

1 JON L. R. DALBERG (State Bar No. 128259)
2 RODGER M. LANDAU (State Bar No. 151456)
3 SHARON M. KOPMAN (State Bar No. 164449)
4 LANDAU & BERGER LLP
5 1801 Century Park East, Suite 1460
6 Los Angeles, California 90067
7 Telephone: (310) 557-0050
8 Facsimile: (310) 557-0056
9 jdalberg@lblawllp.com
10 rlandau@lblawllp.com
11 skopman@lblawllp.com

12 Counsel for Vineyard National Bancorp

13
14 UNITED STATES BANKRUPTCY COURT
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA
16 RIVERSIDE DIVISION

17 In re
18 VINEYARD NATIONAL BANCORP,
19
20 Debtor.

Case No. 6:09-bk-26401-RN

Chapter 11

DEBTOR'S PLAN OF LIQUIDATION

21
22
23 Debtor and Debtor-in-Possession Vineyard National Bancorp ("Debtor") proposes the
24 following Plan of Liquidation (along with any amendments, supplements or exhibits hereto,
25 collectively, the "Plan") pursuant to section 1121(a) of the Bankruptcy Code for resolution of all
26 Claims against and interests in the Debtor and its Estate. The Disclosure Statement In Support of the
27 Debtor's Plan of Liquidation (the "Disclosure Statement"), which accompanies the Plan, discusses the
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1 Debtor's history, business, contracts, leases, results of operations, resolution of material disputes,
2 significant potential litigation, financial projections for the liquidation and distribution of Debtor's
3 remaining assets, and contains a summary and discussion of the Plan. Holders of Claims are
4 encouraged to read the Disclosure Statement before voting to accept or reject the Plan.

5 The Debtor is the proponent of the Plan. The Debtor, following solicitation, will seek the
6 Bankruptcy Court's confirmation of the Plan. No solicitation materials other than the Disclosure
7 Statement and any schedules, exhibits or letters attached thereto or referenced therein have been
8 authorized by the Debtor or the Bankruptcy Court for use in soliciting acceptances or rejections of the
9 Plan.

10 I. **DEFINITIONS AND RULES OF CONSTRUCTION**

11 A. Defined Terms.

12 As used herein, the following terms have the respective meanings specified below (such
13 meanings to be equally applicable to both the singular and plural, and masculine and feminine forms
14 of the terms defined):

15 1. "Administrative Claims Reserve" means Cash to be set aside for, and in an amount
16 sufficient to effect, payment of all Allowed Administrative Expenses, including all accrued
17 professional fee and expense claims, arising on or before the Effective Date and remaining to be paid
18 after the Effective Date.

19 2. "Administrative Expense" means any cost or expense of administration of the
20 Chapter 11 Case under sections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without
21 limitation, any actual and necessary post-petition expenses of preserving the Estate, any actual and
22 necessary post-petition expenses of administering and liquidating the Estate, all compensation or
23 reimbursement of expenses to the extent allowed by the Bankruptcy Court under sections 330, 331,
24 or 503 of the Bankruptcy Code, and any fees or charges assessed against the Estate under section
25 1930 of title 28 of the United States Code.

26 3. "Allowed Claim" means, except as otherwise allowed or otherwise provided herein, a
27 Claim, proof of which was timely and properly filed or, if no proof of claim was filed, which has
28 been or hereafter is listed on the Debtor's Schedules as liquidated in amount and not disputed or

1 contingent, and, in either case, as to which no objection to the allowance thereof has been interposed.
2 Unless otherwise specified herein or by order of the Bankruptcy Court, "Allowed Claim" shall not
3 include interest on such Claim accruing after the Petition Date.

4 4. "Allowed Class ____ Claim" means an Allowed Claim in the Class specified.

5 5. "Bankruptcy Code" means title 11 of the United States Code, 11 U.S.C. §§ 101-1330,
6 as amended.

7 6. "Bankruptcy Court" means the United States Bankruptcy Court for the Central
8 District of California, Riverside Division or, in the event such court ceases to exercise jurisdiction
9 over the Chapter 11 Case, such other court that exercises jurisdiction over the Chapter 11 Case.

10 7. "Bankruptcy Rules" means, collectively, (i) the Federal Rules of Bankruptcy
11 Procedure, as amended from time to time, as applicable to the Chapter 11 Case, and (ii) the Local
12 Bankruptcy Rules applicable to cases pending before the Bankruptcy Court, as now in effect or
13 hereafter amended.

14 8. "Bar Date Order" means the Order entered by the Bankruptcy Court on November 12,
15 2009 approving the Debtor's *Notice Of Motion And Motion For Entry Of An Order (I) Establishing*
16 *Bar Dates For Filing Proofs Of Claim; And (Ii) Approving The Form And Manner Of Notice*
17 *Thereof* (Docket No. 72).

18 9. "BONY" means the Bank of New York in its capacity as the Trustee of certain
19 Statutory Trust Indentures.

20 10. "Business Day" means any day which is not a Saturday, a Sunday, or a "legal
21 holiday" as defined in Bankruptcy Rule 9006(a).

22 11. "Capital Security Holders" means the holders of Capital Security Certificates issued
23 by the respective Statutory Business Trusts.

24 12. "Cash" means cash or cash equivalents.

25 13. "Chapter 11 Case" means the case under chapter 11 of the Bankruptcy Code,
26 commenced by the Debtor on the Petition Date, styled "*In re Vineyard National Bancorp*" and
27 assigned Case No. 6:09-bk-26401-RN.

28 14. "Claim" means (a) any right to payment from the Debtor's Estate, whether or not

1 such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured,
2 disputed, undisputed, legal, equitable, secured, or unsecured, or (b) any right to an equitable remedy
3 for breach of performance if such breach gives rise to a right of payment from the Debtor's Estate,
4 whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured,
5 unmatured, disputed, undisputed, secured, or unsecured.

6 15. "Claims Bar Date" means January 7, 2009, which is the general deadline set pursuant
7 to the Bar Date Order or, in the case of a governmental unit under 11 U.S.C. § 502(b)(9), January 18,
8 2009.

9 16. "Class" means one of the Classes of Claims or Classes of Equity Interests designated
10 in Section II of the Plan.

11 17. "Committee" means the Official Committee of General Unsecured Creditors as
12 appointed pursuant to section 1102 of the Bankruptcy Code by the Office of the United States
13 Trustee to serve in the Chapter 11 Case pursuant to the Notice of Appointment of Committee dated
14 August 12, 2009 (Docket No. 24), as amended by the Notice dated September 10, 2009 (Docket
15 No.41).

16 18. "Committee Standing Order" means the *Order Vesting Official Committee of*
17 *Unsecured Creditors with Authority and Standing to Investigate, Bring, Maintain and Settle Claims*
18 entered on the docket of the Chapter 11 Case by the Bankruptcy Court on October 23, 2009 (Docket
19 # 65).

20 19. "Confirmation Date" means the date on which the Clerk of the Bankruptcy Court
21 enters the Confirmation Order on its docket.

22 20. "Confirmation Order" means the order of the Bankruptcy Court confirming the Plan
23 in accordance with the provisions of chapter 11 of the Bankruptcy Code.

24 21. "D&O Claims" means any and all causes of action or claims, whether known or
25 unknown, liquidated or unliquidated, disputed or undisputed, fixed or contingent, against present
26 and/or former officers, directors and shareholders of the Debtor or the Debtor's Estate relating to any
27 matter, fact, circumstance, act, omission or other thing, the authority and standing to investigate,
28 bring, maintain and settle to the fullest extent of such causes of action or claims were authorized and

1 vested with the Committee pursuant to the Committee Standing Order.

2 22. “Debtor” means Vineyard National Bancorp, a California corporation.

3 23. “Debtor in Possession” means the Debtor when it is acting in the capacity of
4 representative of the Estate in the Chapter 11 Case.

5 24. “Disbursing Agent” means the Liquidating Agent in his fiduciary capacity as the
6 agent to hold and distribute the consideration to be distributed to holders of the Allowed
7 Administrative Expenses, and Allowed Claims pursuant to the Plan, or the Confirmation Order, or
8 such other person who may be appointed as the Disbursing Agent by Final Order of the Bankruptcy
9 Court; provided, however, with respect to the distributions to be made to holders of Allowed Class 4
10 Claims, the respective Indenture Trustees shall be the Disbursing Agent. The Disbursing Agent may
11 employ or contract with other entities to assist or perform the distribution of property.

