Sale"). On March 18, 2016, the Bankruptcy Court approved the GRI Sale (D.I. 557). Upon closing on March 30, 2016, the \$285,000.00 of proceeds of the GRI Sale were paid to the DIP Agent for application to the DIP Claims and Prepetition First Lien Claims pursuant to the Final DIP Order.

6. Sale of Taylor-Wharton Slovakia and Taylor-Wharton Germany

DEBTORS' MOTION PURSUANT TO 11 U.S.C. §§ 105(a) AND 363, FED. R. BANKR. P. 6004, AND DEL. BANKR. L. R. 6004-1 FOR AN ORDER AUTHORIZING THE USE OF CERTAIN PROPERTY OUTSIDE OF THE ORDINARY COURSE OF BUSINESS, THE SALE OF CERTAIN PROPERTY FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND INTERESTS AND REJECTION OF EXECUTORY CONTRACT (D.I. 728).

As part of the Debtors' liquidation efforts with respect to their remaining assets, the Debtors sought authority for TWC to engage in a series of related transactions, pursuant to which TWC would be able to monetize its direct and indirect interests in Taylor-Wharton Slovakia and Taylor-Wharton Germany. Such transactions culminated in a private stock sale of Taylor-Wharton Slovakia and Taylor-Wharton Germany with gross sale proceeds of \$1,000,000 (the "Slovakia Sale"). On July 21, 2016, the Bankruptcy Court will hold a hearing regarding whether to approve the Slovakia Sale.

7. Current Status and Estimate Regarding Funds Available for Distribution

Having completed the Worthington Sale, the Malaysia Stock Sale, the Air Water Inventory Sale, the Inventory Sales, the GRI Sale, and the Slovakia Sale, the Debtors have completed the sale of substantially all of their U.S. assets. The net proceeds of such sales have repaid all outstanding principal amounts under the DIP Facility as well as all Prepetition First Lien Claims (other than fees and interest to be paid on the Effective Date) arising under Revolver A, Revolver B, Term Loan A, and Term Loan B. After the Effective Date, the Debtors'

remaining secured pre-petition debt only consists of outstanding amounts under the Term Loan C and the PIK Notes.

Under the Plan, the Debtors will use \$2,700,000 of available Cash to establish the General Unsecured Fund. All Remaining Liquidation Proceeds will be distributed to Holders of Allowed Claims in Classes 3, 4, and 5 pursuant to the terms and condition of the Plan. Under the Plan, the Liquidating Trust and the Liquidating Trustee shall have exclusive authority to (a) liquidate any remaining assets of the Debtors, including, without limitation, the Debtors' direct and indirect equity interests in and/or any remaining assets of Taylor-Wharton Australia, Endurium, and Taylor-Wharton China (for which the Debtors estimate receiving aggregate gross proceeds in the amount of \$4,000,000.00); and (b) settle, compromise, withdraw or litigate to judgment any Litigation Claims of the Debtors remaining after the Effective Date of the Plan.

Though the amount of proceeds that can be generated from litigation of any Litigation Claims cannot be quantified with any level of certainty at this time, the Debtors estimate that, after the initial funding of the General Unsecured Fund, there will be Remaining Liquidation Proceeds available for distribution under the Plan to Holders of Allowed Claims in Classes 3, 4, and 5.

K. Rejection of Executory Contracts

The Bankruptcy Court has approved the Debtors' request for authority to reject certain contractual agreements (D.I. 558). The Debtors determined that the agreements at issue were overly burdensome, were not necessary to ongoing business operations or orderly liquidation efforts and did not hold any value to the Debtors or their estates. The Debtors further determined that, in order to avoid additional administrative expenses to their estates, it made sound business sense to reject those agreements.

L. Rejection of Nonresidential Real Property Lease

The Bankruptcy Court has approved the Debtors' request for authority to reject their only unexpired nonresidential real property lease related to their corporate headquarters at 5600 Rowland Road, Minnetonka, MN 55343 (D.I. 663). The Debtors determined that the lease was no longer necessary to ongoing business operations or orderly liquidation efforts and did not hold any value to the Debtors or their estates. The Debtors further determined that, in order to avoid additional administrative expenses to their estates, it made sound business sense to reject the lease. As part of the rejection process, the Cryogenics obtained the following agreements from its landlord: (1) the Debtors could leave certain personal property at the premises consisting of office furniture and equipment of inconsequential value and benefit of the estate and thereby avoid the cost of removing the same; (2) the landlord provided Cryogenics with a general release of any claims it may have against it or its estate, including, without limitation, any claim for rejection damages; and (3) the landlord agreed to return the Debtors' security deposit in the amount of \$127,183.

M. Termination of Pension Plans

The Debtors sponsored and/or are jointly liable for two frozen defined benefit pension plans, which are subject to termination insurance provided by the Pension Benefit Guaranty Corporation (the “PBGC”), pursuant to Title IV of the Employee Retirement Income Security Act of 1974, codified at, 29 U.S.C. § 1341(c), et seq. (“ERISA”): (i) the Taylor-Wharton International Hourly Employees Pension Plan (Plan No. 028) (the “Hourly Plan”); and (ii) the Taylor-Wharton Harrisburg Hourly Employees Pension Plan (Plan No. 013) (the “Harrisburg Plan” and, together with the Hourly Plan, the “Pension Plans”). On or about May 31, 2016, the PBGC issued separate but substantively identical Notices of Determination (the “Notices of Determination”) with respect to each of the Pension Plans, pursuant to which the PBGC determined, under section 4042(a)(2) of ERISA and 29 U.S.C. § 1342(a)(2), that (i) “the Plan will be unable to pay benefits when due”; (ii) that “under ERISA § 4042(c), 29 U.S.C. § 1342(c), that the Plan must be terminated in order to protect the interests of the Plan’s participants”; and (iii) that the “PBGC intends to proceed under ERISA § 4042, 29 U.S.C. § 1342, to have the Plan terminated and PBGC appointed as statutory trustee, and under ERISA § 4048, 29 U.S.C. § 1348, to have December 31, 2015, established as the Plan’s termination date.” Termination and PBGC trusteeship pursuant to the Notices of Determination may be effectuated by (1) agreement of the PBGC and the administrator of the Pension Plans or (2) by order of a United States District Court; and accordingly, by letter sent on or about May 31, 2016, the PBGC requested that TWI, as plan administrator, enter into agreements to effectuate termination and PBGC trusteeship of the Pension Plans. On or about May 31, 2016, the parties entered into separate but substantively identical Agreements for Appointment of Trustee and Termination of Plan with respect to each of the Pension Plans.

V. **THE PLAN**

A. Overview of Chapter 11

The commencement of a chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the filing date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a “debtor-in-possession.”

The consummation of a plan is the principal objective of a chapter 11 case. A plan sets forth the means for satisfying claims against, and interests in, a debtor. Confirmation of a plan by the Bankruptcy Court makes the plan binding upon the debtor, any issuer of securities under the plan, any person or entity acquiring property under the plan and any creditor of, or equity holder in, the debtor, whether or not such creditor or equity holder (a) is impaired under or has accepted the plan or (b) receives or retains any property under the plan. Subject to certain limited exceptions and other than as provided in the plan itself or the confirmation order, the confirmation order satisfies any debt of the debtor that arose prior to the date of confirmation of the plan and substitutes the obligations specified under the confirmed plan.

A chapter 11 plan may specify that the legal, contractual and equitable rights of the holders of claims or interests in classes are to remain unaltered by the plan. Such classes are referred to as “unimpaired” and, because of such favorable treatment, are deemed to accept the

plan. Accordingly, it is not necessary to solicit votes from the holders of claims or equity interests in such classes. A chapter 11 plan also may specify that certain classes will not receive any distribution of property or retain any claim against a debtor. Such classes are deemed not to accept the plan and, therefore, need not be solicited to vote to accept or reject the plan. Any classes that are receiving a distribution of property under the plan but are not “unimpaired” will be solicited to vote to accept or reject the plan.

Section 1123 of the Bankruptcy Code provides that a plan shall classify the claims of a debtor’s creditors and equity interest holders. In compliance therewith, the Plan divides Claims and Interests into various Classes and sets forth the treatment for each Class. The Debtors also are required under section 1122 of the Bankruptcy Code to classify Claims and Interests into Classes that contain Claims and Interests that are substantially similar to the other Claims and Interests in such Classes. The Debtors believe that the Plan has classified all Claims and Interests in compliance with the provisions of section 1122 of the Bankruptcy Code, but it is possible that a Holder of a Claim or Interest may challenge the classification of Claims and Interests and that the Bankruptcy Court may find that a different classification is required for the Plan to be confirmed. In such event, the Debtors intend, to the extent permitted by the Bankruptcy Court and the Plan, to make such reasonable modifications of the classifications under the Plan to permit Confirmation and to use the Plan acceptances received in this solicitation for the purpose of obtaining the approval of the reconstituted Class or Classes of which the accepting Holder is ultimately deemed to be a member. Any such reclassification could adversely affect the Class in which such Holder was initially a member, or any other Class under the Plan, by changing the composition of such Class and the vote required of that Class for approval of the Plan.

THE REMAINDER OF THIS ARTICLE PROVIDES A SUMMARY OF THE STRUCTURE AND MEANS FOR IMPLEMENTATION OF THE PLAN AND THE CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN (AS WELL AS THE EXHIBITS TO AND DEFINITIONS IN THE PLAN).

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT INCLUDE THE PROVISIONS CONTAINED IN THE PLAN AND IN THE DOCUMENTS REFERRED TO IN THE PLAN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT DO NOT PURPORT TO BE PRECISE OR COMPLETE STATEMENTS OF ALL THE TERMS AND PROVISIONS OF THE PLAN OR DOCUMENTS REFERRED TO IN THE PLAN, AND REFERENCE IS MADE TO THE PLAN AND TO SUCH DOCUMENTS FOR THE FULL AND COMPLETE STATEMENTS OF SUCH TERMS AND PROVISIONS.

THE PLAN ITSELF AND THE DOCUMENTS INCORPORATED INTO THE PLAN CONTROL THE ACTUAL, TREATMENT OF CLAIMS AGAINST, AND INTERESTS IN, THE DEBTORS UNDER THE PLAN AND WILL, UPON THE OCCURRENCE OF THE EFFECTIVE DATE, BE BINDING UPON ALL HOLDERS OF CLAIMS AGAINST, AND INTERESTS IN, THE DEBTORS, THE DEBTORS’ ESTATES, ALL PARTIES RECEIVING PROPERTY UNDER THE PLAN AND OTHER PARTIES IN INTEREST. IN THE EVENT OF ANY CONFLICT BETWEEN THIS DISCLOSURE STATEMENT, ON THE ONE HAND,

AND THE PLAN OR ANY OTHER OPERATIVE DOCUMENT, ON THE OTHER HAND, THE TERMS OF THE PLAN AND/OR SUCH OTHER OPERATIVE DOCUMENT SHALL CONTROL.

B. Purpose of the Plan

The Plan provides for the final liquidation of the Debtors' assets and distribution to Creditors. The Debtors believe that the Plan provides the best and most prompt possible recovery to Holders of Claims. For purposes of this Disclosure Statement, the term Holder refers to the holder of a Claim or Interest in a particular Class under the Plan. If the Plan is confirmed by the Bankruptcy Court and consummated, on the Effective Date or as soon as practicable thereafter, the Debtors will make distributions in respect of certain Classes of Claims as provided in the Plan.

C. Classification and Treatment of Claims and Interests

1. Unclassified Claims

As provided in section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Priority Tax Claims and the DIP Claims shall not be classified for the purposes of voting or receiving distributions under the Plan. Rather, all such Claims shall be treated separately as unclassified Claims.

a. *Administrative Claims*

i. *Administrative Claims (other than Professional Fee Claims or Committee Professional Fee Claims)*

The Liquidating Trustee shall pay each Holder of an Allowed Administrative Claim (excluding Professional Fee Claims and Committee Professional Fee Claims) the full amount of such Allowed Administrative Claim, without interest, in Cash, as soon as practicable after the later of: (i) the occurrence of the Effective Date, or (ii) the date such Administrative Claim becomes an Allowed Claim. A Holder of an Allowed Administrative Claim may be paid on such other date or dates and upon such other less favorable terms as may be agreed upon by such Holder and the Liquidating Trustee. All outstanding fees payable to the Office of the United States Trustee under 28 U.S.C. § 1930 and any interest that accrues thereon under 31 U.S.C. § 3717 shall be paid in full on the Effective Date. All fees that arise under 28 U.S.C. § 1930 and any interest that accrues thereon under 31 U.S.C. § 3717 after the Effective Date shall be paid in full when due until the Chapter 11 Cases are closed, dismissed, or converted, whichever occurs first. The United States Trustee shall not be required to file a proof of claim or a request for payment of quarterly fees.

ii. *Professional Fee Claims and Committee Professional Fee Claims*

From and after the Effective Date, the Liquidating Trustee shall pay Professionals and the Committee Professionals the respective Professional Fees and the Committee Professional Fees awarded by Final Order of the Bankruptcy Court, as soon as

practicable after the later of (i) the Effective Date, and (ii) the date upon which any order awarding fees and expenses becomes a Final Order, in accordance with the terms of any order entered by the Bankruptcy Court governing the payment of fees and expenses during the course of the Chapter 11 Case; provided however, by agreement of the Committee Professionals in no event shall the payments of Committee Professional Fees since the Petition Date exceed \$1,600,000.00 in the aggregate.

On the Effective Date, any objections previously filed by the Debtors, the DIP Parties, the Prepetition First Lien Parties, and the Prepetition Second Lien Parties, to any applications for payment of the Committee Professional Fee shall be deemed withdrawn (with prejudice) on the Effective Date. Further, after the occurrence of the Effective Date, so long as of the aggregate Committee Professional Fees do not exceed \$1,600,000, neither the Debtors, the DIP Parties, the Prepetition First Lien Parties, the Prepetition Second Lien Parties, the Liquidating Trustee or the Liquidating Trust Oversight Committee shall assert any objection to any Committee Professional Fee Claims.

Any final application for allowance of a Professional Fee Claims and Committee Professional Fee Claims for services rendered and costs incurred through the Effective Date must be filed with the Bankruptcy Court and served on counsel for the Debtors, counsel for the Liquidating Trust and the Liquidating Trustee at the addresses listed in Article XIII.L of the Plan and on the Office of the United States Trustee so that it is received no later than forty-five (45) days after the Effective Date. In the event an application for allowance of a Professional Fee Claims and Committee Professional Fee Claims is not filed by the appropriate date, such Professional Fee Claims and Committee Professional Fee Claims shall be forever barred and shall not be enforceable against the Debtors, their Estates, the Liquidating Trust, the Liquidating Trustee and their successors, their assigns or their Assets. Allowed Professional Fee Claims and Committee Professional Fee Claims must be paid in full (subject to the limitation on the Committee Professional Fees in paragraph above) and Professional Fee Claims and Committee Professional Fee Claims pending allowance by the Bankruptcy Court must be reserved for in full prior to any payment to Holders of Allowed Claims in (a) Class 3 (Prepetition First Lien Claims arising under Term Loan C), (b) Class 4 (Prepetition Second Lien Claims); and (c) Class 5 (General Unsecured Claims).

b. Priority Tax Claims

The Disbursing Agent shall pay each Holder of an Allowed Priority Tax Claim in full, in Cash, as soon as practicable after the later of (i) the Effective Date, or (ii) the date such Priority Tax Claim becomes an Allowed Claim. All Allowed Priority Tax Claims against the Debtors, that are not due and payable on or before the Effective Date, shall be paid in the ordinary course of business in accordance with the terms thereof. The Liquidating Trustee can prepay any Allowed Priority Tax Claim at any time after the Effective Date, without any penalty or charge. Holders of Allowed Priority Tax Claims will not be entitled to receive any payment on account of any penalty arising with respect to or in connection with such Claims. Any Claim for any such penalty, or demand for any such penalty, will be deemed disallowed by Confirmation of the Plan.

c. DIP Claims

The DIP Claims are Allowed Claims. On the Effective Date, and prior to any transfer by the Debtors of any Assets to the Liquidating Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the DIP Claims, the Debtors (a) shall transfer Cash to the DIP Agent, by wire transfer of immediately available funds, in an amount equal to all outstanding principal (including reimbursement obligations in respect of drawn but not reimbursed letters of credit under the DIP LC Sub-Facility (as defined in the DIP Credit Agreement)), if any, and accrued but unpaid interest, costs, fees and expenses (including fees and expenses of professionals) owing as of the Effective Date pursuant to the DIP Credit Agreement or otherwise under the Final DIP Order and (b) shall transfer Cash to the DIP Agent, by wire transfer of immediately available funds, an amount equal to 5% of the total face amount of the Letters of Credit. Upon delivery of Cash to the DIP Agent in accordance with the prior sentence and the occurrence of the Effective Date, the DIP Claims are deemed Paid In Full (as such term is defined in the Final DIP Order).

From and after the Effective Date, the DIP Agent shall be authorized, without any further order of the Court, immediately upon notice to the Liquidating Trustee, to apply the LC Cash Collateral to any and all obligations relating to the Letters of Credit, including, but not limited to, the fees and expenses owing to the DIP Agent or any other DIP Party in connection therewith and any amounts drawn thereunder, and the LC Cash Collateral shall secure such amounts. Following the LC Termination Date, the DIP Agent shall remit any LC Cash Collateral not applied in accordance with the immediately preceding sentence to the Liquidating Trust in accordance with directions to be provided by the Liquidating Trustee. Prior to the LC Termination Date, the DIP Agent shall have full dominion and control over the LC Cash Collateral and no other party shall have any right or interest therein other than the contingent right of the Liquidating Trustee to any LC Cash Collateral that remains unapplied on the LC Termination Date. From and after the Effective Date, no holder of any DIP Claims shall be entitled to receive any further payment or distribution from the Debtors, the Liquidating Trust or the General Unsecured Fund under the Plan.

2. Classified Claims

a. Class 1: Other Priority Non-Tax Claims (Unimpaired)

i. Classification: Class 1 consists of all Allowed Other Priority Non-Tax Claims.

ii. Treatment: As soon as practicable after the later of (i) the Effective Date, or (ii) the date on which the Other Priority Non-Tax Claim becomes an Allowed Claim, in full settlement, release, and satisfaction of, and in exchange for each Allowed Other Priority Non-Tax Claim that is due and payable, the Disbursing Agent shall pay each Holder of an Allowed Class 1 Claim, in relative order of priority pursuant to section 507 of the Bankruptcy Code in full, in Cash, without interest.

iii. Voting: Class 1 is Unimpaired and the Holders of Class 1 Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the

Bankruptcy Code. Therefore, the Holders of Claims in Class 1 are not entitled to vote to accept or reject the Plan.

b. Class 2: Other Secured Claims that Are Not Class 3 or Class 4 Claims (Unimpaired)

i. Classification: Class 2 consists of all Allowed Other Secured Claims that are not Class 3 or Class 4 Claims.

ii. Treatment: On the Effective Date or as soon as practicable thereafter, each Holder of an Allowed Other Secured Claim (*e.g.*, PMSI Holders, equipment financing lenders, *etc.*) shall receive one of the following treatments, at the option of the Liquidating Trustee after consultation with the Liquidating Trust Oversight Committee, such that they shall be rendered unimpaired pursuant to section 1124 of the Bankruptcy Code: (i) the payment of such Holder's Allowed Other Secured Claim in full, in Cash; (ii) the sale or disposition proceeds of the property securing such Allowed Other Secured Claim to the extent of the value of the Holder's interests in such property; or (iii) the surrender to the Holder of the property securing such Claim.

iii. Voting: Class 2 is Unimpaired and Holders of Class 2 Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Claims in Class 2 are not entitled to vote to accept or reject the Plan.

c. Class 3: Prepetition First Lien Claims (Impaired)

i. Classification: Class 3 consists of the Prepetition First Lien Claims.

ii. Treatment: The Prepetition First Lien Claims are Allowed Claims. If not paid previously, on the Effective Date and prior to any transfer by the Debtors of any Assets to the Liquidating Trust or to any Holder of any Claim or otherwise, in full and complete settlement, release and satisfaction of the Senior Prepetition First Lien Claims, the Debtors shall pay Cash to the Prepetition First Lien Agent, by wire transfer of immediately available funds, in an amount equal to all outstanding principal, if any, and accrued but unpaid interest, costs, fees and expenses (including fees and expenses of professionals) owing as of the Effective Date with respect to the Senior Prepetition First Lien Claims other than the Prepetition First Lien Claims arising solely under Term Loan C. Upon payment of the remaining amounts due on the Senior Prepetition First Lien Claims and the occurrence of the Effective Date, the Senior Prepetition First Lien Claims shall be deemed Paid In Full (as such term is defined in the Final DIP Order). The Holders of Prepetition First Lien Claims arising under Term Loan C shall receive, in full and complete settlement, release and satisfaction of such Claims, interests in the Liquidating Trust such that each Holder will receive their Ratable Proportion of the first \$6 million of Liquidation Proceeds (the "Initial Prepetition First Lien Distribution") after the prior payment/reserve of (i) all DIP Claims, (ii) all Prepetition First Lien Claims other than the Prepetition First Lien Claims arising solely under Term Loan C, (iii) all Administrative Claims, (iv) all Professional Fee Claims; (v) all Committee Professional Fee Claims, (vi) all Priority Tax

Claims, (vii) the Administrative Fund, and (viii) the General Unsecured Fund. After payment of the Initial Prepetition First Lien Distribution set forth in the prior sentence, such Holder of the Prepetition First Lien Claims arising under Term Loan C shall also receive the Ratable Proportion of 60% of all Remaining Liquidation Proceeds until such claims are paid in full. Effective as of the Effective Date, the Debtors' Stipulations set forth in the Final DIP Order shall be final, binding in accordance with the terms of the Final DIP Order and without exception.

iii. Voting: Class 3 is Impaired and Holders of Class 3 Claims are entitled to vote to accept or reject the Plan.

d. Class 4: Prepetition Second Lien Claims (Impaired)

i. Classification: Class 4 consists of the Prepetition Second Lien Claims.

ii. Treatment: In full settlement, release, and satisfaction of, and in exchange for each Allowed Class 4 Claim that is due and payable, as soon as practicable after funding the General Unsecured Fund and payment of the Initial Prepetition First Lien Distribution in full, the Disbursement Agent shall distribute to each Holder of an Allowed Class 4 Claim the Ratable Proportion of 30% of all Remaining Liquidation Proceeds; provided however, after all Allowed Class 3 Claims are paid in full, the Disbursement Agent shall distribute to each Holder of an Allowed Class 4 Claim the Ratable Proportion of 75% of all Remaining Liquidation Proceeds thereafter. Effective as of the Effective Date, the Debtors' Stipulations set forth in the Final DIP Order shall be final, binding in accordance with the terms of the Final DIP Order and without exception.

iii. Voting: Class 4 is Impaired and Holders of Class 4 Claims are entitled to vote to accept or reject the Plan.

e. Class 5: General Unsecured Claims (Impaired)

i. Classification: Class 5 consists of all Allowed General Unsecured Claims.

ii. Treatment: In full settlement, release, and satisfaction of, and in exchange for each Allowed Class 5 Claim that is due and payable, on the Effective Date, or as soon as practicable thereafter, the Disbursing Agent shall distribute to each Holder of an Allowed Class 5 Claim the Ratable Proportion of the General Unsecured Fund (after payment of Committee Professional Fee Claims) and, after payment of the Initial Prepetition First Lien Distribution, the Ratable Proportion of 10% all Remaining Liquidation Proceeds; provided however, after all Allowed Class 3 Claims are paid in full, the Disbursement Agent shall distribute to each Holder of an Allowed Class 5 Claim the Ratable Proportion of 25% of all Remaining Liquidation Proceeds thereafter.

iii. Voting: Class 5 is Impaired and Holders of Class 5 Claims are entitled to vote to accept or reject the Plan.

f. Class 6: Interests (Cancelled)

i. Classification: Class 6 consists of all Interests.

ii. Treatment: On the Effective Date, all Interests shall be deemed cancelled and of no further force and effect, whether surrendered for cancellation or otherwise.

iii. Voting: Class 6 is Impaired, but because no distributions will be made to Holders of Class 6 Interests, such Holders are deemed to have rejected the Plan pursuant to 1126(g) of the Bankruptcy Code. Therefore, the Holders of Class 6 Interests are not entitled to vote to accept or reject the Plan.

g. Class 7: Intercompany Claims (Cancelled)

i. Classification: Class 7 consists of all Intercompany Claims.

ii. Treatment: Holders of Class 7 Claims receive no distribution and Class 7 Claims are cancelled as of the Effective Date.

iii. Voting: Class 7 is Impaired, but because no distributions will be made to Holders of Class 7 Claims nor will such Holders retain any property, such Holders are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, the Holders of Class 7 Claims are not entitled to vote to accept or reject the Plan.

D. Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' or the Liquidating Trust's rights in respect of any Unimpaired Claims, including, but not limited to, all rights to assert any and all legal and equitable defenses to, or setoffs or recoupments against, such Unimpaired Claims.

E. Acceptance and Rejection of the Plan

1. Voting Classes

Holders of Claims in Class 3 (Prepetition First Lien Secured Claims), Class 4 (Prepetition Second Lien Secured Claims) and Class 5 (General Unsecured Claims) are Impaired and, except as otherwise provided in order(s) of the Bankruptcy Court pertaining to solicitation of votes on the Plan, shall be entitled to vote to accept or reject the Plan.

2. Acceptance by Impaired Classes

An Impaired Class of Claims shall have accepted the Plan if (a) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code)

of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

3. Presumed Acceptance of Plan

Class 1 (Priority Non-Tax Claims) and Class 2 (Other Secured Claims) are Unimpaired by the Plan. Pursuant to Bankruptcy Code § 1126(f), Classes 1 and 2 are conclusively presumed to have accepted the Plan, and the votes of Holders of Claims in Classes 1 and 2 will not be solicited.

4. Presumed Rejection of Plan

Holders of Claims and Interests in Class 6 (Interests) and Class 7 (Intercompany Claims) are not entitled to receive any distribution under the Plan on account of such Claims and Interests. Pursuant to Bankruptcy Code § 1126(g), Class 5 and Class 6 are Impaired and are conclusively presumed to have rejected the Plan, and the votes of Holders of Claims and Interests in Class 6 and Class 7 will not be solicited.

5. Non-Consensual Confirmation

The Debtors will seek Confirmation of the Plan under section 1129(b) of the Bankruptcy Code to the extent applicable based on the deemed rejection of the Plan by Classes 6 and 7 and if any Voting Class fails to accept the Plan in accordance with section 1129(a)(8) of the Bankruptcy Code. The Debtors reserve the right (a) to request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code and/or (b) to modify the Plan in accordance its terms.

F. Plan Implementation

The Debtors propose to implement and consummate the Plan on and after the Effective Date.

1. Limited Substantive Consolidation or Merger

a. Limited Substantive Consolidation

The Plan contemplates entry of the Confirmation Order effectuating the limited substantive consolidation of the Debtors' Chapter 11 Cases into a single Chapter 11 Case solely for the purposes of all actions associated with Confirmation and consummation of the Plan. On the Confirmation Date or such other date as may be set by Final Order of the Court, but subject to the occurrence of the Effective Date: (i) solely for the purposes of the Plan and the distributions and transactions contemplated thereby, all Assets and liabilities of the Debtors shall be treated as though they were merged; (ii) any obligation of any Debtor and all guarantees thereof executed by one or more of the Debtors shall be deemed to be one obligation of the Debtors; (iii) any Claims filed or to be filed in connection with any such obligation and such guarantees shall be deemed one Claim against the Debtors; (iv) each and every Claim filed in the individual Chapter 11 Cases of any of the Debtors shall be deemed a single obligation of all of the Debtors under the Plan on and after the Confirmation Date; (v) all duplicative Claims (identical in both amount and subject matter) filed against more than one of the Debtors will be

automatically expunged so that only one Claim survives against the Debtors but in no way shall such Claims be deemed Allowed by reason thereof; provided however, the consolidation shall not affect the rights of a creditor to assert that its Claim is secured by a right setoff under section 553 of the Bankruptcy Code, and provided further that the Debtors will not be deemed, for purposes of any Litigation Claims or determining the availability of the right of set-off under section 553 of the Bankruptcy Code, to be one entity, such that, subject to other provisions of section 553 of the Bankruptcy Code, the debts due to any of the Debtors may not be offset against Claims against another Debtor. The substantive consolidation shall not affect the obligations of each and every Debtor to pay fees to the Office of the United States Trustee that may have come due prior to the Effective Date.

Pursuant to Bankruptcy Rule 9019 and any applicable state law and as consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan effecting limited substantive consolidation shall constitute a good faith compromise and settlement of any Causes of Action or disputes that could be brought by a Holder of a Claim or Interest asserting that such Claim or Interest would have received more favorable treatment had substantive consolidation not been effected. This compromise and settlement is in the best interests of Holders of Claims and Interests and is fair, equitable and reasonable. Upon Confirmation of the Plan, the Plan shall be approved as a settlement of all such Causes of Action and disputes. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of this settlement pursuant to Bankruptcy Rule 9019 and its finding that this is a good faith settlement pursuant to any applicable state laws, given and made after due notice and opportunity for hearing, and shall bar any such Cause of Action by any Holder of a Claim or Interest with respect to the matters described in this section.

b. Benefits of Limited Substantive Consolidation

The Debtors believe that limited substantive consolidation provided for by the Plan is in the best interest of the Debtors' Estates and will promote a more expeditious and streamlined distribution and recovery process for Creditors. While TWC, as the operating entity, held substantially all of the Debtors' assets and liabilities, TWI, as the holding company, shared liabilities with TWC, whether as guarantor or otherwise. Thus, limited substantive consolidation will relieve the Debtors from having to litigate Creditor Claims against multiple Debtor Entities on the same liability, as only one Claim will be deemed allowed and payable from one common pool of Assets. Limited substantive consolidation will also relieve the Debtors' Estates from having to engage in the costly and time-consuming exercise of litigating Intercompany Claims. The Debtors believe that the administrative benefits of limited substantive consolidation will provide for a greater overall recovery for Creditors of the Debtors' Estates.

c. Merger as an Alternative to Limited Substantive Consolidation

As an alternative to limited substantive consolidation, the Debtors shall be authorized to take all necessary actions to effectuate a merger under applicable nonbankruptcy law. Upon any merger, the Debtors will not be deemed, for purposes of any Litigation Claims or determining the availability of the right of set-off under section 553 of the Bankruptcy Code, to be one entity, such that, subject to other provisions of section 553 of the Bankruptcy Code, the debts due to any of the Debtors may not be offset against Claims against another Debtor.