12 25. “Disclosure Statement” means that certain document entitled “*Disclosure Statement,*
13 *Filed in Support of The Debtor’s Plan of Liquidation*” filed in the Chapter 11 Case, including the
14 exhibits attached thereto, either in its present form or as it may be amended, modified or
15 supplemented from time to time.

16 26. “Disputed Claim” means any Claim (i) which is listed in the Schedules as
17 unliquidated, disputed, contingent, and/or unknown and for which no proof of Claim has been filed;
18 (ii) as to which a Proof of Claim has been filed and the dollar amount of such Claim is not specified
19 in a fixed amount; or (iii) as to which the Debtor or any other party in interest has interposed a
20 timely objection or request for estimation in accordance with the Bankruptcy Code, the Bankruptcy
21 Rules, the Plan and/or any order of the Bankruptcy Court, which objection or request for estimation
22 has not been withdrawn or determined by a Final Order.

23 27. “Disputed Claims Reserve” means the Cash to be set aside for, and in an amount
24 sufficient to pay the required distribution under the Plan to, all Disputed Claims which have not been
25 finally adjudicated as of the Effective Date and which may become Allowed Claims prior to the
26 Final Distribution Date.

27 28. “Effective Date” means the first date that the Plan becomes effective as provided
28 under Section IX.A of the Plan.

1 29. “Equity Interests” means any equity interest in the Debtor represented by VNBC
2 Preferred Class C Stock, VNBC Preferred Class D Stock and VNBC Common Stock Interests.

3 30. “Estate” shall mean with respect to the Debtor, the estate created by section 541(a) of
4 the Bankruptcy Code upon the Petition Date.

5 31. “Estate Cash Proceeds” means all Cash in the Estate on the Effective Date, received
6 from any source, including, without limitation, sale or disposition of any assets, recovery from
7 prosecution of Estate Causes of Action, interest earned on Cash, and unclaimed distributions.

8 32. “Estate Cause of Action” shall mean any and all manner of causes of action, claims,
9 obligations, suits, debts, judgments, demands, rights of offset or recoupment, damages (actual,
10 compensatory or punitive), counterclaims or affirmative defenses, whatsoever, whether in law or in
11 equity including, but not limited to, the claims arising under or pursuant to sections 541 through 551,
12 inclusive, and section 553, of the Bankruptcy Code, objections to filed proofs of Claim but excluding
13 the D&O Claims.

14 33. “File,” “Filed,” “Files,” or “Filing” means properly and timely filed with the
15 Bankruptcy Court in the Chapter 11 Case, as reflected on the official docket of the Bankruptcy Court
16 for the Chapter 11 Case, served on Persons, as such filing and service are required pursuant to the
17 Bankruptcy Code, Bankruptcy Rules and/or order of the Bankruptcy Court.

18 34. “Final Distribution Date” means the first Business Day on which any and all Disputed
19 Claims have been resolved pursuant to a Final Order and all interests of the Estate in property and all
20 Claims, Estate Causes of Action, and other rights to payment existing in favor of the Estate have
21 been liquidated, reduced to Cash, and distributed *Pro Rata* to holders of Allowed Claims.

22 35. “Final Order” means an order or judgment of the Bankruptcy Court or other
23 applicable court as to which the time to appeal, petition for certiorari, or move for reargument or
24 rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for
25 reargument or rehearing shall then be pending; or as to which any right to appeal, reargue, rehear, or
26 petition for certiorari shall have been waived in writing in form and substance satisfactory to the
27 Debtor or the Liquidating Agent, respectively, or, in the event that an appeal, writ of certiorari,
28 reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court or

1 other applicable court shall have been affirmed by the highest court to which such order or judgment
2 was appealed or from which reargument or rehearing was sought, or certiorari shall have been
3 denied, , and the time to take any further appeal, petition for certiorari or move for reargument or
4 rehearing shall have expired.

5 36. “FTBN” means the first priority, senior secured lender, First Tennessee Bank,
6 National Association.

7 37. “General Unsecured Claim” means any Claim that is not an Administrative Expense,
8 Priority Tax Claim or a Claim classified in Classes 1, 2 and 4. General Unsecured Claims, include,
9 without limitation, unsecured obligations owing to vendors, deferred compensation claims by former
10 directors, any deficiency on FTBN’s secured claim, unsecured obligations owing to the holders of
11 the Indentures, and unsecured Claims arising from the rejection of executory contracts and unexpired
12 leases.

13 38. “Guarantee Agreements” means each of the Guarantee Agreements executed by and
14 between the Debtor and the respective Guarantee Trustees on behalf of the Capital Security Holders
15 of the respective Statutory Business Trusts.

16 39. “Guarantee Trustees” means, collectively, the trustees of the ten (10) Guarantee
17 Agreements, including, U.S. Bank, Wilmington Trust, BONY, and Wells Fargo.

18 40. “Indentures” means, collectively, the Statutory Trust Indentures and the Junior
19 Subordinated Indenture.

20 41. “Indenture Trustee Claims” means the Claims of the Indenture Trustees for payment
21 of compensation for services rendered by them under the Statutory Trust Indentures and the Junior
22 Subordinated Indenture, respectively, as of the Effective Date, together with the reimbursement of
23 all reasonable expenses, disbursements and advances incurred in connection therewith, including the
24 reasonable compensation, expenses and disbursements of their respective agents and counsel.

25 42. “Indenture Trustees” means, collectively, the Statutory Trust Trustees and the Junior
26 Subordinated Indenture Trustee.

27 43. “Junior Subordinated Indenture” means the Indenture dated as of December 19, 2002
28 between Debtor and the Junior Subordinated Indenture Trustee authorizing the issuance of the Junior

1 Subordinated Debentures Due December 26, 2017.

2 44. “Junior Subordinated Indenture Trustee” means U.S. Bank as successor Trustee to
3 State Street Bank under the Junior Subordinated Indenture.

4 45. “Litigation Reserve” means a cash reserve in the amount of \$_____ to
5 be held by the Liquidating Agent to fund costs and expenses associated with investigating and
6 prosecuting Estate Causes of Action.

7 46. “Litigation Reserve Expiration Date” means the date that is the earlier of (i) one year
8 following the Effective Date or (ii) the Final Distribution Date; provided, however, that the Post-
9 Confirmation Committee, by providing written notice to the Liquidating Agent at least one month
10 prior to the Litigation Reserve Expiration Date, may extend the Litigation Reserve Expiration Date;
11 provided further, however, that in all cases, the Litigation Reserve Expiration Date must occur on or
12 prior to the Final Distribution Date.

13 47. “Net Estate Cash Proceeds” means the Estate Cash Proceeds less (i) distributions on
14 account of (a) Allowed Administrative Expenses, (b) Allowed Priority Tax Claims, and (c) Allowed
15 Claims in Class 1 and Class 2, inclusive, as provided for in the Plan; and (ii) the funding by the
16 Liquidating Agent of the Reserves.

17 48. “Operating Reserve” means Cash to be set aside for, and in an amount sufficient to
18 effect, payment after the Effective Date of all expenses incurred by or on behalf of the Estate after
19 the Effective Date, including, but not limited to, tax liabilities as they become due on behalf of the
20 Estate and the Debtor’s Estate, compensation for the Liquidating Agent and his agents, postage,
21 United States Trustee quarterly fees, and professional fees; provided however, that expenses relating
22 to the prosecution and/or preservation of Estate Causes of Action shall be paid from the Litigation
23 Reserve.

24 49. “Other Priority Claim” means any Claim accorded priority in right of payment under
25 section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative
26 Expense.

27 50. “Person” means any individual, corporation general partnership, limited partnership,
28 association, joint stock company, joint venture, estate, trust, government or any political subdivision,

1 governmental unit, official committee appointed by the Office of the United States Trustee,
2 unofficial committee of creditors, or other entity.

3 51. "Petition Date" means July 21, 2009, the date on which the Debtor filed its voluntary
4 petition commencing the Chapter 11 Case.

5 52. "Plan" means this chapter 11 plan of liquidation, including all exhibits hereto, either
6 in their present form or as they may be altered, amended, or modified from time to time.

7 53. "Liquidating Agent" means [_____], in his capacity as the exclusive
8 representative of the Estate from and after the Effective Date for the purpose of implementing,
9 administering, and consummating the provisions of this Plan on behalf of the Estate.

10 54. "Post-Confirmation Committee" means the Committee, as it is constituted from time
11 to time following the Effective Date, in accordance with Article VI of the Plan.

12 55. "Preferred Stock Interests" means VNBC Preferred Class C Stock and VNBC
13 Preferred Class D Stock.

14 56. "Priority Tax Claim" means a Claim of a governmental unit of the kind specified in
15 section 507(a)(8) of the Bankruptcy Code.

16 57. "Professional Person" means for purposes of this Plan, any professional person
17 employed by the Debtor or the Committee pursuant to sections 327 or 1103 of the Bankruptcy Code.

18 58. "Pro Rata," "Pro Rata Share," and "Pro Rata Basis" means, at any time, the
19 proportion that the face amount of a Claim in a particular Class or Classes bears to the aggregate
20 face amount of all Claims (including Disputed Claims, but excluding disallowed Claims) in such
21 Class or Classes; and "face amount," as used herein, means (a) when used in reference to a Disputed
22 or disallowed Claim, the full stated liquidated amount claimed by the claimholder in any proof of
23 claim timely filed with the Bankruptcy Court or otherwise deemed timely filed by any Final Order of
24 the Bankruptcy Court or other applicably bankruptcy law; and (b) when used in reference to an
25 Allowed Claim, the allowed amount of such Claim.

26 59. "Reserves" means, collectively, the Operating Reserve, the Administrative Claims
27 Reserve, the Disputed Claims Reserve and the Litigation Reserve.

28 60. "Schedules" means the schedules of assets and liabilities, list of equity security

1 holders, and statement of financial affairs filed by the Debtor as required by section 521(a)(1) of the
2 Bankruptcy Code, Bankruptcy Rules 1007(a)(1) and(3) and (b)(1), and Official Bankruptcy Form
3 Nos. 6 and 7, as amended from time to time.

4 61. "Secured Claim" means (i) a Claim against the Debtor to the extent of the value, as
5 determined by the Bankruptcy Court pursuant to section 506(a) of the Bankruptcy Code, of any
6 interest in property of the Estate securing such Claim, and (ii) the Indenture Trustee Claims to the
7 extent of the lien of the Indenture Trustees under the Indentures on the proceeds distributed to
8 holders of the Indentures under the Plan.

9 62. "State Street Bank" means State Street Bank & Trust Co. of Connecticut, N.A. as
10 former trustee under certain of the Statutory Trust Indentures until such entity was acquired by US
11 Bank in May 2005.

12 63. "Statutory Business Trusts" means collectively VST I, VST II, VST III, VST IV,
13 VST V, VST VI, VST VII, VST VIII, VST IX, and VST XI.

14 64. "Statutory Trust Indentures" means the indentures issued to the Statutory Business
15 Trusts and all related agreements, excluding the Guarantee Agreements, but including (i) the
16 Indenture between Debtor and trustee State Street Bank, dated December 18, 2001, authorizing the
17 issuance of Floating Rate Junior Subordinated Deferrable Interest Debentures due 2031; (ii) the
18 Indenture between Debtor and trustee Wilmington Trust, dated December 19, 2002, authorizing the
19 issuance of Floating Rate Junior Subordinated Debt Securities due 2033; (iii) the Indenture between
20 Debtor and trustee Wilmington Trust, dated September 25, 2003, authorizing the issuance of
21 Floating Rate Junior Subordinated Debt Securities due 2033; (iv) the Indenture between Debtor and
22 trustee Wilmington Trust, dated December 19, 2003, authorizing the issuance of Floating Rate
23 Junior Subordinated Debt Securities due 2034; (v) the Indenture between Debtor and trustee JP
24 Morgan Chase Bank, dated March 25, 2004, authorizing the issuance of Junior Subordinated Debt
25 Securities due April 6, 2034; (vi) the Indenture between Debtor and trustee JP Morgan Chase Bank,
26 dated May 18, 2004, authorizing the issuance of Junior Subordinated Debt Securities due July 23,
27 2034; (vii) the Indenture between Debtor and trustee Wells Fargo Bank, N.A., dated December 22,
28 2004, authorizing the issuance of Floating Rate Junior Subordinated Debt Securities due 2034; (viii)

1 the Indenture between Debtor and trustee Wilmington Trust, dated April 15, 2005, authorizing the
2 issuance of Floating Rate Junior Subordinated Debt Securities due 2035; (ix) the Indenture between
3 Debtor and trustee Wilmington Trust, dated August 19, 2005, authorizing the issuance of Floating
4 Rate Junior Subordinated Debt Securities due 2035; and (x) the Indenture between Debtor and
5 trustee Wilmington Trust, dated May 16, 2006, authorizing the issuance of Floating Rate Junior
6 Subordinated Debt Securities due 2036.

7 65. "Statutory Trust Trustees" means collectively the trustees of the ten (10) Statutory
8 Business Trusts, including, U.S. Bank (as successor trustee to State Street Bank), Wilmington Trust,
9 BONY (as successor trustee to JP Morgan Chase Bank), and Wells Fargo (as successor trustee to
10 Wells Fargo Bank, N.A.).

11 66. "Subordinated Claims of Holders of Indentures" means the Claims of the beneficial
12 owners of the Indentures arising under the Indentures which are fully subordinated to all "Senior
13 Indebtedness" (including the Secured Claims of FTBN) in accordance with the Indentures and
14 pursuant to section 510(a) of the Bankruptcy Code.

15 67. "Taxes" means all income, gaming, franchises, excise, sales, use, employment,
16 withholding, property, payroll or other taxes, assessments, or governmental charges, together with
17 any interest, penalties, additions to tax, fines, and similar amounts relating thereto, imposed or
18 collected by any federal, state, local or foreign governmental authority.

19 68. "U.S. Bank" means U.S. Bank, N.A. in its capacity as the Trustee of certain Statutory
20 Trust Indentures.

21 69. "VNBC Common Stock Interests" means the shares of common stock of the Debtor
22 issued and outstanding prior to the Effective Date, and all rights and interests arising thereunder or in
23 connection therewith.

24 70. "VNBC Preferred Class C Stock" means the shares of Preferred Class C Stock of the
25 Debtor issued and outstanding prior to the Effective Date, and all rights and interests arising
26 thereunder or in connection therewith.

27 71. "VNBC Preferred Class D Stock" means the shares of Preferred Class D Stock of the
28 Debtor issued and outstanding prior to the Effective Date, and all rights and interests arising

1 thereunder or in connection therewith.

2 72. "VST I" means the Vineyard Statutory Trust I established by the Amended &
3 Restated Declaration of Trust, dated and effective as of December 18, 2001, by and among, Debtor
4 as sponsor, State Street Bank & Trust Co. of Connecticut, N.A. as trustee, administrators Norman
5 Morales and Sara Ahern and by the holders, from time to time, of undivided beneficial interests in
6 VST I.

7 73. "VST II" means the Vineyard Statutory Trust II established by the Amended And
8 Restated Declaration Of Trust, dated and effective as of December 19, 2002, by and among, the
9 Debtor as sponsor, the Wilmington Trust as trustee, Norman Morales and Gordon Fong as
10 administrators, and the holders from time to time of undivided beneficial interests in the assets of
11 VST II.

12 74. "VST III" means the Vineyard Statutory Trust III established by the Amended And
13 Restated Declaration Of Trust, dated and effective as of September 25, 2003, by and among, the
14 Debtor as sponsor, Wilmington Trust as trustee, Norman Morales, Gordon Fong, and Richard Hagan
15 as administrators and the holders from time to time of undivided beneficial interests in the assets of
16 VST III.

17 75. "VST IV" means the Vineyard Statutory Trust IV established by the Amended And
18 Restated Declaration Of Trust, dated and effective as of December 19, 2003, by and among, the
19 Debtor as sponsor, Wilmington Trust as trustee, Norman Morales, Gordon Fong, and Richard Hagan
20 as administrators and the holders from time to time of undivided beneficial interests in the assets of
21 VST IV.

22 76. "VST V" means the Vineyard Statutory Trust V established by the Amended And
23 Restated Declaration Of Trust, dated and effective as of December 19, 2003, by and among, the
24 Debtor as sponsor, JPMorgan Chase Bank as trustee, Norman Morales and Gordon Fong as
25 administrators and the holders from time to time of undivided beneficial interests in the assets of
26 VST V.

27 77. "VST VI" means the Vineyard Statutory Trust VI established by the Amended And
28 Restated Declaration Of Trust, dated and effective as of May 18, 2004, by and among, the Debtor as

1 sponsor, JPMorgan Chase Bank as trustee, Norman Morales and Gordon Fong as administrators and
2 the holders from time to time of undivided beneficial interests in the assets of VST VI.

3 78. "VST VII" means the Vineyard Statutory Trust VII established by the Amended And
4 Restated Declaration Of Trust, dated and effective as of December 22, 2004, by and among, the
5 Debtor as sponsor, Wells Fargo as trustee, Norman Morales and Gordon Fong as administrators and
6 the holders from time to time of undivided beneficial interests in the assets of VST VII.