2. The Liquidating Trust

a. *Formation of Liquidating Trust*

Prior to the Effective Date, the Debtors shall continue to wind down their businesses subject to all applicable requirements of the Bankruptcy Code and the Bankruptcy Rules. The Plan contemplates the transfer of the Debtors' Assets and certain enumerated liabilities hereunder into the Liquidating Trust.

On the Effective Date, or as soon as practicable thereafter, the Debtors will form the Liquidating Trust and, pursuant to the Plan, shall transfer certain post-confirmation responsibilities, including, but not necessarily limited to, the liquidation of remaining Assets, pursuit and collection of Litigation Claims, Causes of Action, and the reconciliation and payment of Claims.

The Liquidating Trust shall be established as a Delaware common law trust, which shall also be a grantor trust for the sole purpose of liquidating the Estate and making distributions to Holders of Allowed Claims and Interests, in accordance with the Plan and Treas. Reg. § 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business. Subject to definitive guidance from the IRS, all parties shall treat the Liquidating Trust as a liquidating trust for all federal income tax purposes.

The Liquidating Trust Agreement shall contain provisions customary to trust agreements utilized in comparable circumstances, including, but not limited to, any and all provisions necessary to govern the rights, powers, obligations and appointment and removal of the Liquidating Trustee and to ensure the treatment of the Liquidating Trust as a liquidating trust for federal income tax purposes, all consistent with the Plan.

For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidating Trustee and Holders of Allowed Claims and Interests) shall treat the transfer of Assets and liabilities to the Liquidating Trust, in accordance with the terms of the Plan, as a transfer to Holders of Allowed Claims and Interests followed by a transfer by such Holders to the Liquidating Trust, and Liquidating Trust Beneficiaries shall be treated as the grantors and owners thereof.

The Liquidating Trust shall terminate no later than the fifth (5th) anniversary of the Effective Date; provided, however, that within a period of three (3) months prior to such termination date, the Bankruptcy Court, upon motion by a party in interest may extend the term of the Liquidating Trust if it is necessary to facilitate or complete the liquidation of the Liquidating Trust's Assets. Notwithstanding the foregoing, multiple extensions can be obtained so long as Bankruptcy Court approval is obtained within three (3) months prior to the expiration of each extended term; provided, however, that the aggregate of all such extensions shall not exceed three (3) years, unless the Liquidating Trustee receives a favorable ruling from the IRS that any further extension would not adversely affect the status of the Liquidating Trust as a liquidating trust within the meaning of Treas. Reg. § 301.7701-4(d) for federal income tax purposes.

b. Assets of Liquidating Trust

On the Effective Date, or as soon as practicable thereafter, the Debtors shall transfer, assign and deliver the Liquidating Trust Assets as specified in the Liquidating Trust Agreement to the Liquidating Trust.

On the Effective Date, title to all property of the Debtors' Estates will pass to and vest in the Liquidating Trust, free and clear of all Claims, interests, Liens, security interests, charges and other encumbrances (except as otherwise provided in the Plan).

The Liquidating Trust Assets shall be held by the Liquidating Trust for the Liquidating Trust Beneficiaries subject to the terms and conditions of the Plan and the Liquidating Trust Agreement.

c. Liabilities of Liquidating Trust

The liabilities transferred to the Liquidating Trust shall include, all Classified Claims and Unclassified Claims that have not been satisfied on the Effective Date of the Plan.

On the Effective Date, or as soon as practicable thereafter, the Debtors will transfer to the Liquidating Trust all Cash on hand to make the payments required on Allowed Claims pursuant to the Plan and the Liquidating Trust Agreement. In addition, the Liquidating Trust shall have available the proceeds from the prosecution of Causes of Action.

d. Appointment of the Liquidating Trustee and Members of the Liquidating Trust Oversight Committee

The Debtors, after consultation with the Holders of Class 3 Claims, shall appoint the Liquidating Trustee who shall have the power to administer the Liquidating Trust and will be advised by the Liquidating Trust Oversight Committee as specified in the Plan and the Liquidating Trust Agreement.

If applicable, the Liquidating Trust Oversight Committee shall consist of at least three (but no more than five) members plus the Liquidating Trustee; provided however, any member of the Liquidating Trust Oversight Committee that is conflicted on a particular matter to be addressed by the Liquidating Trust Oversight Committee shall not participate as a member of the Liquidating Trust Oversight Committee with regard to such matter. Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Debtors will disclose, on or prior to the Confirmation Date, in the Plan Supplement the identity and any affiliations of the Liquidating Trustee and any Person proposed to serve on the Liquidating Trust Oversight Committee, which appointments shall be confirmed in the Confirmation Order. To the extent any such Person is an "insider" under the Bankruptcy Code, the nature of any compensation for such Person will also be disclosed.

The Debtors and the Liquidating Trustee shall enter into a Liquidating Trust Agreement in substantially the form which shall be filed with the Bankruptcy Court with the Plan Supplement. On the Effective Date, the Liquidating Trustee shall succeed in all respects

to all of the rights, privileges and immunities of the Debtors, including, without limitation, the attorney-client privileges, work product privilege and any other evidentiary privileges of the Debtors and shall be appointed as the sole officer of the Debtors as of the Effective Date. The Liquidating Trustee, and his/her successors, shall serve until the earlier of (i) the later to occur of (a) the entry of the Final Decree, (b) the dissolution of the Liquidating Trust, and (c) the payment of the final distributions to Holders of Allowed Claims pursuant to the Plan; or (ii) the expiration of the term of such Liquidating Trustee's employment agreement or such Liquidating Trustee's resignation, death, incapacity, removal or termination by the Liquidating Trust Oversight Committee pursuant to the Liquidating Trust Agreement or order of the Bankruptcy Court. The Liquidating Trustee may also be removed by the Bankruptcy Court upon motion for good cause shown by any Creditor.

As set forth in the Plan, the liquidation and winding up of the Liquidating Trust and the Debtors shall become the responsibility of the Liquidating Trustee who shall thereafter have responsibility for the management, control and operation thereof, and who may use, acquire and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, but subject to the terms of the Plan and the Liquidating Trust Agreement.

Upon creation of the Liquidating Trust, the Liquidating Trustee shall be the trustee of the Liquidating Trust for all purposes and in all respects, with all necessary and appropriate power to act for, on behalf of and in the name of the Liquidating Trust.

e. Duties of the Liquidating Trustee

In addition to the duties set forth elsewhere in the Plan, the Liquidating Trustee, at the direction of and in consultation with the Liquidating Trust Oversight Committee as set forth more specifically in the Liquidating Trust Agreement, and in the Plan, shall have the following duties:

i. to sell, liquidate and/or recover any and all Assets of the Debtors' Estates vested in the Liquidating Trust;

ii. to manage, control and operate the Liquidating Trust;

iii. to investigate and, if necessary and appropriate, to prosecute and enforce (or not prosecute or enforce), or to compromise, release or settle any Causes of Action on behalf of the Estate and the Liquidating Trust without further approval of or application to the Bankruptcy Court;

iv. to invest the Cash and other Assets of the Liquidating Trust and the Estates;

v. to file any and all reports, pleadings and other documents;

vi. to pay Allowed Claims pursuant to the Plan and to make any and all distributions required or permitted to be made under the Plan;

vii. to pay out of the Liquidating Trust any and all Claims, liabilities, losses, damages, costs and expenses incurred in connection therewith or as a result thereof, including all Post-Confirmation Expenses accruing from and after the Effective Date in accordance with the Administrative Budget;

viii. to employ, supervise and compensate any employees of the Liquidating Trust;

ix. to make and file tax returns for the Debtors and the Debtors' Affiliates and the Liquidating Trust;

x. to commence and pursue dissolution or winding up of proceedings for the Liquidating Trust;

xi. to file, prosecute, compromise and settle objections to Claims without further approval of or application to the Bankruptcy Court, except as otherwise provided in the Plan;

xii. to prepare and deliver to the Liquidating Trust Oversight Committee for approval the Administrative Budget of the Liquidating Trust with respect to each six-month period following the initial Administrative Budget and any amendments or modifications thereto;

xiii. to take any and all other actions necessary or appropriate to implement the Plan and the liquidation and winding up of the Debtors, the Estates and the Liquidating Trust in accordance with applicable law, provided, that nothing in the Plan shall permit the Liquidating Trustee to terminate or cancel the Debtors' director and officer liability insurance coverage relating to the period following the Petition Date, and provided further that the Liquidating Trustee shall not renew or extend such insurance coverage, or other new or substitute coverage, without the approval of the Liquidating Trust Oversight Committee; and

xiv. to request the entry of a Final Decree.

In connection with the execution of his or her duties under the Plan, the Liquidating Trustee, at the direction of and in consultation with the Liquidating Trust Oversight Committee as set forth more specifically in the Liquidating Trust Agreement and in the Plan, shall be authorized:

i. to execute such documents and to take such other actions as are necessary to effectuate the Plan and perform his or her duties as liquidating agent of and for the Estates and the Liquidating Trust, including to execute such documents and take such other action on behalf of the Liquidating Trust or the Debtors;

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

iii. to retain and pay professionals (including the Professionals or the Committee Professionals) or other Persons to assist the Liquidating Trustee in the

liquidation of the Debtors' Assets and the administration of the Liquidating Trust, without prior Bankruptcy Court approval (provided however, prior to the funding of the General Unsecured Fund (in full); to the extent desired by EisnerAmper LLP, the Liquidating Trustee shall retain EisnerAmper LLP as an advisor to the Liquidating Trust); and to designate another Person to be the Disbursing Agent, if necessary;

iv. to incur any reasonable and necessary expenses (up to the amounts set forth in the Administrative Budget) in the performance of his or her duties as liquidating agent of and for the Estates and the Liquidating Trust;

v. to compromise, release or settle any Claim or Cause of Action or to sell or dispose of any Asset; and

vi. to employ such other procedures, not inconsistent with the Plan, necessary for the Liquidating Trustee to perform his or her duties hereunder.

The Liquidating Trustee shall be deemed the Estates' representative in accordance with section 1123 of the Bankruptcy Code and shall have all powers, authority and responsibilities specified in the Liquidating Trust Agreement, including, without limitation, the powers of a trustee under sections 704 and 1106 of the Bankruptcy Code (including, without limitation, commencing, prosecuting or settling Causes of Action and asserting claims, defenses, offsets and privileges), to the extent not inconsistent with the Plan or the status of the Liquidating Trust as a liquidating trust within the meaning of Treas. Reg. § 301.7701-4(d) for federal income tax purposes. In discharging the foregoing responsibilities, the Liquidating Trustee shall be entitled to exercise and rely upon his or her business judgment in consultation with the Liquidating Trust Oversight Committee. The Liquidating Trustee shall not be obligated to take any action or to pursue any Causes of Action unless justified in his or her reasonable determination by fact and law, nor shall the Liquidating Trustee be obligated to take any action that could reasonably cause him or her personal liability. Without limiting the generality of the foregoing, the Liquidating Trustee may consider the interests of Holders of Allowed Claims in receiving prompt distributions and such other factors as may be reasonable in the exercise of his or her business judgment. Such authorization and benefits shall also extend to any, each and every successor Liquidating Trustee, without reservation or limitation.

The Liquidation Trustee, at the direction of the Liquidating Trust Oversight Committee, shall be permitted to make any investments that a liquidating trust, within the meaning of Treas. Reg. § 301.7701-4(d), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise and pursuant to the investment guidelines of section 345 of the Bankruptcy Code. The Liquidating Trustee, at the direction of the Liquidating Trust Oversight Committee, may expend the Cash of the Liquidating Trust (a) as reasonably necessary to meet contingent liabilities and to maintain the value of the Liquidating Trust Assets during liquidation, (b) to pay the respective reasonable administrative expenses (including, but not limited to, any United States Trustee fees, Liquidating Trustee fees, professional fees, and taxes imposed on the Liquidating Trust), and (c) to satisfy other respective liabilities incurred by the Liquidating Trust in accordance with the Plan or the Liquidating Trust Agreement.

f. Insurance Policies

The Debtors maintained a number of policies and programs of insurance similar to companies of their size and business activities. These included policies and programs for general liability, workers compensation, property and casualty, and directors and officers insurance.

All insurance policies and all rights thereunder of the Debtors will be transferred and assigned to the Liquidating Trust. To the extent any or all of the insurance policies of the Debtors are considered to be Executory Contracts, then notwithstanding anything contained in the Plan to the contrary, the Plan shall constitute a motion to assume such insurance policies and assign the same to the Liquidating Trust. Subject to the occurrence of the Effective Date, the entry of the Confirmation Order shall constitute approval of such assumption and assignment pursuant to Section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such assumption is in the best interest of the Debtors, the Estates and all parties in interest in this Chapter 11 Case. Unless otherwise determined by the Bankruptcy Court pursuant to a Final Order or agreed to by the parties thereto prior to the Effective Date, no payments are required to cure any defaults of the Debtors existing as of the Confirmation Date with respect to each such insurance policy. For the avoidance of doubt, the insurance policies and all rights thereunder and rights under any other insurance policies under which the Debtors may be beneficiaries (including the rights to make, amend, prosecute and benefit from claims) are retained and will be transferred and assigned to the Liquidating Trust pursuant to the Plan.

Other than the assignment of the Debtors' insurance policies and rights thereunder to the Liquidating Trust, nothing herein shall be deemed to modify the insurance policies or the Insurers thereunder or (i) alters the terms and conditions of any applicable insurance policies and agreements related thereto, (ii) relieves the Debtors of any of their obligations under any applicable insurance policies and related agreements, (iii) creates a direct right of action by any third party against any Insurer, or (iv) precludes or limits, in any way, the rights of any Insurer to contest and/or litigate the existence, primacy and/or scope of available coverage under any alleged applicable policy. Nothing herein shall be deemed to affect the rights of third parties, including the D&Os under the D&O Policies.