7 79. "VST VIII" means the Vineyard Statutory Trust VIII established by the Amended
8 And Restated Declaration Of Trust, dated and effective as of April 15, 2005, by and among, the
9 Debtor as sponsor, Wilmington Trust as trustee, Norman Morales, Gordon Fong and Richard Hagan
10 as administrators and the holders from time to time of undivided beneficial interests in the assets of
11 VST VIII.

12 80. "VST IX" means the Vineyard Statutory Trust IX established by the Amended And
13 Restated Declaration Of Trust, dated and effective as of August 19, 2005, by and among, the Debtor
14 as sponsor, Wilmington Trust as trustee, Norman Morales and Gordon Fong as administrators and
15 the holders from time to time of undivided beneficial interests in the assets of VST IX.

16 81. "VST XI" means the Vineyard Statutory Trust XI established by the Amended And
17 Restated Declaration Of Trust, dated and effective as of May 16, 2006, by and among, the Debtor as
18 sponsor, Wilmington Trust as trustee, Norman Morales and Gordon Fong as administrators and the
19 holders from time to time of undivided beneficial interests in the assets of VST XI.

20 82. "Wells Fargo" means the Wells Fargo Delaware Trust Company in its capacity as the
21 Trustee of certain Statutory Trust Indentures.

22 83. "Wilmington Trust" means the Wilmington Trust Company in its capacity as the
23 Trustee of certain of the Statutory Trust Indentures.

24 B. Other Terms.

25 The words "herein," "hereof," "hereto," "hereunder," and others of similar import refer to the
26 Plan as a whole and not to any particular section, subsection, or clause contained in the Plan. A term
27 used herein that is not defined herein shall have the meaning ascribed to that term, if any, in the
28 Bankruptcy Code or Bankruptcy Rules and shall be construed in accordance with the rules of

1 construction thereunder.

2 C. Computation of Time.

3 In computing any period of time prescribed or allowed by the Plan, unless otherwise
4 expressly provided, the provisions of Bankruptcy Rule 9006(a) shall apply.

5 D. Exhibits.

6 All exhibits to the Plan are incorporated into and are a part of the Plan as if set forth in full
7 herein.

8

9 II. CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

10 A. Summary.

11 The chart below summarizes the classes of Claims and Equity Interests for all purposes,
12 including voting, confirmation, and distribution pursuant to the Plan:

13 CLASS	STATUS
14 Class 1: Other Priority Claims	Unimpaired - not entitled to vote
15 Class 2: Secured Claims	Unimpaired - not entitled to vote
16 Class 3: General Unsecured Claims	Impaired – entitled to vote
17 Class 4: Subordinated Claims of Holders of Indentures	Impaired – entitled to vote
18 Class 5: Preferred Stock Interests	Impaired – deemed to reject
19 Class 6: Common Stock Interests	Impaired – deemed to reject

20

B. Unclassified Claims.

21

1. Administrative Expense Claims.

22

a. General.

23

24 Subject to the allowance procedures and deadlines provided herein, the Disbursing Agent
25 shall pay to each holder of an Allowed Administrative Expense, on account of the Allowed
26 Administrative Expense, and in full satisfaction thereof, Cash equal to the amount of such Allowed
27 Administrative Expense, unless the holder agrees to other treatment. Except as otherwise provided
28 herein or a prior order of the Bankruptcy Court: (i) payment of an Administrative Expense that is an

28

1 Allowed Claim as of the Effective Date shall be made on the later of the Effective Date or the date
2 such payment would have become due for payment of such Allowed Administrative Expense in the
3 absence of the Chapter 11 Case, whether pursuant to contract or applicable nonbankruptcy law; and
4 (ii) payment of an Administrative Expense that becomes an Allowed Claim following the Effective
5 Date shall be made on or before (a) the date that is thirty (30) days after an order deeming such
6 Administrative Expense an Allowed Claim becomes a Final Order, or (b) the Final Distribution Date,
7 whichever is earlier.

8 b. Deadlines For Filing Claims For Administrative Expenses.

9 (i) Pre-Effective Date Claims and Expenses.

10 All applications for final compensation of Professional Persons for services rendered and for
11 reimbursement of expenses incurred on or before the Effective Date and all other requests for payment
12 of Administrative Expenses incurred before the Effective Date pursuant to Bankruptcy Code sections
13 327, 328, 330, 331, 503(b), 507(a)(1) or 1103 (except only for post-petition obligations incurred
14 through the Effective Date in the ordinary course of Debtor's post-petition business and obligations
15 under section 1930 of title 28 of the United States Code) shall be filed no later than the first Business
16 Day that is not less than forty-five (45) days after the Effective Date (the "Administrative Expense
17 Claims Bar Date"). Professional Persons and others that do not File such requests on or before the
18 Administrative Expense Claims Bar Date shall be barred from asserting such Claims against the
19 Estate, the Liquidating Agent, or any other Person or entity, or any of their respective property.
20 Objections to applications of Professional Persons or others for compensation or reimbursement of
21 expenses must be Filed and served on the Liquidating Agent and its counsel, as well as the
22 Professional Persons and others to whose application the objection is addressed, in accordance with
23 the Bankruptcy Code, the Bankruptcy Rules or pursuant to any other procedure set forth by an order of
24 the Bankruptcy Court. From and after the Effective Date the Liquidating Agent will comply with such
25 reporting requirements, and payment of quarterly fees to the Office of the United States Trustee as
26 required by applicable law.

27 (ii) Tax Claims.

28 All requests for payment of Claims by a governmental unit (as defined under section 101(27)

1 of the Bankruptcy Code) for taxes (and for interest and/or penalties related to such taxes) for any tax
2 year or period, all or any portion of which occurs or falls within the period from and including the
3 Petition Date through and including the Effective Date, and for which no bar date has otherwise been
4 previously established, must be Filed on or before the later of: (a) sixty (60) days following the
5 Effective Date; or (b) ninety (90) days following the filing of the tax return for such taxes for such tax
6 year or period with the applicable governmental unit. Any holder of a Claim for taxes is required to
7 File a request for a payment of the post-petition taxes and other monies due related to such taxes. Any
8 holder of a Claim for taxes which does not File such a Claim by the applicable bar date shall be
9 forever barred from asserting any such Claim against any of the Estate, the Liquidating Agent or their
10 respective property, whether any such Claim is deemed to arise prior to, on, or subsequent to the
11 Effective Date, and shall receive no distribution under the Plan or otherwise on account of such Claim.

12 2. Priority Tax Claims.

13 Except as otherwise agreed to by the parties, or ordered by the Court, as soon as practicable
14 after the Effective Date, each holder of an unpaid Allowed Priority Tax Claim shall receive payment
15 in full in an amount equal to the Allowed Priority Tax Claim.

16 C. Classification and Treatment

17 1. Class 1: Other Priority Claims.

18 (a) Classification: Class 1 consists of all Claims entitled to priority in
19 right of payment under section 507(a) of the Bankruptcy Code, except Priority Tax Claims and
20 Administrative Expenses.

21 (b) Treatment: The Debtor estimates the Allowed Class 1 Claims to be
22 zero. The Liquidating Agent shall pay all Allowed Claims in this class in full, in Cash, on the later
23 of: (i) the Effective Date; and (ii) the date on which an order allowing such Claim becomes a Final
24 Order, and in each case or as soon thereafter as is practicable. Class 1 is not impaired, and the
25 holders of Claims in Class 1 are not entitled to vote to accept or reject the Plan.

26 2. Class 2: Secured Claims.

27 (a) Classification: Class 2 consists of Secured Claims.

28 (b) Treatment: The Debtor estimates the Allowed Class 2 Claims to be

1 zero. To the extent any Allowed Class 2 Claims exist, holders of Allowed Class 2 Claims shall
2 receive payment in full in Cash or of Property of the amount of their respective Allowed Secured
3 Claims. Distributions to holders of Allowed Class 2 Claims shall occur on the later of the Effective
4 Date if such Secured Claim is deemed to be an Allowed Claim or the first Business Day that is at
5 least thirty (30) days from the date the Secured Claim becomes an Allowed Claim. Class 2 is not
6 impaired, and the holders of Claims in Class 2 are not entitled to vote to accept or reject the Plan.

7 3. Class 3: General Unsecured Claims.

8 (a) Classification. Class 3 consists of General Unsecured Claims.

9 (b) Treatment. Each holder of an Allowed Class 3 Claim shall receive, on
10 the date that is no later than sixty (60) days following the Effective Date, or as soon thereafter as
11 reasonably practicable for the Disbursing Agent to make a distribution of Net Estate Cash Proceeds
12 to the holders of Allowed Class 3 Claims, (the “Initial Class 3 Distribution Date”), a Pro Rata
13 distribution of the Net Estate Cash Proceeds. In addition, after the Initial Class 3 Distribution Date
14 but prior to the Final Distribution Date, the Disbursing Agent shall, but is not required, to make Pro
15 Rata interim distributions (the “Interim Distributions”) of the Net Estate Cash Proceeds to the
16 holders of Allowed Class 3 Claims, when, in the discretion of the Liquidating Agent, the Estate has
17 sufficient Net Estate Cash Proceeds to make such Pro Rata Interim Distributions. Finally, on the
18 Final Distribution Date, each holder of an Allowed Class 3 Claim shall receive a Pro Rata share of
19 the Net Estate Cash Proceeds remaining in the Estate. Class 3 is impaired, and the holders of
20 Allowed Class 3 Claims are entitled to vote to accept or reject the Plan.

21 4. Class 4: Holders of Indentures –Subordinated -§510(a)

22 (a) Classification: Class 4 consists of the subordinated Claims of the
23 holders of Indentures pursuant to§510(a).

24 (b) Treatment: In accordance with the Indentures and 11 U.S.C. § 510(a),
25 holders of Allowed Class 4 Claims shall only receive a distribution after the Allowed Class 3 Claims
26 of FTBN are paid in full (the “Initial Class 4 Distribution Date”); provided, however, the Indenture
27 Trustee Claims shall be paid and satisfied, in full, from the portion of the Net Estate Cash Proceeds
28 distribution to be made to holders of Allowed Class 4 Claims. Class 4 is impaired, and the holders

1 of Allowed Class 4 Claims are entitled to vote to accept or reject the Plan.

2 5. Class 5: Preferred Stock Interests.

3 (a) Classification: Class 5 consists of the Preferred Equity Interests in the
4 Debtor.

5 (b) Treatment: As of the Effective Date, each holder of record of an
6 Allowed Preferred Equity Interest shall not receive a distribution under the Plan and all Preferred
7 Equity Interests will be deemed cancelled and void. Class 5 is Impaired, but because no
8 distributions shall be made to holders of Interests in Class 5, such holders are deemed conclusively
9 to have rejected the Plan pursuant to Section 1126(g) of the Bankruptcy Code. Therefore the holders
10 of Interests in Class 5 are not entitled to vote to accept or reject the Plan.

11 6. Class 6: VNBC Common Stock Interests

12 (a) Classification: Class 6 consists of VNBC Common Stock Interests in
13 the Debtor.

14 (b) Treatment: As of the Effective Date, each holder of record of an
15 Allowed Common Stock Interest shall not receive a distribution under the Plan and all VNBC
16 Common Stock Interests will be deemed to be cancelled and void. Class 6 is Impaired, but because
17 no distributions shall be made to holders of Interests in Class 6, such holders are deemed
18 conclusively to have rejected the Plan pursuant to Section 1126(g) of the Bankruptcy Code.
19 Therefore the holders of Interests in Class 6 are not entitled to vote to accept or reject the Plan.

20 **III. ACCEPTANCE OR REJECTION OF THE PLAN**

21 **A. Voting Classes.**

22 Each holder of an Allowed Claim in Classes 3 and 4 shall be entitled to vote to accept or
23 reject the Plan.

24 **B. Voting Rights Of Holders Of Disputed Claims.**

25 A Disputed Claim will not be counted for purposes of voting on the Plan to the extent it is
26 disputed, provided an objection to such Claim has been filed no later than fourteen (14) days prior to
27 the deadline for casting ballots on the Plan, unless an order of the Bankruptcy Court is entered after
28 notice and a hearing temporarily allowing the Disputed Claim for voting purposes under Bankruptcy

1 Rule 3018(a).

2 **C. Acceptance By Impaired Classes.**

3 An impaired class of Claims shall have accepted the Plan if (i) the holders (other than any
4 holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in dollar
5 amount of the Allowed Claims actually voting in such class have voted to accept the Plan and (ii) more
6 than one-half in number of the holders (other than any holder designated under section 1126(e) of the
7 Bankruptcy Code) of such Allowed Claims actually voting in such Class have voted to accept the Plan.

8 **D. Presumed Acceptance Of The Plan.**

9 Classes 1 and 2 are unimpaired under the Plan and, therefore, are conclusively presumed by the
10 Bankruptcy Code to accept the Plan.

11 **IV. PROVISIONS FOR TREATMENT OF DISPUTED, CONTINGENT, OR**
12 **UNLIQUIDATED CLAIMS AND ADMINISTRATIVE EXPENSES**

13 **A. Allowance Of Claims Of Holders Of Record Of Indentures.**

14 A beneficial owner of Indentures of record as of _____ (the "Record Date")
15 shall, for purposes of distributions under the Plan, be deemed to have an Allowed Class 4 Claim for
16 the outstanding principal amount of the Indentures owned by such beneficial owner plus accrued and
17 unpaid interest as of the Petition Date, and need not file a proof of claim with respect thereto, subject
18 to the aggregate amount of Allowed Class 4 Claims as provided for in the Plan.

19 In the event any Person that is neither the record holder as of the Record Date of the
20 Indentures, nor the beneficial owner with respect thereto, shall file a proof of right to record status
21 pursuant to Bankruptcy Rule 3003(d), the Liquidating Agent shall establish such reserve, if any, as
22 may be ordered by the Bankruptcy Court on account of any objection thereto. Such reserve shall be
23 held in trust for the holder of such Disputed Claim. To the extent such Disputed Claim is disallowed,
24 any reserve pertaining to such Disputed Claim shall be distributed to all holders of Allowed Class 4
25 Claims on a Pro Rata basis.

26 With respect to distributions to be made to holders of Indentures classified in Class 4, the
27 Indenture Trustees for the respective Indentures shall (i) be the Disbursing Agent, (ii) receive the
28 consideration to be paid to holders of the Indentures as Indenture Trustees for the Indentures which are

1 classified as Allowed Class 4 Claims; (iii) be responsible for making distributions to holders of
2 Allowed Class 4 Claims arising from such Indentures; and (iv) be authorized to deduct the Indenture
3 Trustee Claims from the consideration provided to holders of Allowed Class 4 Claims to the extent so
4 provided for in the Indentures.

5 **B. Resolution Of Disputed Claims.**

6 As of the Effective Date, and subject to the provisions of this Plan, the Liquidating Agent, on
7 behalf of the Estate, shall have sole authority for investigating, administering, monitoring,
8 implementing, litigating and settling all Disputed Claims. From and after the Effective Date, the
9 Liquidating Agent shall have the sole and exclusive right to make and file, and to prosecute, objections
10 to Claims, including, but not limited to, Administrative Expenses and Priority Tax Claims. All
11 objections shall be served upon the holder of the Claim to which the objection is made.

12 **C. Reserve for Disputed Claims.**

13 To the extent such a Disputed Claim ultimately is disallowed or allowed in an amount less than the
14 amount of Cash that has been reserved, the resulting surplus Cash shall be allocated among holders of
15 Allowed Claims in the Class in which the Disputed Claim was classified as provided in the Plan.

16 Cash which would be issued and distributed on account of holders of Disputed Claims, in the
17 event that such Disputed Claims become Allowed Claims, shall instead be placed in the Disputed
18 Claims Reserve maintained by the Liquidating Agent. Such Cash in the Disputed Claims Reserve will
19 be reserved for the benefit of holders of such Disputed Claims pending determination of their
20 entitlement thereto. Unless the Bankruptcy Court orders otherwise, the Liquidating Agent will reserve
21 Pro Rata distributions for such Disputed Claims based upon the full amount of the Disputed Claims.
22 No reserve shall be required for any Disputed Claim to the extent of any effective insurance coverage
23 therefore. Such Cash so reserved shall be distributed by the Liquidating Agent to the holder of a
24 Disputed Claim to the extent that such Disputed Claim becomes an Allowed Claim pursuant to a Final
25 Order.

26 Prior to or on the Final Distribution Date, the Liquidating Agent shall make all distributions
27 on account of any Disputed Claim that has become an Allowed Claim and remains unpaid as of the
28 Final Distribution Date.

1 V. **IMPLEMENTATION OF THE PLAN**

2 A. **Revesting Of Assets.**

3 The confirmation of the Plan will not revest any property of the Estate in the Debtor, but
4 rather, all assets of the Estate, including, but not limited to, any and all Estate Causes of Action, and
5 the Estate Cash Proceeds thereof, shall remain in the Estate and shall be liquidated (or
6 donated/recycled), and the proceeds distributed, by the Liquidating Agent in accordance with the Plan.