Notwithstanding anything to the contrary in the Disclosure Statement, the Plan, the Plan Supplement, the Confirmation Order, any other document related to any of the foregoing, or any other order of this Court (including, without limitation, any provision that purports to be preemptory or supervening or grants an injunction or release):

(i) the ACE Insurance Program shall be assumed and assigned in its entirety to the Liquidating Trust pursuant to sections 105 and 365 of the Bankruptcy Code;

(ii) on and after the Effective Date, the Liquidating Trust shall succeed to all of the Debtors' rights and become liable in full for all of the Debtors' obligations under the ACE Insurance Program regardless of whether such obligations arise before or after the Effective Date and regardless of when the underlying claims arise without the need or requirement for the ACE Companies to file an Administrative Claim or assert a cure claim;

(iii) except as provided in the Plan, nothing in the Disclosure Statement, the Plan, the Plan Supplement, the Confirmation Order, any other document related to any of the foregoing or any other order of this Court (including, without limitation, any provision that purports to be preemptory or supervening or grants an injunction or release), (a) alters the rights and obligations of the Debtors (or after the Effective Date, the Liquidating Trust) and the ACE Companies under the ACE Insurance Program, (b) modifies the coverage provided under the ACE Insurance Program or the terms and conditions thereof or (c) releases or impairs the claims or collateral of the ACE Companies under the ACE Insurance Program;

(iv) the automatic stay of Bankruptcy Code section 362(a) and the injunctions set forth in Article XI of the Plan, if and to the extent applicable, shall be deemed lifted without further order of this Court, solely to permit: (a) claimants with valid workers' compensation claims or direct action claims covered by the ACE Insurance Program to proceed with their claims; (b) the ACE Companies to administer, handle, defend, settle, and/or pay, in the ordinary course of business and without further order of this Court, (I) all valid workers' compensation claims covered by the ACE Insurance Program, (II) all claims where a claimant asserts a direct claim against any of the ACE Companies under applicable non-bankruptcy law, or an order has been entered by this Court granting a claimant relief from the automatic stay to proceed with its claim, and (III) all costs in relation to each of the foregoing; (c) the ACE Companies to draw against any or all of the collateral or security provided by or on behalf of the Debtors (or the Liquidating Trust, as applicable) at any time and to hold the proceeds thereof as security for the obligations of the Debtors (and the Liquidating Trust, as applicable) and/or apply such proceeds to the obligations of the Debtors (and the Liquidating Trust, as applicable) under the ACE Insurance Program, in such order as the ACE Companies may determine; and

(v) any rights and obligations under the ACE Insurance Program (including, but not limited to, (a) any agreement to arbitrate disputes, (b) any provisions regarding the provision, maintenance, substitution, use, nature, treatment and priority of collateral/security, and (c) any provisions regarding the payment of amounts within any deductible by the ACE Companies and the obligation of the Debtors (or the Liquidating Trust, as applicable) to pay or reimburse the ACE Companies therefor shall be determined under the applicable non-bankruptcy law and the ACE Insurance Program;

(vi) (a) the payment and reimbursement of obligations of the Debtors owing to the ACE Companies under the ACE Insurance Program shall be limited to the rights of the ACE Companies, pursuant to the terms of the ACE Insurance Program, to draw against any and all collateral and/or security provided to the ACE Companies by (or on behalf of) the Debtors (or their predecessors); (b) on the Effective Date, the proofs of claim filed by the ACE Companies shall be deemed withdrawn without further action required by the ACE Companies, and (c) the ACE Companies shall not otherwise seek a distribution in the Chapter 11 Cases or against the Liquidating Trust except to the extent of rights against such collateral and/or security; provided, however, that (I) the ACE Companies do not need to assert claims against the Debtors or the Liquidating Trustee in order for the ACE Companies to draw, use or apply any collateral and/or security, (II) any stay/injunction (including that in the Plan) shall not apply to the ACE Companies' draw, use and application of any collateral and/or security and (III) the ACE Companies assert a cure claim with respect to the ACE Insurance Program which the Debtors are

currently reviewing and the ACE Companies and the Debtors reserve and preserve all rights and defenses related thereto; and

(vii) Harsco's rights to payment or reimbursement from the Debtors or the Liquidating Trust under the ACE Insurance Program shall be limited to its rights to a distribution in the Chapter 11 Cases pursuant to an allowed proof of claim.

g. Post Confirmation Expenses

Prior to the Effective Date, the Debtors and the Committee shall approve the Administrative Budget for the six (6) month period beginning on the Effective Date for professional fees for services to be rendered to the Liquidating Trust, which Administrative Budget may be altered from time to time by the Liquidating Trustee after consultation with the Liquidating Trust Oversight Committee in accordance with the Liquidating Trust Agreement provided that any fees and expenses of professionals retained by the Liquidating Trust that have been incurred prior to the date of the modification of the Administrative Budget shall constitute budgeted amounts. The Liquidating Trust Oversight Committee shall approve in advance the Liquidating Trustee's retention of professionals and their compensation arrangements.

On the Effective Date, the Liquidating Trustee shall establish the Administrative Fund. The initial amount of the Administrative Fund shall be based on the Liquidating Trustee's good faith estimate of the cost necessary to complete the Liquidating Trust's obligations under the Plan and the Liquidating Trust Agreement and will include the amount budgeted for the Liquidating Trust's professionals pursuant to the Plan; provided however, the initial Administrative Fund shall not exceed the amount of \$20,000 plus a reasonable sum of cash (in an amount to be determined by the Debtors and the Committee) necessary to monetize the Debtors' remaining Assets as of the Effective Date. The Liquidating Trust shall pay all costs and expenses related to carrying out its obligations under the Plan and the Liquidating Trust Agreement from the Administrative Fund and, in the Liquidating Trustee's discretion, and with approval of the Liquidating Trust Oversight Committee, may add additional amounts to the Administrative Fund to prosecute the Causes of Action or for administration and other miscellaneous needs of the Liquidating Trust without further notice or motion in accordance with the terms of the Liquidating Trust Agreement.

The reasonable and necessary fees and actual and necessary expenses of the Liquidating Trustee, the Liquidating Trust Oversight Committee and the professionals retained by the Liquidating Trustee and the Liquidating Trust Oversight Committee shall be paid by the Liquidating Trustee in accordance with the following procedures or such other procedures as may be set by the Liquidating Trustee: upon the submission of a fee and/or expense statement to the Liquidating Trustee and the Liquidating Trust Oversight Committee, the Liquidating Trustee and the Liquidating Trust Oversight Committee shall have twenty (20) days from the delivery of a fee statement to give notice of an objection to the fee statement to the professional or Person seeking compensation or reimbursement. For an objection to be valid, it shall be in writing and set forth in detail the specific fees objected to and the basis for the objection. Any objection that remains unresolved fifteen (15) days after it is made shall be filed with the Bankruptcy Court by the objecting party, served upon the professional or Person seeking compensation or reimbursement, and heard by the Bankruptcy Court at the next regularly

scheduled omnibus hearing. The uncontested portion of each invoice shall be paid within twenty (20) days after its delivery to the Liquidating Trustee and the Liquidating Trust Oversight Committee in accordance with the procedures set forth in the Liquidating Trust Agreement.

Notwithstanding anything to the contrary herein, the General Unsecured Fund shall not be used for any purpose other than to pay Committee Professional Fees and Holders of Allowed General Unsecured Claims.

h. Liability; Indemnification

The Liquidating Trustee or any member of the Liquidating Trust Oversight Committee shall not be liable for any act or omission taken or omitted to be taken in his or her capacity as Liquidating Trustee or as a member of the Liquidating Trust Oversight Committee, as the case may be, other than acts or omissions resulting from the Liquidating Trustee's or Liquidating Trust Oversight Committee member's willful misconduct, gross negligence or fraud. The Liquidating Trustee and the Liquidating Trust Oversight Committee may, in connection with the performance of their functions, and in their sole and absolute discretion, consult with their respective attorneys, accountants, financial advisors and agents, and the Liquidating Trustee and the Liquidating Trust Oversight Committee shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such Persons other than acts or omissions resulting from the willful misconduct, gross negligence or fraud of the Liquidating Trustee or the Liquidating Trust Oversight Committee, as the case may be. Notwithstanding such authority, the Liquidating Trustee and the Liquidating Trust Oversight Committee shall not be under any obligation to consult with their respective attorneys, accountants, financial advisors or agents, and any determination not to do so shall not result in the imposition of liability on the Liquidating Trustee or the Liquidating Trust Oversight Committee, as the case may be, and their respective designees, unless such determination is based on willful misconduct, gross negligence or fraud. The Liquidating Trust shall indemnify and hold harmless the Liquidating Trustee, the Liquidating Trust Oversight Committee and their respective designees and professionals, and all duly designated agents and representatives (in their capacity as such), from and against and in respect of all liabilities, losses, damages, claims, costs and expenses (including, but not limited to, attorneys' fees and costs) arising out of or due to such actions or omissions, or consequences of their actions or omissions with respect or related to the performance of the duties of the Liquidating Trustee or the Liquidating Trust Oversight Committee, as the case may be, or the implementation or administration of the Plan; provided, however, that no such indemnification will be available to such Persons for such actions or omissions if a court of competent jurisdiction has determined by Final Order that the challenged conduct occurred as a result of willful misconduct, gross negligence or fraud. Additionally, it is not a conflict for the Liquidating Trustee to retain the Committee's or Debtors' counsel or financial advisors.

i. Dissolution of the Committee

Upon the Effective Date, the Committee shall dissolve automatically whereupon its members, Committee Professionals and agents shall be released from any further duties and responsibilities in the Chapter 11 Cases and under the Bankruptcy Code, except with respect to: (i) obligations arising under confidentiality agreements, joint interest agreements and

protective orders entered during the Chapter 11 Cases which shall remain in full force and effect according to their terms; (ii) applications for Professional Fee Claims and Committee Professional Fee Claims; (iii) requests for allowance and payment of Substantial Contribution Claims; and (iv) any pending motions, or any motions or other actions seeking enforcement or implementation of the provisions of the Plan or the Confirmation Order. The Committee members and the Committee Professionals shall not be entitled to compensation and reimbursement of expenses for services rendered after the Effective Date, except for services rendered in connection with applications for allowance of compensation and reimbursement of expenses pending on the Effective Date or filed after the Effective Date.

j. Liquidating Trust Oversight Committee

On the Effective Date, the Liquidating Trust Oversight Committee shall have the duties set forth herein to maximize distributions to Holders of Allowed Class 3 Claims, Allowed Class 4 Claims and Allowed Class 5 Claims. On the Effective Date, the Liquidating Trust Oversight Committee shall be entitled to the rights, powers, immunities and privileges of the Committee.

The Liquidating Trust Oversight Committee shall have the duty to take actions in accordance with the provisions of the Plan and in furtherance of the execution of the Plan. Additionally, the Liquidating Trust Oversight Committee shall have the following rights and duties:

i. to approve any release or indemnity in favor of any third party granted or agreed to by the Liquidating Trustee;

ii. to authorize the Liquidating Trustee to commence any Cause of Action or Avoidance Action;

iii. to approve the settlement of any Cause of Action or Avoidance Action and to approve any application by the Liquidating Trustee for an order in connection with any such settlement;

iv. to approve the allowance of any Disputed Claim;

v. to approve the sale of any Liquidating Trust Assets by the Liquidating Trustee and to approve any application by the Liquidating Trustee for an order in connection with any such sale of Liquidating Trust Assets;

vi. to review all financial information relating to the Liquidating Trust and the Estates (including any quarterly reports required by the Office of the United States Trustee), which shall be promptly provided by the Liquidating Trustee upon request by the Liquidating Trust Oversight Committee;

vii. to review and assert objections to motions filed or claims asserted;

viii. to monitor distributions to Creditors;

ix. to take such other actions as it deems necessary and appropriate with respect to the implementation of the Plan;

x. to approve the Liquidating Trustee's retention of professionals;

xi. to remove the Liquidating Trustee in accordance with the procedures in the Liquidating Trust Agreement; and

xii. to approve the Administrative Budget after the Effective Date.

The duties and powers of the Liquidating Trust Oversight Committee shall terminate upon the later to occur of (i) the entry of the Final Decree, (ii) the dissolution of the Liquidating Trust, and (iii) the payment of the final distributions to Holders of Class 3, Class 4 and Class 5 Claims pursuant to the Plan.

The Liquidating Trust Oversight Committee shall have the right but shall not be required to retain counsel of its choice, and the reasonable and necessary fees and expenses of such counsel shall be paid by the Liquidating Trust, provided however no fee or expense may be paid from the General Unsecured Fund. The reasonable and necessary fees and expenses of counsel to the Liquidating Trust Oversight Committee shall be paid in accordance with the following procedures or such other procedures as may be set by the Liquidating Trustee: upon the submission of a fee and/or expense statement to the Liquidating Trustee and the Liquidating Trust Oversight Committee, the Liquidating Trustee and the Liquidating Trust Oversight Committee shall have twenty (20) days from the delivery of a fee statement to give notice of an objection to the fee statement to the professional or Person seeking compensation or reimbursement. For an objection to be valid, it shall be in writing and set forth in detail the specific fees objected to and the basis for the objection. Any objection that remains unresolved fifteen (15) days after it is made shall be filed with the Bankruptcy Court by the objecting party, served upon the professional or Person seeking compensation or reimbursement, and heard by the Bankruptcy Court at the next regularly scheduled omnibus hearing. The uncontested portion of each invoice shall be paid within twenty (20) days after its delivery to the Liquidating Trustee and the Liquidating Trust Oversight Committee in accordance with the procedures set forth in the Liquidating Trust Agreement.

k. Dissolution of the Debtors and the Liquidating Trust

Immediately after the Effective Date, the Liquidating Trustee shall be authorized to take, in consultation with and with direction of the Liquidating Trust Oversight Committee, all actions reasonably necessary to dissolve the Debtors and the Debtors' Affiliates under applicable laws, including without limitation under the laws of the jurisdiction in which the Debtors may be organized or registered, and to pay all reasonable costs and expenses in connection with such dissolution, including the costs of preparing or filing any necessary paperwork or documentation; provided, however, that the Liquidating Trustee shall not be compelled to dissolve the Debtors if to do so would unduly burden the Liquidating Trust and no assets shall revert in the Debtors. Whether or not dissolved, immediately after the Effective

Date, the Debtors shall have no authorization to implement the provisions of the Plan, unless specifically provided for in the Plan.

l. Good Faith

Each of the Liquidating Trustee and Liquidating Trust Oversight Committee shall act in good faith in carrying out its duties and responsibilities and use its best efforts to liquidate and resolve Claims, disputes and maximize the value of the Liquidating Trust's assets and minimize claims against the Liquidating Trust.

m. Saturday, Sunday, or Legal Holiday

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

n. Issuance of Documents Necessary to Consummate the Plan

On or as soon as practicable after the Effective Date, the Debtors shall execute and deliver such other agreements, documents and instruments, as necessary to effectuate the Plan.

o. Final Decree

Provided that a final report for the Chapter 11 Case of TWC has been filed not later than fourteen (14) days before the Confirmation Hearing, the Confirmation Order shall constitute a Final Decree pursuant to section 350 of the Bankruptcy Code formally closing the Chapter 11 Case Taylor-Wharton Cryogenics LLC. The Plan Supplement shall include a proposed form of order to be entered on the docket of the Chapter 11 Cases, closing the bankruptcy case of Taylor-Wharton Cryogenics LLC. Upon the Liquidating Trust's determination that all Claims have been Allowed, Disallowed, expunged or withdrawn, and that all Causes of Action held by the Liquidating Trust or the Liquidating Trustee, as applicable, have been finally resolved, transferred, or abandoned, the Liquidating Trust shall move for the entry of a Final Decree pursuant to section 350 of the Bankruptcy Code closing the case of Taylor-Wharton International LLC. The Liquidating Trust may request the entry of the Final Decree notwithstanding the fact that not all Assets have been monetized and distributed to the Holders of Allowed Claims.

p. Prepetition First Lien Agent; Prepetition Second Lien Collateral Agent

Notwithstanding anything to the contrary in the Prepetition First Lien Credit Agreement, Prepetition Second Lien Note Purchase Agreement or any documents relating thereto, including any Loan Document (as defined in the Prepetition First Lien Credit Agreement) or Note Document (as defined in the Second Lien Note Purchase Agreement), (a) the Prepetition First Lien Agent and the Prepetition Second Lien Collateral Agent shall be deemed to have resigned as Prepetition First Lien Agent and Prepetition Second Lien Collateral

Agent, respectively, effective immediately as of the Effective Date, (b) the Prepetition First Lien Agent and Prepetition Second Lien Collateral Agent shall have no further rights, obligations or liabilities in connection with such agency or the Prepetition First Lien Credit Agreement or Prepetition Second Lien Note Purchase Agreement and (c) no replacement Prepetition First Lien Agent or Prepetition Second Lien Collateral Agent shall be appointed. The Liquidating Trustee shall make all distributions to be made from the Liquidating Trust under the Plan to each holder of a Prepetition First Lien Claim or Prepetition Second Lien Claim pursuant to and in accordance with the terms of the Prepetition First Lien Credit Agreement, Prepetition Second Lien Note Purchase Agreement, the Plan and the Liquidating Trust Agreement.