7 B. **Appointment of Liquidating Agent.**

8 As of the Effective Date, the Liquidating Agent will be responsible for liquidating the assets
9 of the Estate. The Liquidating Agent shall commence his duties as Liquidating Agent on the Effective
10 Date for the purpose of carrying out all responsibilities and making distributions provided for under
11 the Plan.

12 1. Powers and Responsibilities of Liquidating Agent.

13 The powers and responsibilities of the Liquidating Agent shall include (a) the power, whether
14 by litigation, settlement, or otherwise, to maximize the value of the Estate Causes of Action and the
15 D&O Claims, including objecting, prosecuting and settling Claims Filed by creditors and Equity
16 Interest holders and defending claims and counterclaims asserted in connection therewith (including
17 by way of asserting the Estate's rights of recoupment, setoff or otherwise), subject to the necessary
18 consent of the Post-Confirmation Committee as set forth in Section VI.F of the Plan; (b) the power
19 to liquidate, sell, lease, license, donate or otherwise dispose of, subject to approval of the Bankruptcy
20 Court, any or all of the assets of the Estate and providing for the distribution of the net proceeds
21 thereof in accordance with the provisions of the Plan; (c) filing all required tax returns and paying
22 taxes and all other obligations on behalf of the Estate; (d) periodic reporting to the Bankruptcy Court
23 and parties in interest of the status of the Claims resolution process, distributions on Allowed Claims
24 and prosecution and settlement of Estate Causes of Action and D&O Claims on behalf of the Estate;
25 (e) paying all costs and expenses of administering the Estate after the Effective Date, including, but
26 not limited to, employing and compensating persons to assist the Liquidating Agent in carrying out
27 the duties hereunder, and to obtain and pay premiums for insurance; (f) participating in any post-
28 Confirmation motions to amend or modify this Plan, or appeals from the Confirmation Order; (g)

1 participating in actions to enforce or interpret this Plan; and (h) such other responsibilities as may be
2 required by Bankruptcy Court order or as may be necessary and proper to carry out the provisions of
3 this Plan.

4 2. Disbursing Agent.

5 The Liquidating Agent shall either serve as the Disbursing Agent under this Plan, or, subject
6 to prior Bankruptcy Court approval, shall appoint a Disbursing Agent under this Plan.

7 3. Post-Effective Date Employment Of Professionals By Liquidating Agent.

8 The Liquidating Agent is authorized to employ, with approval of the Bankruptcy
9 Court and after notice is given pursuant to Section XI.K of this Plan, such persons, including
10 professionals, as the Liquidating Agent may deem necessary to enable the Liquidating Agent to
11 perform the functions hereunder; provided, however, that the Liquidating Agent is authorized, but
12 not required, to retain the Debtor's professionals to represent him in the performance of his duties
13 under the Plan without further notice or approval of the Bankruptcy Court. The costs of such
14 employment and other expenditures shall be paid from the proceeds from the Operating Reserve or
15 the Litigation Reserve as appropriate; provided, however, that prior to the entry of an order closing
16 the Bankruptcy Case (the "Final Decree") the fees and costs to be paid to the Liquidating Agent and
17 all professionals employed by him as well as the professionals employed by the Post-Confirmation
18 Committee, shall be subject to the approval of the Bankruptcy Court after notice is given in
19 compliance with Section XI.K of the Plan.

20 4. Compensation of Liquidating Agent.

21 The Liquidating Agent shall serve with a bond paid for by funds from the Estate, with the
22 creditors as the beneficiary.

23 C. **Establishment of Reserves.**

24 On the Effective Date, the Reserves shall be funded from the assets of the Estate by the
25 Liquidating Agent. At least 2 days prior to the Effective Date, the Debtor, in consultation with the
26 Committee, shall file a notice of the proposed amount of the Reserves (other than the Litigation
27 Reserve, the amount of which has already been provided for in this Plan) and serve such notice on
28 those parties entitled to notice in this Chapter 11 Case.

1 **D. Funding Of The Plan.**

2 After funding the Reserves, the Cash to fund the payments required to be made on the
3 Effective Date for Allowed Administrative Expenses, Allowed Priority Tax Claims and to holders of
4 both Allowed Class 1 Claims and Allowed Class 2 Claims, shall be derived from the Estate Cash
5 Proceeds. The Net Estate Cash Proceeds will be used to pay Allowed Class 3 Claims on the Initial
6 Class 3 Distribution Date.

7 Payments, other than Interim Distributions and the Initial Class 3 Distribution Date
8 distributions, required or permitted to be made by the Liquidating Agent pursuant to this Plan during
9 the period from after the Effective Date to the Final Distribution Date, shall be made from (a) the
10 Operating Reserve to fund Estate operations, expenses, tax liabilities, and other obligations of the
11 Liquidating Agent; (b) the Administrative Claims Reserve to pay Administrative Claims that accrued
12 prior to the Effective Date but are to be paid after the Effective Date; (c) the Disputed Claims Reserve
13 to pay Allowed Claims, other than Allowed Class 3 Claims paid on the Initial Class 3 Distribution
14 Date, that were previously Disputed Claims, as applicable, and Allowed Class 4 Claims on the Initial
15 Class 4 Distribution Date; or (d) the Litigation Reserve to fund costs and expenses associated with
16 investigating and prosecuting Estate Causes of Action and D&O Claims.

17 On the Litigation Reserve Expiration Date, all of the remaining funds from the Litigation
18 Reserve shall become Net Estate Cash Proceeds. On the Final Distribution Date, all of the remaining
19 unused funds from the Reserves and the Net Estate Cash Proceeds shall be distributed Pro Rata to
20 holders of Allowed Class 3 Claims, and to holders of Allowed Class 4 Claims (but only after FTBN's
21 Allowed Class 3 Claim has been paid in full), and only as provided in this Plan.

22 **E. Prosecution Of Estate Causes Of Action By The Liquidating Agent or the Post-**
23 **Confirmation Committee.**

24 Pursuant to the Confirmation Order, on the Effective Date, the Debtor irrevocably assigns,
25 transfers and conveys to the Liquidating Agent, the right to manage and control all property of the
26 Estate, including, but not limited to, all Estate Causes of Action. Pursuant to the Confirmation Order,
27 on the Effective Date, the Committee irrevocably transfers, assigns and conveys to the Liquidating
28 Agent all of the Committee's authority and standing under the Committee Standing Order with respect

1 to the D&O Claims. The Liquidating Agent shall also be deemed the successor to, assignee of and
2 transferee of the Committee under the Committee Standing Order granting and vesting the Committee
3 with authority and standing to investigate, bring, maintain and settle to the fullest extent the D&O
4 Claims. Subject to the provisions of Section VI.F of this Plan, the Liquidating Agent shall have the
5 power and authority to prosecute, compromise or otherwise resolve any and all such Estate Causes of
6 Action and D&O Claims, with all recoveries derived therefrom to be included within Net Estate Cash
7 Proceeds. Notwithstanding the foregoing, in the event that the Liquidating Agent elects not to
8 prosecute, compromise or otherwise resolve an Estate Cause of Action or Estate Claim, the Post-
9 Confirmation Committee shall have the full power and authority to prosecute, compromise or
10 otherwise resolve such Estate Cause of Action and/or Estate Claim, with all recoveries derived
11 therefrom to be included within Net Estate Cash Proceeds. Any and all fees, costs and expenses
12 incurred in respect of the prosecution of such Estate Causes of Action and/or D&O Claims shall be
13 payable and paid solely by the Liquidating Agent from the Litigation Reserve. It is the intention of
14 this Plan that the Liquidating Agent pursue the Estate Causes of Action and the D&O Claims.

15 **F. Issuance And Execution Of Plan Related Documents.**

16 In connection with the transactions contemplated to implement the Plan, the Debtor and the
17 Liquidating Agent will execute certain documents. As of the Effective Date, the Debtor and/or the
18 Liquidating Agent will execute such amendments, modifications, supplements, and other documents as
19 provided for in the Plan. The Debtor and/or the Liquidating Agent are authorized to execute such
20 amendments, modifications, supplements and other documents as provided for in the Plan without any
21 further corporate action, and upon such execution, such amendments, modifications, supplements and
22 other documents as provided for in the Plan shall be deemed binding upon the Debtor and/or the
23 Liquidating Agent and such other parties as applicable.