3. Maintenance and Preservation of Causes of Action

a. Maintenance of Causes of Action

Except as otherwise provided in the Plan, the Liquidating Trust shall retain all rights on behalf of the Debtors and the Estates to commence and pursue, as appropriate, in any court or other tribunal including, without limitation, in an adversary proceeding filed in one or more of the Debtors' Chapter 11 Cases, any and all Causes of Action, whether such Causes of Action accrued before or after the Petition Date, including, but not limited to, the actions specified in the Plan.

Except as otherwise provided in the Plan, in accordance with section 1123(b)(3) of the Bankruptcy Code, any Claims, rights, and Causes of Action that the respective Debtors, and the Liquidating Trustee, on behalf of the Liquidating Trust, may hold against any Person shall vest in the Liquidating Trust. The Liquidating Trust shall retain and may exclusively enforce any and all such Claims, rights or Causes of Action, and commence, pursue and settle the Causes of Action in accordance with the Plan, subject to the advice of counsel and the consent of the Liquidating Trust Oversight Committee. The Liquidating Trust shall have the exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise any and all such claims, rights, and Causes of Action without the consent or approval of any third party and without any further order of court subject to the advice of counsel and the consent of the Liquidating Trust Oversight Committee as required by the Liquidating Trust Agreement.

b. Preservation of Causes of Action

Except as otherwise expressly provided in the Plan, from and after the Effective Date, the Liquidating Trust and the Liquidating Trustee, subject to any approval of the Liquidating Trust Oversight Committee as set forth in the Plan, may litigate or settle any Avoidance Action, recovery or subordination actions under sections 502, 510, 522(f), 522(h), 542, 543, 544, 545, 547, 548, 549, 550, 551, 553 or 724 of the Bankruptcy Code or any other Causes of Action or rights to payments or claims that belong to the Debtors. Pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, no other Person may pursue any such Avoidance Actions, recovery or subordination actions or other Causes of Action that belong to the Debtors, unless otherwise provided by order of the Bankruptcy Court.

The Liquidating Trust and the Liquidating Trustee may also investigate, commence, pursue and settle, without limitation, the following potential Causes of Action after the Effective Date:

i. All actual or potential Avoidance Actions pursuant to any applicable section of the Bankruptcy Code including, without limitation, sections 502, 510, 522(f), 522(h), 542, 543, 544, 545, 547, 548, 549, 550, 551, 553 or 724 of the Bankruptcy Code, arising from any transaction involving or concerning the Debtors;

ii. All actual or potential actions, whether legal, equitable or statutory in nature, for, or in any way involving, the collection of accounts receivable or general ledger items that are due and owing to the Debtors, including without limitation trade receivables, rent and other lease and sublease charges, franchise and/or license fees, payments due under equipment leases and licenses, other miscellaneous charges, and principal and interest on promissory notes by any Person or Entity (collectively, the “Accounts Receivable”);

iii. All actual actions or potential actions, whether legal, equitable or statutory in nature, against customers, for Accounts Receivable, improper setoff, overpayment, or any other claim arising out of the customer relationship;

iv. All actual actions or potential actions, whether legal, equitable or statutory in nature, against vendors, for overpayment, improper setoff, warranty, indemnity, retention of double payments, retention of misdirected wires, deductions owing or improper deductions taken, claims for damages arising out of a military distribution relationship, claims for overpayment of drop-ship-delivery amounts, or any other claim arising out of the vendor relationship;

v. All actual or potential actions, whether legal, equitable or statutory in nature, against Persons or Entities including vendors with respect to prepetition violations of applicable federal or state securities laws;

vi. All actual or potential breach of contract actions against any customers, vendors or Entities who violated the automatic stay after the Petition Date;

vii. All actual or potential actions, whether legal, equitable or statutory in nature, against landlords, lessees, sublessees, or assignees arising from various leases, subleases and assignment agreements relating thereto, including, without limitation, actions for unpaid rent, overcharges relating to taxes, common area maintenance and other similar charges;

viii. All actual or potential actions, whether legal, equitable or statutory in nature, against the Debtors’ current or former insurance carriers to recover unpaid reimbursements and claims, overpayment of premiums and fees, claims for breach of contract, indemnity obligations or coverage or similar Causes of Action;

ix. All actual or potential Causes of Action, whether legal, equitable or statutory in nature, against purchasers of Assets from the Debtors relating to breach of the purchase agreement or unpaid compensation thereunder;

x. Any and all rights to payment against any taxing authority for any tax refunds, credits, overpayments or offsets that may be due and owing to the Debtors for taxes that the Debtors may have paid to any such taxing authority;

xi. All actions or potential actions, whether legal, equitable or statutory in nature, relating to deposits or other amounts owed by any Creditor, lessor utility, supplier, vendor, landlord, sub-lessee, assignee or other Person or Entity;

xii. All actions or potential actions, whether legal, equitable or statutory in nature, relating to environmental and product liability matters;

xiii. All actions or potential actions, whether legal, equitable or statutory in nature, arising out of, or relating to, the Debtors' intellectual property rights;

xiv. Potential actions against any of the prepetition directors, officers, employees, attorneys, financial advisors, accountants, investment bankers, agents and representatives of the Debtors, except actions against the Releasees, for breaches of fiduciary duty, negligent mismanagement, wasting of corporate assets, and diversion of corporate opportunity;

xv. All actual or potential actions, whether legal, equitable or statutory in nature, against all Persons, except actions against the Releasees, arising out of, or in connection with, any of the Debtors' prepetition management, operation and/or reporting of financial or other information;

xvi. All actions or potential actions, whether legal, equitable or statutory in nature, against any of the Debtors' current or former professionals, except actions against the Releasees, for breach of fiduciary duty, breach of contract, negligence or professional misconduct malpractice, or other tortuous conduct;

xvii. All rights against any shareholders or others for subordination of their Claims pursuant to section 510(b) of the Bankruptcy Code or against any Person that has agreed to subordination of their claim pursuant to section 510(a) of the Bankruptcy Code;

xviii. All actions or potential actions against the prepetition members of the Debtors' board of directors and/or officers, except actions against the Releasees, including, without limitation, the right to equitably subordinate claims held by such directors and officers pursuant to section 510(c) of the Bankruptcy Code;

xix. All actual or potential actions, whether legal, equitable or statutory in nature, to recover amounts improperly awarded to employees, except actions against the Releasees, under the terms of any prepetition employment or change-in-control agreement or bonus arrangement;

xx. All actual or potential contract and tort actions that may exist or may subsequently arise; and

xxi. All actual or potential actions whether legal, equitable or statutory in nature, arising out of, or in connection with the Debtors' business or operations, except actions against the Releasees.

The Liquidating Trustee shall perform an independent investigation regarding whether any potential Claim or Cause of Action shall be investigated or pursued. It is possible that there may be other Causes of Action which currently exist or may subsequently arise that are not set forth in the Plan, because the facts upon which such Causes of Action are based are not fully or currently known by the Debtors and, as a result, cannot be specifically referred to in the Plan (collectively, the "Unknown Causes of Action"). The failure to list any such Unknown Causes of Action in the Plan (except as to Releasees) is not intended to limit the rights of the Liquidating Trust to pursue any Unknown Cause of Action to the extent the facts underlying such Unknown Cause of Action become fully known to the Debtors or the Liquidating Trustee.

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

Unless a Claim or Cause of Action against a Creditor or other Person is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order, the Debtors expressly reserve such Claim or Cause of Action for later adjudication by the Liquidating Trust, (including, without limitation, Unknown Causes of Action), and, therefore, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable, or otherwise) or laches shall apply to such Claims or Causes of Action upon or after the Confirmation Date or Effective Date of the Plan based on the Disclosure Statement, the Plan or the Confirmation Order, except where such Claims or Causes of Action have been released in the Plan or other Final Order. In addition, the Debtors, the Liquidating Trust and any successor entities under the Plan expressly reserve the right to pursue or adopt any Claim alleged in any lawsuit in which the Debtors are defendants or an interested party, against any Person or Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits.

Any Person to whom the Debtors have incurred an obligation (whether on account of services, purchase or sale of goods or otherwise), or who has received services from Debtors or a transfer of money or property from the Debtors, or who has transacted business with the Debtors, or leased equipment or property from the Debtors should assume that such obligation, transfer, or transaction may be reviewed by the Liquidating Trust, as applicable, subsequent to the Effective Date and may, if appropriate, be the subject of an action after the Effective Date, whether or not (i) such Entity has filed a Proof of Claim against the Debtors in these Bankruptcy Cases; (ii) such Creditor's Proof of Claim has been objected to; (iii) such Creditor's Claim was included in the Debtors' Schedules; or (iv) such Creditor's scheduled Claim has been objected to by the Debtors or has been identified by the Debtors as disputed, contingent, or unliquidated.

4. Funding of the Plan

All Cash necessary for the Liquidating Trust to make payments pursuant to the Plan will be obtained from the Debtors' existing Cash balances, Liquidation Proceeds and the Litigation Claims. Unless otherwise specified in the Plan, Cash payments to be made pursuant to the Plan will be made by the Liquidating Trustee.

G. Executory Contracts

1. Rejection of Executory Contracts or Unexpired Leases

On the Effective Date, except for (i) any Executory Contract that was previously assumed or rejected by an order of the Bankruptcy Court pursuant to section 365 of the Bankruptcy Code, and (ii) any Executory Contract identified in the Plan, each Executory Contract that has not previously expired or terminated pursuant to its own terms shall be deemed rejected pursuant to Bankruptcy Code §§ 365 and 1123, effective as of the Confirmation Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejection pursuant to Bankruptcy Code §§ 365 and 1123 as of the Confirmation Date.

2. Rejection Damages Bar Date

Except to the extent another Claims Bar Date applies pursuant to an order of the Bankruptcy Court, all Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts under the Plan must be filed with the Court, and a copy served on counsel for the Debtors and the Liquidating Trustee, within thirty (30) days of the Effective Date, or such Claim shall be forever barred and shall not be entitled to a distribution or be enforceable against the Debtors, its Estate, the Liquidating Trust, the Liquidating Trustee, their successors, their assigns or their Assets. Any timely filed Claim arising from the rejection of an Executory Contract shall be treated as a Claim in Class 5 (General Unsecured Claims). Nothing in the Plan extends or modifies any previously applicable Claims Bar Date.

3. Compensation and Benefit Programs

Except as otherwise expressly provided in the Plan, all employment and severance agreements and policies, and all compensation and benefit plans, policies, and programs of the Debtors applicable to their employees, former employees, retirees and non-employee directors and the employees, former employees and retirees of their subsidiaries, including, without limitation, all savings plans, retirement plans, health care plans, disability plans, severance benefit agreements and plans, incentive plans, deferred compensation plans and life, accidental death and dismemberment insurance plans (the "Company Benefit Plans") shall be terminated, or shall be treated as executory contracts under the Plan, on the Effective Date and any such remaining Company Benefit Plans that have not been terminated will be deemed rejected pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code.

H. Distributions

1. Disbursing Agent

a. *Liquidating Trustee as Disbursing Agent*

The Liquidating Trustee shall be the Disbursing Agent, and the Disbursing Agent shall make all distributions under the Plan (other than those distributions to be made to the DIP Agent and the Prepetition First Lien Agent on account of the DIP Claims and the Senior Prepetition First Lien Claims).

b. *Alternative Disbursing Agent Qualification*

No Person other than the Liquidating Trustee shall be authorized by the Bankruptcy Court to serve as Disbursing Agent unless and until the Liquidating Trust Oversight Committee consents in writing to that Person serving as Disbursing Agent, and that Person (i) executes and files a statement with the Bankruptcy Court agreeing to perform all of the duties of the Disbursing Agent under the Plan, and (ii) consents to the jurisdiction of the Bankruptcy Court in respect to all matters relating to the performance of his or her duties as the Disbursing Agent under the Plan or order of the Bankruptcy Court.

2. Time and Manner of Distributions

The Disbursing Agent shall make Distributions under the Plan on account of Claims Allowed on the Effective Date or as soon as practicable after the Effective Date, except as otherwise agreed to by the Liquidating Trust Oversight Committee or by order of the Bankruptcy Court. The Disbursing Agent shall have the power, subject to Liquidating Trust Oversight Committee consent, to make interim distributions to Holders of Allowed General Unsecured Claims if the Liquidating Trustee determines that such interim distributions are warranted and economical. If the Liquidating Trustee determines to make interim distributions to Holders of Allowed General Unsecured Claims, the Liquidating Trustee will determine the amount to be distributed by taking into account such factors as ongoing expenses and costs, taxes and reserves necessary to provide for the resolution of Disputed Claims. Amounts withheld will be placed in an interest-bearing account approved by the Liquidating Trust Oversight Committee, which shall fund ongoing expenses and costs relating to such reserves, including, without limitation, taxes in respect of Disputed Claims, if any.

At the option of the Disbursing Agent, except as otherwise provided in the Plan, any distributions under the Plan may be made either in Cash, by check drawn on a domestic bank, by wire transfer or by ACH. Notwithstanding any other provisions of the Plan to the contrary, no payment of fractional cents will be made under the Plan. Cash will be issued to Holders entitled to receive a distribution of Cash in whole cents (rounded to the nearest whole cent when and as necessary). Any distribution of less than \$50.00 will be considered de minimis, and Holders of Allowed Claims that are entitled to any distribution of less than \$50.00 will not receive any distribution unless and until the aggregate of such distributions exceed \$50.00. Such undistributed funds shall remain with and vest in the Liquidating Trust for distribution to other Holders of Allowed Claims.

3. Interest on Claims

Except as otherwise specifically provided for in the Plan or in the Confirmation Order, or required by applicable bankruptcy law, post-petition interest shall not accrue or be paid on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim

4. Compliance with Tax Requirements/Allocations

In connection with the Plan, to the extent applicable, the Liquidating Trust shall comply with all tax withholding and reporting requirements imposed on it by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. For tax purposes, distributions received in respect of Allowed Claims will be allocated first to the principal amount of Allowed Claims with any excess allocated, if applicable, to unpaid interest that accrued on such Claims.