24 **G. Cancellation/Surrender of the Indentures And Related Agreements.**

25 As of the Effective Date, (a) the Indentures and Guarantee Agreements shall be cancelled and
26 deemed null and void and of no further force and effect (all without further act or action by any
27 Person), other than as evidence of any right to receive distributions under the Plan; and (b) the
28 obligations of the Debtor under the Indentures and Guarantee Agreements will be fully and finally

1 satisfied and released without any further act of the Bankruptcy Court. Notwithstanding the
2 termination of the Indentures, the provisions of such documents shall govern the relationships of the
3 Indenture Trustees and holders of the Indentures.

4 Following the Effective Date, holders of Allowed Class 4 Claims will receive from the
5 Indenture Trustees or their designees specific instructions regarding the time and manner in which the
6 Indentures are to be surrendered. Pending such surrender, such Indentures will be deemed cancelled
7 and shall represent only the right to receive the distributions to which the holder is entitled under this
8 Plan.

9 **VI. ESTABLISHMENT OF THE POST-CONFIRMATION COMMITTEE**

10 After the Effective Date, the Committee shall continue in effect and become the Post-
11 Confirmation Committee without further notice or Order of the Bankruptcy Court.

12 **A. Compensation.**

13 The members of the Post-Confirmation Committee shall serve without compensation for the
14 performance of services as members of the Post-Confirmation Committee; provided, however, that the
15 Post-Confirmation Committee members shall be reimbursed by the Liquidating Agent for any
16 reasonable out of pocket expenses that they incur in connection with their specified activities,
17 including without limitation, necessary travel, lodging, postage, telephone and facsimile charges, upon
18 receipt of periodic billings.

19 **B. Access to Information.**

20 The Liquidating Agent shall submit to the Post-Confirmation Committee such reports as the
21 Liquidating Agent deems reasonable or as the Post-Confirmation Committee reasonably requests,
22 including, without limitation, reports on the commencement and prosecution of Estate Causes of
23 Action. The Liquidating Agent shall timely respond to all inquiries of and requests for information by
24 the Post-Confirmation Committee in connection with the implementation and completion of the
25 liquidation of the Estate and the distribution of the assets of the Estate.

26 **C. Replacement of Liquidating Agent.**

27 The Post-Confirmation Committee may terminate the Liquidating Agent for “cause” and
28 upon order of the Bankruptcy Court. The definition of “cause” includes the Liquidating Agent’s

1 willful misconduct, negligence, fraud, or embezzlement in connection with the performance of his
2 duties. Following the Liquidating Agent's termination, or the Liquidating Agent's resignation, death
3 or incapacity, the Post-Confirmation Committee, in its sole discretion, shall select a successor
4 Liquidating Agent. Following the selection of any successor Liquidating Agent, the Post-
5 Confirmation Committee shall provide prompt notice of same to the Bankruptcy Court and to the
6 Office of the United States Trustee. In the event that the Post-Confirmation Committee does not select
7 a successor Liquidating Agent, a successor Liquidating Agent shall be appointed by the Bankruptcy
8 Court. Any successor Liquidating Agent shall have all of the powers of the Liquidating Agent set
9 forth in this Plan.

10 **D. Standing.**

11 The Post-Confirmation Committee shall have standing to appear before and be heard by the
12 Bankruptcy Court and any other court or judicial or administrative body in respect of any matter
13 connected with the liquidation of the Estate or implementation of the Plan.

14 **E. Employment of Professionals.**

15 After the Effective Date, the Post-Confirmation Committee is authorized to continue to
16 employ the Committee's pre-Effective Date counsel without further notice or approval of the
17 Bankruptcy Court. If the Post-Confirmation Committee retains any other professionals, it must
18 provide notice and obtain Bankruptcy Court approval. The Estate shall reimburse members of the
19 Post-Confirmation Committee for the reasonable fees and expenses of professionals employed by the
20 Post-Confirmation Committee in a manner consistent with the Liquidating Agent's professionals as a
21 cost of administering the Estate.

22 **F. Litigation.**

23 The Post-Confirmation Committee shall approve, and the Liquidating Agent may not,
24 without such approval, (i) commence any litigation (except for objections to Claims and Equity
25 Interests and the ability to prosecute or settle such objections to Claims or Equity Interests and to
26 defend claims and counterclaims asserted in connection therewith including by way of asserting the
27 Estate's rights of recoupment, setoff, or otherwise); or (ii) settle any litigation involving a Claim
28 against the Estate, or an amount in controversy, in excess of \$500,000.00 (other than as set forth in

1 section (i) above). In addition, the Liquidating Agent shall prosecute such Estate Causes of Action and
2 the D&O Claims as reasonably directed by the Post-Confirmation Committee; provided, however, in
3 the event that the Liquidating Agent elects not to prosecute certain Estate Causes of Action and/or
4 D&O Claims directed by the Post-Confirmation Committee, the Post-Confirmation Committee shall
5 have the power to commence such certain Estate Causes of Action and/or D&O Claims on behalf of
6 the Estate; provided further, however, such election by the Liquidating Agent not to prosecute such
7 certain Estate Causes of Action and/or D&O Claims shall not constitute “cause” to justify termination
8 of the Liquidating Agent under Section VI.C of this Plan.

9 **G. Governance.**

10 Any action of the Post-Confirmation Committee to be taken, or decision of the Post-
11 Confirmation Committee to be made, shall be deemed approved by the Post-Confirmation Committee
12 if approved by the majority of those members of the Committee who vote at a meeting of the Post-
13 Confirmation Committee. No vote on any action shall be valid unless every member of the Post-
14 Confirmation Committee has been provided with the following notice of the proposed vote on such
15 action: (a) at least 7 business days prior notice by facsimile, electronic mail or overnight delivery (plus
16 3 days delivery if such notice is made by regular mail); or (b) 72 hours telephonic notice, or unless the
17 affected member waives in writing its right to such notice or otherwise ratifies in writing such action.
18 The Post-Confirmation Committee may adopt by-laws which shall provide for the governance of the
19 Post-Confirmation Committee.

20 **H. Dissolution.**

21 The Post-Confirmation Committee shall be dissolved upon the earlier of (i) the date on which
22 its membership consists of only a single Person and (ii) the date on which the Final Decree has been
23 entered and is no longer subject to appeal. The Post-Confirmation Committee may voluntarily
24 dissolve itself upon ten (10) days notice to the Liquidating Agent, the United States Trustee, and the
25 Bankruptcy Court. Upon its dissolution, the Post-Confirmation Committee shall have no further
26 duties, responsibilities, or powers under this Plan or otherwise.

1 VII. **DISTRIBUTIONS UNDER THE PLAN.**

2 A. **In General.**

3 Except as otherwise provided herein, or as may be ordered by the Bankruptcy Court,
4 distributions to be made on account of Allowed Claims, other than Allowed Class 3 Claims and
5 Allowed Class 4 Claims, shall be made on the Effective Date. Allowed Class 3 Claims shall receive a
6 Pro Rata distribution of the Net Estate Cash Proceeds on the Initial Class 3 Distribution Date.
7 Distributions shall be made as soon as practicable after the Effective Date or the Initial Class 3
8 Distribution Date respectively. Allowed Class 4 Claims shall receive a Pro Rata distribution of the
9 Net Estate Cash Proceeds on the Initial Class 4 Distribution Date.

10 B. **Manner Of Payment Under The Plan.**

11 Any payment of Cash made by the Liquidating Agent pursuant to the Plan may be made
12 either by check drawn on a domestic bank or by wire transfer from a domestic bank, at the option of
13 the Liquidating Agent.

14 C. **Manner Of Distribution Of Other Property.**

15 Any distribution under the Plan of property other than Cash shall be made by the Liquidating
16 Agent in accordance with the terms of the Plan.

17 D. **Setoffs.**

18 The Liquidating Agent may set off against any Claim and the payments to be made pursuant
19 to the Plan in respect of such Claim, any claims of any nature whatsoever that the Debtor's Estate may
20 have against the holder of such Claim; provided that neither the failure to effect such set off nor the
21 allowance of any Claim that otherwise would be subject to set off, shall constitute a waiver or release
22 by the Debtor's Estate of any such claim the Debtor's Estate may have against such holder.

23 E. **Distribution of Unclaimed Property.**

24 Except as otherwise provided in the Plan, any distribution of property (Cash or otherwise)
25 under the Plan which is unclaimed after one year following the Confirmation Date shall be deemed
26 Net Estate Cash Proceeds and distributed Pro Rata to holders of Allowed Class 3 Claims and to
27 holders of Allowed Class 4 Claims (but only if the Allowed Class 3 Claims of FTBN have been paid
28 in full).