5. Delivery of Distributions and Undeliverable or Unclaimed Distributions

a. Delivery of Distributions in General

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

b. Undeliverable Distributions

i. Holding of Undeliverable Distributions

If any distribution to a Holder of an Allowed Claim is returned as undeliverable, no further distributions shall be made to such Holder unless and until notification in writing of such Holder's then-current address is provided. Undeliverable distributions shall be returned and shall remain in the possession of the Liquidating Trust until such time as a distribution becomes deliverable. Undeliverable distributions shall not be entitled to any interest, dividends or other accruals of any kind. As soon as reasonably practicable, the Liquidating Trust shall make all distributions that become deliverable.

ii. Failure to Claim Undeliverable Distributions

Any Holder of an Allowed Claim (irrespective of when a Claim became an Allowed Claim) that does not assert a Claim pursuant hereto for an undeliverable distribution (regardless of when not deliverable) within ninety (90) days after the distribution has been attempted to be made to the Holder of the Allowed Claim shall have its Claim related to

such undeliverable distribution satisfied and shall be forever barred from asserting any such Claim against the Liquidating Trust or be entitled to a further distribution. In such cases, any Cash held for distribution on account of such Claims shall be the property of the Liquidating Trust free of any such Claim. Nothing contained herein shall require the Liquidating Trustee or any interested party to attempt to locate any Holder of an Allowed Claim.

I. Resolution of Disputed Claims

1. Reservation of Rights to Object to Claims

Except as provided in section II.B.1.b. of the Plan, for the avoidance of doubt, nothing in the Plan shall affect the rights, if any, of any interested party to object to any Claim or Interest. Unless a Claim or Interest is expressly described as an Allowed Claim or Interest pursuant to or under the Plan, or otherwise becomes an Allowed Claim or Interest prior to or after the Effective Date, the Liquidating Trust and the Liquidating Trustee (on behalf of the Estates) reserve any and all objections to any and all Claims and Interests and motions or requests for the payment of Claims or Interests, whether administrative expense, priority, secured or unsecured, including, without limitation, any and all objections to the validity or amount of any and all alleged Administrative Claims, Priority Tax Claims, Priority Claims, Secured Claims, General Unsecured Claims, Intercompany Claims, Interests, Liens and security interests, whether under the Bankruptcy Code, other applicable law or contract. The Liquidating Trust's and/or the Liquidating Trustee's failure to object to any Claim or Interest in the Chapter 11 Case shall be without prejudice to the Liquidating Trust's and the Liquidating Trustee's rights to contest or otherwise defend against such Claim or Interest in the Bankruptcy Court when and if such Claim or Interest is sought to be enforced by the Holder of such Claim or Interest.

2. Objections to Claims

The Liquidating Trustee at the direction of and in consultation with the Liquidating Trust Oversight Committee as set forth in the Liquidating Trust Agreement, shall be responsible for administering, disputing, objecting to, compromising or otherwise resolving and making distributions, if any, with respect to all Claims and Interests. Unless otherwise provided in the Plan or by order of the Bankruptcy Court, any objections to Claims or Interests by the Liquidating Trustee will be filed and served not later than the Objection Deadline. In addition, the Liquidating Trust or the Liquidating Trustee may request (and the Bankruptcy Court may grant) an extension of such deadline by filing an ex parte motion with the Bankruptcy Court, based upon a reasonable exercise of his or her business judgment. A motion seeking to extend the deadline to object to any Claim or Interest shall not be deemed an amendment to the Plan.

3. Filing of Objections

An objection to a Claim or Interest shall be deemed properly served on the Holder of such Claim or Interest if the Liquidating Trust or the Liquidating Trustee effect service by any of the following methods: (i) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Bankruptcy Rule 7004; (ii) to the extent counsel for such Holder is unknown, by first class mail, postage prepaid, on the signatory on the Proof of Claim or Interest or other representative identified on the Proof of Claim or Interest or any attachment

thereto; or (iii) by first class mail, postage prepaid, on any counsel that has appeared on the behalf of such Holder in the Chapter 11 Case.

4. Determination of Claims

Any Claim as to which a Proof of Claim or Interests or motion or request for payment was timely filed in the Chapter 11 Case may be determined and liquidated pursuant to (i) an order of the Bankruptcy Court, (ii) applicable bankruptcy law, (iii) agreement of the parties, (iv) applicable non-bankruptcy law, or (v) the lack of (a) an objection to such Claim or Interest, (b) an application to equitably subordinate such Claim, and (c) an application to otherwise limit recovery with respect to such Claim or Interest, filed by the Debtors, the Liquidating Trust or the Liquidating Trustee on or prior to any applicable deadline for filing such objection or application with respect to such Claim or Interest. Any such Claim or Interest determined to be Allowed, shall be deemed to be an Allowed Claim for such liquidated amount (so long as such determination has not been stayed, reversed or amended and as to which determination (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) and shall be satisfied in accordance with the Plan. Nothing contained in the Plan shall constitute or be deemed a waiver of any Claim, right or Cause of Action that the Debtors or the Liquidating Trustee may have against any Person in connection with or arising out of any Claim or Claims, including, without limitation, any rights under 28 U.S.C. § 157.

J. Procedures for Treating and Resolving Disputed and Contingent Claims or Interests

1. No Distributions Pending Allowance

No payments or distributions will be made with respect to all or any portion of a Disputed Claim or Interest unless and until all objections to such Disputed Claim or Interest have been settled or withdrawn or have been determined by a Final Order, and the Disputed Claim or Interest has become an Allowed Claim or Interest; provided, however, that in the event that only a portion of such Claim or Interest is an Allowed Claim or Interest, the Disbursing Agent may make, in his or her discretion, a distribution pursuant to the Plan on account of the portion of such Claim or Interest that becomes an Allowed Claim or Interest.

2. Claim Estimation

The Liquidating Trustee may request estimation or liquidation of any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code; provided, however, that the Bankruptcy Court shall determine (i) whether such Disputed Claim is subject to estimation pursuant to section 502(c) of the Bankruptcy Code, and (ii) the timing and procedures for such estimation proceedings, if any.

K. Setoffs and Recoupment

The Liquidating Trustee may, pursuant to section 558 of the Bankruptcy Code or applicable non-bankruptcy law, but shall not be required to, setoff against or recoup from any

Claim on which payments are to be made pursuant to the Plan (other than any DIP Claim, Prepetition First Lien Claim or Prepetition Second Lien Claim), any claims or Causes of Action of any nature whatsoever the Debtors may have against the Holder of such Claim; provided, however, that neither the failure to effect such setoff or recoupment nor the allowance of any Claim shall constitute a waiver or release by the Debtors of any setoff or recoupment the Debtors may have against the Holder of such Claim, nor of any other claim or Cause of Action.

L. Cancellation of Instruments and Agreements

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

M. Withholding Taxes

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

N. Reports

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

O. Distribution Record Date

As of the close of business on the applicable Distribution Record Date, the transfer register for all Claims maintained by the Debtors or their agents, shall be closed, and there shall be no further changes in the Record Holders of any such Claims. Moreover, the Liquidating Trust shall have no obligation to recognize the transfer of any such Claims occurring after the applicable Distribution Record Date and shall be entitled for all purposes in the Plan to recognize and deal only with those Holders of record as of the close of business on the applicable Distribution Record Date.

P. Timing and Calculation of Amounts to be Distributed

Except as otherwise provided in the Plan, on the Effective Date or as soon as practicable thereafter, each Holder of an Allowed Claim against the Debtors shall receive the distributions that the Plan provides for Allowed Claims in the applicable Class, provided however, the Liquidating Trustee shall maintain reserve accounts in trust for the payment or distribution on account of Disputed Claims and shall make the appropriate adjustments in distributions to adequately take into consideration and fund such reserve accounts. The Liquidating Trustee shall be authorized to make interim distributions and any subsequent distributions necessary to distribute any Cash, or other consideration held in any reserve account to the appropriate Claim Holder as Claims are resolved and Allowed and reserves are reduced in accordance with the Plan.

Q. Settlement of Claims and Controversies

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

R. Injunction, Release and Related Provisions

1. Injunction

Except as otherwise expressly provided in the Plan or in the Confirmation Order, and except in connection with the enforcement of the terms of the Plan or any documents provided for or contemplated in the Plan, all entities who have held, hold or may hold Claims against or Interests in the Debtors or the Estate that arose prior to the Effective Date are permanently enjoined from: (i) commencing or continuing in any manner, directly or indirectly, any action or other proceeding of any kind against the Liquidating Trust, the Liquidating Trustee, or any property of the Debtors with respect to any such Claim or Interest; (ii) the enforcement, attachment, collection or recovery by any manner or means, directly or indirectly, of any judgment, award, decree or order against the Liquidating Trust, the Liquidating Trustee, or any property of the Debtors with respect to any such Claim or Interest; (iii) creating, perfecting or enforcing, directly or indirectly, any Lien or encumbrance of any kind against the Liquidating Trust, the Liquidating Trustee, or any property of the Debtors with respect to any such Claim or Interest; (iv) effecting, directly or indirectly, any setoff or recoupment of any kind against any obligation due to the Liquidating Trust, the Liquidating Trustee, or any property of the Debtors with respect to any such Claim or Interest, unless approved by the Bankruptcy Court; and (v) any act, in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan with respect to such Claim or Interest. Nothing contained in this Article IX shall prohibit the Holder of a Disputed Claim or Interest from litigating its right to seek to have such Disputed Claim or Interest declared an Allowed Claim and paid in accordance with the distribution provisions of the Plan, or enjoin or prohibit the enforcement by the Holder of such Disputed Claim of any of the obligations of the Debtors,

the Liquidating Trustee or the Liquidating Trust under the Plan. The Confirmation Order shall also constitute an injunction enjoining any Person from enforcing or attempting to enforce any claim or cause of action against any property of the Debtors based on, arising from or related to any failure to pay, or make provision for payment of, any amount payable with respect to any Priority Tax Claim on which the payments due under the Plan have been made or are not yet due under the Plan.

2. Term of Injunctions or Stays

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Case under Bankruptcy Code §§ 105 or 362, the Plan or otherwise, and extant on the Confirmation Date, shall remain in full force and effect until the later of (i) the closing of the Chapter 11 Cases or (ii) the dissolution of the Liquidating Trust.

3. Exculpation and Mutual Release by Releasees and Releasing Parties

Except to the extent of (i) Claims against the Debtors held by any of the members of the Committee in their capacity as individual creditors and all applicable rights of set off, recoupment or other similar defenses against the Debtors that can be asserted in connection therewith, (ii) Claims, Causes of Action or other rights held by Debtors against any members of the Committee in their individual capacities and all applicable rights of set off, recoupment or other similar defenses that can be asserted in connection therewith, and (iii) Claims against the Debtors held by individual creditors asserted solely as a right of set off, recoupment or other similar defenses that can be asserted against Causes of Action asserted by the Debtors, effective as of the Effective Date, for good and valuable consideration, including the services of the Releasees to facilitate the expeditious liquidation of the Debtors and the implementation of the Plan, each Releasing Party shall be deemed to have unconditionally released each Releasee from any and all Claims, obligations, rights, suits, remedies, liabilities, crossclaims, counterclaims, debts, obligations, damages, losses, fees, defenses, remedies, setoff, recoupment or other offset rights and other rights of disgorgement or recovery, whatsoever, including any Claims that could be asserted on behalf of or against any of the Debtors (except that Allowed Claims against the estate and claims against the Debtors for Professional Fees and Committee Professional Fee Claims shall not be released), whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity or otherwise, that the Debtors or their subsidiaries would have been legally entitled to assert in their own right or that any Releasing Party would have been legally entitled to assert in its own right, based in whole or in part upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date related to the Debtors and these Chapter 11 Cases (including, without limitation, claims concerning the formulation, negotiation and/or pursuit of confirmation of the Plan, the consummation of the Plan, the administration of the Plan and/or the property to be distributed under the Plan), except, for cases of willful misconduct, gross negligence or fraud in each case as determined by Final Order of a court of competent jurisdiction.

For the avoidance of doubt, notwithstanding any other provision in the Plan, exculpation shall not extend to the Debtors, the D&Os, the Debtors' Professionals, the Committee, its members in their capacity as such and during their service on the Committee, and the Committee's Professionals for any act or omission that occurred before the Petition Date.

Notwithstanding anything to the contrary herein, the foregoing release by the Releasing Parties includes the release of each Secured Party Releasee who did not affirmatively opt out of being a Secured Party Releasee before the Confirmation Hearing by each of the Releasing Parties of (i) causes of action in the nature of "lender liability", (ii) causes of action or claims asserting or relating to fraud, willful misconduct or gross negligence and (iii) any recharacterization, subordination, avoidance, disallowance or other claim arising under or pursuant to section 105 or chapter 5 of the Bankruptcy Code or under any other similar provisions of applicable state law, federal law, or municipal law, in each case relating to and/or otherwise in connection with the DIP Credit Agreement or any transaction or action relating thereto, the Prepetition First Lien Credit Agreement or any transaction or action relating thereto, the Prepetition Second Lien Note Purchase Agreement or any transaction or action relating thereto, any intercompany loans or other intercompany debt obligations or the debtor-creditor relationship between any Secured Party Releasee, on the one hand, and any of the Debtors, on the other hand, including (A) all Claims that have been asserted or could have been asserted in the Proposed Adversary Complaint and (B) any right or basis to challenge or object to the amount, validity, or enforceability of the DIP Claims, Prepetition First Lien Claims, Prepetition Second Lien Claims or any payments or other transfers made on account of the DIP Claims, Prepetition First Lien Claims or Prepetition Second Lien Claims, or the validity, enforceability, priority, or non-avoidability of the liens securing the DIP Claims, Prepetition First Lien Claims and Prepetition Second Lien Claims, including any right or basis to seek any disgorgement or recovery of payments of cash or any other distributions or transfers previously received by any Holder of a DIP Claim or any other DIP Party, any Holder of a Prepetition First Lien Claim or any other Prepetition First Lien Party, or any Holder of a Prepetition Second Lien Claim or any other Prepetition Second Lien Party. To the extent that any of the Releasee(s) are jointly and/or severally or otherwise liable with or to any Entity(ies) that are not Releasees ("Non-Releasee(s)") for any amounts, the amounts recoverable by the applicable Releasing Party against the Non-Releasee(s) shall be reduced by the greater of (a) any amount paid for such Releasee(s)' release and (b) the pro rata share(s) of fault attributable to any Releasee(s). Without limiting the generality of the foregoing, all Releasees shall be entitled to and granted the protections and benefits of section 1125(e) of the Bankruptcy Code.

4. Release of Standing Motion With Prejudice

On the Effective Date, the Committee's Motion for Order Granting the Committee Standing and Authorizing the Committee to Commence, Prosecute, Settle and Recover Certain Actions on Behalf of the Debtors' Estates (D.I. 429) and Proposed Adversary Complaint shall be deemed withdrawn with prejudice without any further order of the Bankruptcy Court or action of any party.

5. Rights Limited as Set Forth in Plan; Termination of Interests

Except as otherwise provided in the Plan, all Persons and Entities shall be precluded from asserting against the Liquidating Trust, its successors or its assets or properties, any other or further Claims or Interests based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Confirmation Date.

S. Conditions Precedent to Plan Consummation

1. Conditions Precedent to Confirmation

It shall be a condition to Confirmation that all provisions, terms and conditions of the Plan and the Disclosure Statement are approved in the Confirmation Order (which approves the release provisions set forth in Article XI of the Plan in their entirety in connection with Confirmation of the Plan).

2. Conditions Precedent to Occurrence of Effective Date

It shall be a condition to occurrence of the Effective Date that the following conditions shall have been satisfied or waived pursuant to the provisions of the Plan:

a. Fourteen (14) days have passed since the entry of the Confirmation Order as a Final Order in form and substance satisfactory to the Debtors, the DIP Agent and the Committee in their absolute discretion. The Confirmation Order shall provide that, among other things:

i. the Debtors and the Liquidating Trust are authorized and directed to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, and other agreements or documents created in connection with the Plan; and

ii. the provisions of the Confirmation Order are nonseverable and mutually dependent.

b. The appointment of the Liquidating Trustee shall have been confirmed by the Confirmation Order or order of the Bankruptcy Court.

c. All actions, documents and agreements necessary to implement the Plan, including, without limitation, creating the Liquidating Trust and entering into the Liquidating Trust Agreement, shall have been effected or executed.

d. The Debtors shall have established a reserve for all then outstanding Professional Fee Claims and Committee Professional Fee Claims (as limited by the Plan) as estimated by the Debtors and the Committee on or prior to the Effective Date.

e. The Debtors shall have created a segregated account (which will be transferred to the Liquidating Trust) which shall contain an amount of no less than \$500,000 to

be applied towards the General Unsecured Fund (which amount shall not include a reserve for an Committee Professional Fees to be paid).

3. Waiver of Conditions

Except as otherwise required by the tenets of the Plan, the Debtors may waive any of the conditions to Confirmation of the Plan and/or to occurrence of the Effective Date of the Plan set forth in Article X of the Plan at any time, without notice, without leave or order of the Bankruptcy Court, and without any formal action other than proceeding to confirm and/or consummate the Plan other than (i) the condition that the form and substance of the Confirmation Order be satisfactory to the DIP Agent and the Committee or (ii) the condition set forth in Section 2(d) above without the prior consent of the Committee.

4. Debtors' Right of Revocation or Withdrawal

The Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent plans. If the Debtors revoke or withdraw the Plan, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts affected by the Plan, and any document or agreement executed pursuant hereto, shall be deemed null and void, and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claims by or against, or any Interests in, such Debtors or any other Person (ii) prejudice in any manner the rights of such Debtors or any other Person, or (iii) constitute an admission of any sort by the Debtors or any other Person.

T. Retention of Jurisdiction

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

U. Miscellaneous Provisions

1. Payment of Statutory Fees

All fees payable pursuant to section 1930(a) of Title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid out of the Assets of the Estate or the Liquidating Trust, as applicable, for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first.

2. Binding Effect of Plan

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Effective Date, the provisions of the Plan shall bind any Holder of a Claim against,

or Interest in, the Debtors, the Estates, the Liquidating Trust and their respective successors or assigns, whether or not the Claim or Interest of such Holders is Impaired under the Plan and whether or not such Holder has accepted the Plan. The rights, benefits and obligations of any entity named or referred to in the Plan, whose actions may be required to effectuate the terms of the Plan, shall be binding on and shall inure to the benefit of any heir, executor, administrator, successor or assign of such entity (including, without limitation, the Liquidating Trustee and any trustee appointed for the Debtors under chapters 7 or 11 of the Bankruptcy Code).

3. Final Order

Except as otherwise expressly provided in the Plan, any requirement in the Plan for a Final Order may be waived by the Debtors in consultation with the Committee and the DIP Agent upon written notice to the Bankruptcy Court. No such waiver shall prejudice the right of any party in interest to seek a stay pending appeal of any order that is not a Final Order.

4. Withholding and Reporting Requirements

In connection with the Plan and all instruments issued in connection herewith and distributions hereunder, the Liquidating Trust and the Liquidating Trustee 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.

5. Tax Exemption

Pursuant to section 1146 of the Bankruptcy Code, any transfers from the Debtors, the Liquidating Trust or the Liquidating Trustee to any other Person or entity pursuant to the Plan, or any agreement regarding the transfer of title to or ownership of the Debtors' or the Liquidating Trust's real or personal property, or the issuance, transfer or exchange of any security under the Plan, or the execution, delivery or recording of an instrument of transfer pursuant to, in implementation of or as contemplated by the Plan, including, without limitation, any transfers to or by the Liquidating Trustee of the Debtors' or the Liquidating Trust's property in implementation of or as contemplated by the Plan (including, without limitation, any subsequent transfers of property by the Liquidating Trustee) shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city or governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument, without requiring the payment of any documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax or similar tax.

6. Governing Law

Except to the extent a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless specifically stated, the rights, duties and obligations arising under the Plan, any agreements, documents and instruments executed in connection with the Plan (except as otherwise set forth in those agreements, in which

case the governing law of such agreements shall control), and, with respect to the Debtors and the Liquidating Trust, corporate governance matters shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to conflicts of law principles.

7. Severability

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

8. Amendments and Modifications

The Debtors may alter, amend or modify the Plan under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Hearing. After the Confirmation Date and prior to “substantial consummation” (as such term is defined in section 1101(2) of the Bankruptcy Code) of the Plan, the Debtors in consultation with the Committee and the DIP Agent may institute proceedings in the Bankruptcy Court pursuant to section 1127(b) of the Bankruptcy Code to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order, and pursue such matters as may be necessary to carry out the purposes and effects of the Plan, by the filing of a motion on notice to the Bankruptcy Rule 2002 service list only, and the solicitation of all Creditors and other parties-in-interest shall not be required.

9. Filing of Additional Documents

On or before substantial consummation of the Plan, the Debtors may file with the Bankruptcy Court such agreements or other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

10. Direction to a Party

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

11. Successors and Assigns

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

12. Reservation of Rights

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

13. No Discharge under § 1141(d)(3) of the Bankruptcy Code

Notwithstanding any other provision in the Plan, the Debtors shall not receive a discharge, pursuant to Section 1141(d)(3) of the Bankruptcy Code.

VI. FEASIBILITY OF THE PLAN AND THE BEST INTERESTS TEST

At the Confirmation Hearing, the Bankruptcy Court will determine whether the requirements of section 1129 of the Bankruptcy Code have been satisfied. If so, the Bankruptcy Court will enter the Confirmation Order. The Debtors believe that the Plan satisfies or will satisfy the applicable requirements, as follows:

- The Plan complies with the applicable provisions of the Bankruptcy Code.
- The Debtors, as Plan proponents, will have complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or promised under the Plan for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been disclosed to the Bankruptcy Court, and any such payment made before the confirmation of the Plan is reasonable, or if such payment is to be fixed after the confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable.
- The Debtors, as Plan proponents, will disclose in the Plan Supplement the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as the Liquidating Trustee of the Liquidating Trust or a member of the Liquidating Trust Oversight Committee; and the appointment to such office of such individual is consistent with the interests of Creditors and with public policy; and the Debtors, as Plan proponents, will disclose in the Plan Supplement the identity of any Insider that will be employed or retained by the Liquidating Trust or Liquidating Trust Oversight Committee, and the nature of any compensation for such Insider.
- With respect to each Class of Impaired Claims or Interests, either each Holder of a Claim or Interest of such Class has accepted the Plan or will receive or retain under the Plan on account of such Claim or Interest property of a value, as of the

Effective Date, that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated on such date under Chapter 7 of the Bankruptcy Code.

- Each Class of Claims or Interests, other than Class 6 and Class 7, will either have accepted the Plan or will not be Impaired under the Plan. Class 6 and Class 7 are Impaired. Because no distributions will be made to Holders of Class 6 Interests and Class 7 Claims, such Holders are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. However, the Plan may be confirmed without the approval of Class 6 and Class 7 pursuant to section 1129(b) of the Bankruptcy Code because (1) the Plan does not discriminate unfairly and is fair and equitable; and (2) Holders of any Claim or Interest junior to the Class 6 Interests or Class 7 Claims will not receive or retain any property under the Plan on account of such junior Claim or Interest.
- Except to the extent that the Holder of a particular Claim will agree to a different treatment of such Claim, the Plan provides that Allowed Administrative, Allowed Priority Tax Claims and Allowed Other Priority Non-Tax Claims will be paid in full on the Effective Date, or as soon thereafter as practicable.
- At least one Class of Impaired Claims or Interests will have accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim of such Class.
- Confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successor to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan.
- All fees of the type described in 28 U.S.C. § 1930, including the fees of the United States Trustee, will be paid as of the Effective Date.

The Debtors believe that (a) the Plan satisfies or will satisfy all of the statutory requirements of Chapter 11 of the Bankruptcy Code, (b) they have complied, or will have complied, with all of the requirements of Chapter 11 and (c) the Plan has been proposed in good faith.

A. Feasibility of the Plan

To confirm the Plan, the Bankruptcy Court must find that Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors. This requirement is imposed by section 1129(a)(11) of the Bankruptcy Code and is referred to as the “feasibility” requirement. The Plan is premised on the creation of the Liquidating Trust, the liquidation of Liquidating Trust Assets and Litigation Claims, and the consummation of other transactions contemplated by the Plan. The Debtors believe that there will be sufficient Cash available to enable the Liquidating Trustee to fully and timely perform all obligations described in the Plan and, therefore, that the Plan is feasible.

B. Best Interests Test

1. Generally

The Bankruptcy Code requires a bankruptcy court to determine that a plan is in the “best interests” of all holders of claims and interests that are impaired by the plan and that have not accepted the plan. The “best interests” test, as set forth in section 1129(a)(7) of the Bankruptcy Code, requires a bankruptcy court find that each holder of a claim or interest in an impaired class either (i) has accepted the plan or (ii) will receive or retain under the plan property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the debtor were liquidated under Chapter 7 of the Bankruptcy Code.

To calculate the probable distribution to members of each impaired class of holders of claims and interests if the debtor were liquidated under Chapter 7, a bankruptcy court generally determines the aggregate dollar amount that would be generated from the debtor’s assets if its Chapter 11 case were converted to a Chapter 7 case under the Bankruptcy Code. This “liquidation value” consists primarily of the proceeds from a forced sale of the debtor’s assets by a Chapter 7 trustee.

The amount of liquidation value available to unsecured creditors would be reduced by, first, the claims of secured creditors to the extent of the value of their collateral and, second, by the costs and expenses of liquidation, as well as by other administrative expenses and costs of both the Chapter 7 case and the Chapter 11 case. A liquidation under Chapter 7 does not affect the priority of several holders of claims to be paid first. Costs of liquidation under Chapter 7 of the Bankruptcy Code would include the compensation of a trustee, as well as of counsel and other professionals retained by the trustee, asset disposition expenses, all unpaid expenses incurred by the debtor in its bankruptcy case (such as compensation of attorneys, financial advisors, and restructuring consultants) that are allowed in the Chapter 7 case, litigation costs, and claims arising from the operations of the debtor during the pendency of the bankruptcy case. The liquidation itself could trigger certain priority payments that otherwise would be due in the ordinary course of business. Those priority claims would be paid in full from the liquidation proceeds before the balance would be made available to pay general unsecured claims or to make any distribution in respect of equity interests. The liquidation also would prompt the rejection of a large number of executory contracts and unexpired leases and thereby create a significantly higher number of unsecured claims.

After estimating the recoveries in liquidation of secured creditors and priority claimants, the bankruptcy court next determines the probable distribution to general unsecured creditors and equity security holders from the remaining available proceeds in liquidation. If such probable distribution has a value greater than the distributions to be received by such creditors and equity security holders under a debtor’s plan, then such plan is not in the “best interests” of creditors and equity security holders.

2. Best Interests of Creditors Test

The Debtors believe that the Plan meets the “best interests” test of section 1129(a)(7) of the Bankruptcy Code. The Debtors have already substantially effectuated an

orderly liquidation of their assets during the course of these Chapter 11 Cases. Through their orderly liquidation efforts, the Debtors have already accumulated much of the Liquidation Proceeds and have already incurred many of the expenses associated with generating the balance of the Liquidation Proceeds. The majority of the Liquidation Proceeds are now ready for distribution to the Creditors.

The Liquidation Proceeds, and all other assets of the Debtors, are subject to valid and perfected security interests in favor of the Holders of Prepetition First Lien Claims that secure indebtedness far in excess of the value of the Liquidation Proceeds and such other assets. Accordingly, in the event of conversion of the Chapter 11 Cases to cases under Chapter 7, Holders of Administrative Claims and General Unsecured Claims would receive no distributions on account of their Claims. However, with the consent of the Holders of Prepetition First Lien Claims, the Plan provides the Holders of Administrative Claims and General Unsecured Claims with a recovery as detailed in Article I hereof. For this reason alone, the Plan is in the best interests of the Creditors.

The Debtors further believe that, in the event of conversion of the Chapter 11 Cases to cases under Chapter 7, distributions will be reduced by an extra layer of administrative expense created by conversion as well as significantly delayed. In Chapter 7 cases, the Chapter 7 trustee would be entitled to seek a sliding scale commission based upon the funds distributed by such trustee. In light of historical experience from other cases, the Debtors believe that the costs of such fees for a Chapter 7 trustee and the professional fees for the professionals retained by the Chapter 7 trustee would be at least 5% of available funds. The Chapter 7 trustee would be entitled to receive such commissions and such fees, even if the Chapter 7 trustee's only tasks are to distribute available Cash already generated by the Debtors and finalize liquidation processes already substantially completed by the Debtors. The Debtors believe that it is in the best interests of the Creditors to avoid this additional and unnecessary layer of administrative expenses. It is also anticipated that Chapter 7 liquidations would result in delay in the distributions to Creditors. Among other things, Chapter 7 cases would trigger a new bar date for filing Claims that would be more than 90 days following conversion of the case to Chapter 7. Fed. R. Bankr. P. 3002(c). Hence, Chapter 7 liquidations would not only delay distributions, but raise the prospect of additional Claims that were not asserted in the Chapter 11 Cases.

Based on the foregoing, the Plan provides an opportunity to bring the greatest return to Creditors. The Debtors believe that, if the Plan is not confirmed or is not confirmable, the only likely alternative will be conversion of the Chapter 11 Cases to Chapter 7 liquidations. For the reasons set forth above, the Debtors believe that the Plan is more likely to yield economic benefits to Creditors than Chapter 7 liquidations. The Debtors believe that the members of each Impaired Class will receive at least as much under the Plan as they would in a liquidation in a hypothetical Chapter 7 case.

C. Confirmation Without Acceptance by All Impaired Classes: The 'Cramdown' Alternative

Section 1129(b) of the Bankruptcy Code provides that a plan may be confirmed even if it has not been accepted by all impaired classes as long as at least one impaired class of claims has accepted it. A bankruptcy court may confirm a plan at the request of a debtor notwithstanding

the plan's rejection (or deemed rejection) by impaired classes as long as the plan "does not discriminate unfairly" and is "fair and equitable" as to each impaired class that has not accepted it. A plan does not discriminate unfairly within the meaning of the Bankruptcy Code if a dissenting class is treated equally with respect to other classes of equal rank.

A plan is fair and equitable as to a class of secured claims that rejects such plan if the plan provides (1)(a) that the holders of claims included in the rejecting class retain the lien securing those claims, whether the property subject to those liens is retained by the debtor or transferred to another entity, to the extent of the allowed amount of such claims, and (b) that each holder of a claim of such class receives on account of that claim deferred cash payments totaling at least the allowed amount of that claim of a value, as of the effective date of the plan, of at least the value of the holder's interest in the estate's interest in such property; (2) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing the claims included in the rejecting class, free and clear of the liens, with the liens to attach to the proceeds of the sale, and the treatment of the liens on proceeds under clause (1) or (2) of this paragraph; or (3) for the realization by such holders of the indubitable equivalent of such claims.

A plan is fair and equitable as to a class of unsecured claims which rejects a plan if the plan provides (1) for each holder of a claim included in the rejecting class to receive or retain on account of that claim property that has a value, as of the effective date of the plan, equal to the allowed amount of such claim; or (2) that the holder of any claim or interest that is junior to the claims of such rejecting class will not receive or retain on account of such junior claim or interest any property at all.

A plan is fair and equitable as to a class of equity interests that rejects a plan if the plan provides (1) that each holder of an interest included in the rejecting class receives or retains on account of that interest property that has a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest; or (2) that the holder of any interest that is junior to the interest of such rejecting class will not receive or retain under the plan on account of such junior interest any property at all.

The votes of Holders of Claims and Interests under Classes 6 and 7 are not being solicited because such Holders are not entitled to receive or retain under the Plan any interest in property on account of their Claims and Interests. Such Classes therefore are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, the Debtors are seeking confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to such Classes and may seek confirmation pursuant to the Plan (as may be modified) as to other Classes if such Classes vote to reject the Plan. Notwithstanding the deemed rejection by such Classes, the Debtors believe that Classes 6 and 7 are being treated fairly and equitably under the Bankruptcy Code. Holders of any Claim or Interest junior to the Class 6 Interests or Class 7 Claims will not receive or retain any property under the Plan on account of such junior Claim or Interest. The Debtors therefore believe the Plan may be confirmed despite its deemed rejection by these Classes.

VII. IMPORTANT CONSIDERATIONS AND RISK FACTORS

A. The Debtors Have no Duty to Update

The statements contained in this Disclosure Statement are made by the Debtors as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has been no change in the information set forth herein since that date. The Debtors have no duty to update this Disclosure Statement unless otherwise ordered to do so by the Court.

B. No Representations Outside the Disclosure Statement Are Authorized

Other than as set forth in this Disclosure Statement, no representations concerning or related to the Debtors, the Chapter 11 Cases or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code. Any representations or inducements made to secure your acceptance of the Plan that are not in the Disclosure Statement should not be relied upon by you in arriving at your decision. You should promptly report such unauthorized representations or inducements to Debtors' counsel and the Office of the United States Trustee.

C. Information Presented Is Based on the Debtors' Books and Records, and no Audit Was Performed

While the Debtors have endeavored to present information fairly in this Disclosure Statement, because of Debtors' financial difficulties, as well as the complexity of Debtors' financial matters, the Debtors' books and records upon which this Disclosure Statement is based might be incomplete or inaccurate. The financial information contained herein, unless otherwise expressly indicated, is unaudited.

D. All Information Was Provided by Debtors and Was Relied upon by Professionals

Reed Smith LLP was approved by the Bankruptcy Court to represent the Debtors effective as of the Petition Date as general bankruptcy counsel. All counsel and other professionals for the Debtors have relied upon information provided by the Debtors in connection with preparation of this Disclosure Statement. Although counsel for the Debtors have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, counsel has not verified independently the information contained herein.

E. Projections and Other Forward Looking Statements Are Not Assured, and Actual Results Will Vary

Certain of the information contained in this Disclosure Statement is, by nature, forward looking, and contains estimates and assumptions which might ultimately prove to be incorrect, and contains projections which may be materially different from actual future experiences. There are uncertainties associated with any projections and estimates, and they should not be considered assurances or guarantees of the amount of funds or the amount of Claims in the various Classes that might be allowed.

The allowed amount of Claims in each Class could be significantly more than projected, which in turn, could cause the value of distributions to be reduced substantially. If Administrative Claims and/or Other Priority Claims exceed projections, it may impair the value of the distributions to the Holders of other Classes of Claims. While the Debtors believe that their projections are reasonable, there can be no assurance that they will be realized, resulting in recoveries that could be significantly less than projected.

F. No Legal or Tax Advice Is Provided to You by this Disclosure Statement

The contents of this Disclosure Statement should not be construed as legal, business or tax advice. Each Holder of a Claim or Interest should consult his, her or its own legal counsel and accountant as to legal, tax and other matters concerning his, her, or its Claim or Interest.

This Disclosure Statement is not legal advice to you. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to Confirmation of the Plan.

G. No Admissions Made

Nothing contained herein shall constitute an admission of any fact or liability by any party (including, without limitation, the Debtors) or to be deemed evidence of the tax or other legal effects of the Plan on the Debtors or on Holders of Claims or Interests.

H. No Waiver of Rights Except as Expressly Set Forth in the Plan

A Creditor's vote for or against the Plan does not constitute a waiver or release of any Claims or rights of the Debtors (or any party in interest, as the case may be) to object to that Creditor's Claim, or recover any preferential, fraudulent or other voidable transfer or Estate Assets, regardless of whether any Claims of the Debtors or their respective Estates are specifically or generally identified herein.

I. Bankruptcy Law Risks and Considerations

1. Confirmation of the Plan Is Not Assured

Although the Debtors believe that the Plan will satisfy all requirements necessary for Confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion. There can also be no assurance that modifications to the Plan will not be required for Confirmation or that such modifications would not necessitate resolicitation of votes.

2. The Effective Date Might Be Delayed or Never Occur

There can be no assurance as to the timing of the Effective Date or that it will occur. If the conditions precedent to the Effective Date set forth in the Plan have not occurred or been waived, the Confirmation Order shall be vacated in accordance with the Plan and such Confirmation Order. In that event, no distributions would be made, and the Holders of Claims

and Interests would be restored to their previous position as of the moment before Confirmation, and the Debtors' obligations for Claims and Interests would remain unchanged.

3. The Projected Value of Estate Assets Might Not Be Realized

In conducting their feasibility and best interests test analyses, the Debtors projected the value of the Estates' Assets which would be available for payment of expenses and distributions to Holders of Allowed Claims, as set forth in the Plan. The Debtors have made certain assumptions, which may prove to be inaccurate.

4. Allowed Claims in the Various Classes May Exceed Projections

The Debtors have also projected the allowed amount of Claims in each Class in conducting their feasibility and best interests test analyses. Certain Classes, and the Classes below them in priority, could be significantly affected by the allowance of Claims in an amount that is greater than projected.

VIII. CERTAIN FEDERAL INCOME TAX CONSEQUENCES

A. Federal Income Tax Consequences of the Plan

The following is a general summary of certain significant U.S. federal income tax consequences of the Plan to the Holders of certain Claims and Interests. This summary is based upon the Internal Revenue Code of 1986, as amended (the "Tax Code"), the Treasury Department regulations promulgated thereunder ("Treasury Regulations"), judicial decisions and current administrative rulings and practice as in effect on the date hereof. These authorities are all subject to change at any time by legislative, judicial or administrative action, and such change may be applied retroactively in a manner that could adversely affect Holders of Claims or Interests and the Debtors.

Due to a lack of definitive judicial or administrative authority or interpretation, the complexity of the application of the Tax Code and Treasury Regulations to the implementation of the Plan, the possibility of changes in the law, the differences in the nature of various Claims and Interests and the potential for disputes as to legal and factual matters, the tax consequences discussed below are subject to substantial uncertainties.

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

1. Withholding Taxes

The Disbursing Agent will withhold taxes from distributions provided under the Plan and required by law to be withheld and will comply with all applicable reporting

requirements of the Tax Code. Under the Tax Code, interest, dividends and other “reportable payments” may under certain circumstances be subject to “backup withholding”. Backup withholding generally applies if the Holder (i) fails to furnish his social security number or other taxpayer identification number (“TIN”), (ii) furnishes an incorrect TIN, (iii) fails to report interest or dividends, or (iv) under certain circumstances fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is his correct TIN and the Holder is not subject to backup withholding. Your Ballot contains a place to indicate your TIN.

2. Federal Income Tax Treatment of the Liquidating Trust

For federal income tax purposes, it is intended that the Liquidating Trust be classified as a liquidating trust under section 301.7701-4 of the Treasury Regulations and that such trust be owned by its beneficiaries (*i.e.*, the Holders of Allowed Claims and Interests). Accordingly, for federal income tax purposes, it is intended that the beneficiaries be treated as if they had received a distribution from the Debtors’ Estates of an undivided interest in the assets of the Liquidating Trust and then contributed such interests to the Liquidating Trust.

3. Liquidation Trust Assets Treated as Owned by Holders of Allowed Claims

For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Holders of Allowed Claims and Interests) shall treat the transfer of Assets and liabilities to the Liquidating Trust, in accordance with the terms of the Plan, as a transfer to Holders of Allowed Claims and Interests followed by a transfer by such Holders to the Liquidating Trust, and the beneficiaries of the Liquidating Trust shall be treated for federal income tax purposes as the grantors and owners thereof. The beneficiaries of the Liquidating Trust shall be Holders of Allowed Claims and Interests.

B. Federal Income Tax Consequences of Payment of Allowed Claims

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

1. Recognition of Gain or Loss

a. In General

In general, a Holder of a Claim should recognize gain or loss equal to the amount realized under the Plan in respect of its Claim less the Holder’s basis in the Claim. Any gain or loss recognized in the exchange may be long-term or short-term capital gain or loss or ordinary income or loss, depending upon the nature of the Claim and the Holder, the length of time the Holder held the Claim and whether the Claim was acquired at a market discount. If the Holder realizes a capital loss, its deduction of the loss may be subject to limitation. The Holder’s aggregate tax basis for any property received under the Plan generally will equal the amount realized. The Holder’s amount realized generally will equal the sum of the Cash and the fair

market value of any other property received (or deemed received) by the Holder under the Plan on the Effective Date or subsequent distribution date, less the amount (if any) allocable to Claims for interest, as discussed below.

b. Post-Effective Date Cash Distributions

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

c. Bad Debt and/or Worthless Securities Deduction

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

2. Pending Payments

Cash and other Liquidating Trust Assets that the Liquidating Trust holds as a pending payment after the Effective Date should be deemed to have been paid to the Holder of the Claim entitled to receive such pending payment on the date that the Liquidating Trust received it and to have been contributed by such Holder to the Liquidating Trust as a grantor and beneficiary of the Liquidating Trust. Thus, the Holder should recognize gain or loss based upon the amount deemed received and contributed to the Liquidating Trust on the Effective Date, and any income subsequently realized by the Liquidating Trust with respect to such pending payment will be reported by the Liquidating Trustee as income of the grantor-beneficiary in the year realized, prior to the actual distribution of the pending payment to the Holder of the Allowed Claim. The actual receipt of the pending payments from the Liquidating Trust will not be a taxable event.

3. Payments Other than Pending Payments

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

C. Certain Other Tax Consequences for Holders of Claims

1. Receipt of Pre-Effective Date Interest

In general, a Claim Holder that was not previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be required to take such amount into income as taxable interest. A Claim Holder that was previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be entitled to recognize a deductible loss to the extent that such interest is not satisfied under the Plan. Each Holder is urged to consult its tax advisor regarding the tax treatment of its distributions under the Plan and the deductibility of any accrued but unpaid interest for federal income tax purposes.

2. Installment Method

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

D. Importance of Obtaining Professional Tax Assistance

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

IX. EFFECT OF CONFIRMATION

A. Binding Effect of Confirmation

Confirmation will legally bind the Debtors, all Creditors, Interest Holders and other parties in interest to the provisions of the Plan, whether or not the Claim or Interest Holder is impaired under the Plan, and whether or not such Creditor or Interest Holder has accepted the Plan.

B. Vesting of Assets Free and Clear of Liens, Claims and Interests

Except as otherwise provided in the Plan or in the Confirmation Order, upon the Effective Date, title to all Assets and property of the Debtors, and all property of the Estates, including, pursuant to section 1123(b)(3)(b) of the Bankruptcy Code, each and every Litigation Claim, demand or Cause of Action which the Debtors have or have power to assert immediately prior to Confirmation, will vest in the Liquidating Trust free and clear of all Liens, Claims and Interests. Thereafter, the Liquidating Trust will hold these assets without further jurisdiction,

restriction or supervision of the Bankruptcy Court, except as may be provided in this Disclosure Statement or the Plan.

C. Good Faith

Confirmation of the Plan shall constitute a finding that the Plan has been proposed in good faith and in compliance with applicable provisions of the Bankruptcy Code.

X. ALTERNATIVES TO THE PLAN

The Debtors believe that if the Plan is not confirmed, or is not confirmable, the alternatives to the Plan include: (a) the conversion to Chapter 7 cases; (b) dismissal of the Chapter 11 Cases; or (c) an alternative chapter 11 plan.

A. Liquidation Under Chapter 7

If no plan can be confirmed, the Chapter 11 Cases may be converted to Chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be appointed to liquidate the Assets of the Debtors for distribution to Creditors in accordance with the priorities established by the Bankruptcy Code. For the reasons previously discussed above, the Debtors believe that Confirmation of the Plan will provide each Holder of a Claim entitled to receive a distribution under the Plan with a recovery that is expected to be more than or equal to what it would receive in a liquidation under Chapter 7 of the Bankruptcy Code.

B. Dismissal

Dismissal of the Chapter 11 Cases would allow Creditors to exercise their state law rights. In a dismissal scenario, there will be no equality of distribution and many, if not most, unsecured creditors would not receive any Distribution.

C. Alternative Plan

The Debtors believe that any alternative plan would not result in as favorable of treatment of Claims as proposed under the Debtors' Plan.

XI. CONCLUSION

The Debtors believe that the Plan maximizes recoveries to all Creditors and, thus, is in their best interests. The Plan as structured, among other things, allows Creditors to participate in distributions in excess of those that would be available if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code and minimizes delays in recoveries to all Creditors.

THE DEBTORS URGE CREDITORS TO ACCEPT THE PLAN AND TO EVIDENCE SUCH ACCEPTANCE BY RETURNING THEIR PROPERLY COMPLETED BALLOT(S) SO THAT THEY WILL BE ACTUALLY RECEIVED, AS INSTRUCTED ABOVE, BY THE SOLICITATION AGENT IDENTIFIED HEREIN AT 5:00 P.M., PREVAILING EASTERN TIME, ON _____, 2016.

Thomas Doherty
Chief Restructuring Officer
Taylor-Wharton International LLC
Taylor-Wharton Cryogenics LLC