1 **F. De Minimis Distributions.**

2 No cash payment of less than five dollars shall be made by the Liquidating Agent to any
3 holder of a Claim unless a request therefor is made in writing to the Liquidating Agent.

4 **G. Record Date.**

5 On the Record Date, as defined in Section IV.A above, the transfer ledgers for the Indentures and the
6 Equity Interests shall be closed, and there shall be no further changes in the holders of record of such
7 securities. The Liquidating Agent shall not recognize any transfer of such securities occurring after
8 the Record Date, but shall instead be entitled to recognize and deal for all purposes with only those
9 holders of record stated on the applicable transfer ledgers as of the Record Date.

10 **H. Saturday, Sunday, Or Legal Holiday.**

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

14 **I. Delivery Of Distributions, Address Of Holder.**

15 For purposes of all notices and distributions under this Plan, the Liquidating Agent shall be
16 entitled to rely on the name and address of the holder of each Claim as shown on, and distributions to
17 holders of Allowed Claims shall be made by regular U.S. first class mail to, the following addresses:
18 (a) the address set forth on in the proofs of Claim Filed by such holders; (b) the address set forth in any
19 written notice of address change delivered by the holder to the Debtor or Liquidating Agent after the
20 date on which any related proof of Claim was Filed, or (c) the address reflected on the Schedules if no
21 proof of Claim or proof of Equity Interest is Filed and the Debtor or Liquidating Agent has not
22 received a written notice of a change of address. The Liquidating Agent shall be under no duty to
23 attempt to locate holders of Allowed Claims who are entitled to unclaimed distributions.

24 **VIII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

25 **A. Assumption.**

26 Effective upon the Effective Date, the Debtor hereby assumes those executory contracts and
27 unexpired leases which are listed in Exhibit "1" to the Plan. Pursuant to this Plan, the Debtor will also
28 assume the executory contracts and unexpired leases that are the subject of any specific order of the

1 Bankruptcy Court. The Debtor reserves the right to delete any contract or lease from Exhibit “1”, to
2 the Plan, thereby rejecting the contract or lease, up until the hearing on confirmation of the Plan by
3 filing with the Bankruptcy Court an amended Exhibit “1”, to the Plan and by giving notice to counsel
4 for the Committee and counsel for the non-debtor party to the contract or lease.

5 **B. Assumption And Cure Payment Objection.**

6 Exhibit “1” to the Plan specifies the amount (the “Cure Payment”), if any, that the Debtor
7 believes must be tendered on the Effective Date, in order to provide cure and compensation in
8 accordance with sections 365(b)(1)(A) & (B) of the Bankruptcy Code. The deadline for any
9 objections to the Cure Payment amounts set forth in Exhibit “1” shall be the date for filing objections
10 to the Plan, and no other objections to such Cure Payment will be timely. In the event that any party to
11 a listed contract or lease on Exhibit “1” contends that the Cure Payment amount so listed is incorrect,
12 such party must file with the Bankruptcy Court and serve upon counsel for the Debtor and the
13 Committee a written statement and an accompanying declaration in support thereof specifying the
14 amounts allegedly owing under sections 365(b)(1)(A) & (B) of the Bankruptcy Code no later than the
15 date fixed for filing objections to the confirmation of the Plan. Failure to timely file and serve such
16 statement shall result in the determination that the Debtor’s tender of the Cure Payment, as specified in
17 Exhibit “1”, on the Effective Date, shall provide cure and compensation for any and all defaults and
18 unpaid obligations under such assumed executory contract or unexpired lease.

19 In the event that any party to a listed contract or lease specified in Exhibit “1” objects to the
20 proposed assumption by the Debtor, such party must file with the Bankruptcy Court and serve upon
21 counsel for the Debtor and the Committee a written statement and an accompanying declaration in
22 support thereof no later than the date fixed for filing objections to the confirmation of the Plan.
23 Failure timely to file and serve such statement shall result in the determination that the assumption is
24 appropriate.

25 The Debtor reserves the right to respond to any objection filed by any party to an executory
26 contract or unexpired lease under this paragraph and/or to reject any executory contract or unexpired
27 lease or assume such contract or unexpired lease by complying with section 365(b) of the
28 Bankruptcy Code. To the extent the Debtor disagrees with any objection filed by any party to an

1 executory contract or unexpired lease under this paragraph, the Debtor will request that the
2 Bankruptcy Court declare that the Cure Payment is as stated by the Debtor, and that the proposed
3 assumption is appropriate, and any disputes shall be resolved by the Bankruptcy Court.

4 Entry of the Confirmation Order shall constitute approval of the assumptions under the Plan
5 pursuant to section 365 of the Bankruptcy Code. All Cure Payments which may be required by section
6 365(b)(1) of the Bankruptcy Code shall be made on the Effective Date or as soon thereafter as is
7 practicable or as may otherwise be agreed by the parties to any particular contracts or leases.

8 **C. Rejection.**

9 With the exception of those executory contracts and unexpired leases that have been
10 previously assumed, assumed pursuant to Section VIII.A, above, or rejected by order of the
11 Bankruptcy Court pursuant to Bankruptcy Code section 365, as of the Effective Date, the Debtor shall
12 reject, pursuant to Bankruptcy Code section 365, all other executory contracts and unexpired leases.
13 Exhibit "2" to the Plan is a non-exclusive list of rejected contracts.

14 **D. General.**

15 Inclusion of a matter in Exhibit "1" or "2" does not constitute an admission by the Debtor
16 that an executory contract or unexpired lease exists, is valid or is an executory contract or unexpired
17 lease. As a matter of prudence, Exhibits "1" and "2" include contracts and leases which may have
18 previously been rejected or canceled or assigned or which may have expired. Entry of the
19 Confirmation Order shall constitute approval of the rejections under the Plan pursuant to section
20 365(a) of the Bankruptcy Code.

21 All Allowed Claims arising from the rejection of executory contracts or unexpired leases,
22 whether under the Plan or by separate proceeding, shall be treated as Class 3 Claims under the Plan.

23 All Claims arising from the rejection of executory contracts or unexpired leases, whether
24 under the Plan or by separate proceeding, must be filed with the Bankruptcy Court on or before such
25 date as the Bankruptcy Court has fixed pursuant to the Bar Date Order with respect to Claims arising
26 from the rejection of specified executory contracts and unexpired leases, or, if rejected pursuant to
27 the Plan, on or before the day that is 30 days after the Effective Date or, if such day is not a Business
28 Day, the first Business Day occurring thereafter. Any such Claims which are not filed within such

1 time will be forever barred from assertion against the Debtor's Estate, the Debtor, the Liquidating
2 Agent, and the Estate's property.

3 **IX. EFFECTIVENESS OF THE PLAN**

4 **A. Conditions Precedent.**

5 The Effective Date shall not occur until the Confirmation Order has been entered on the
6 docket of the Bankruptcy Court and no stay of the Confirmation Order is in effect, unless this
7 condition has been waived in writing by the Debtor.

8 **B. Notice Of Effective Date.**

9 As soon as practicable after the Effective Date has occurred, the Debtor shall file with the
10 Bankruptcy Court an informational notice specifying the Effective Date, as a matter of record.

11 **X. RETENTION OF JURISDICTION**

12 Following the Confirmation Date, the Bankruptcy Court shall retain jurisdiction of all
13 matters arising out of, or related to, the Chapter 11 Case and the Plan pursuant to, and for the purposes
14 of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following
15 purposes:

16 **A.** To hear and determine pending motions for the assumption, assumption and
17 assignment, or rejection of executory contracts or unexpired leases, if any are pending as of the
18 Effective Date, the determination of any cure payments related thereto, and the allowance or
19 disallowance of Claims resulting therefrom;

20 **B.** To hear and determine pending motions for sale of assets outside the ordinary course
21 of business pursuant to section 363 of the Bankruptcy Code, if any are pending as of the Effective
22 Date;

23 **C.** To determine any and all adversary proceedings, applications, motions, and contested
24 matters instituted prior to the closing of the Chapter 11 Case;

25 **D.** To ensure that distributions to holders of Allowed Claims are accomplished as
26 provided herein;

27 **E.** To hear and determine any objections to Administrative Expenses and to Proofs of
28 Claims filed both before and after the Effective Date, and to allow or disallow any Disputed Claim in

1 whole or in part;

2 F. To enter and implement such orders as may be appropriate in the event the
3 Confirmation Order is for any reason stayed, revoked, modified, or vacated;

4 G. To issue orders in aid of execution of the Plan and to issue injunctions or take such
5 other actions or make such other orders as may be necessary or appropriate to restrain interference
6 with this Plan or its execution or implementation by any entity;

7 H. To consider any modifications of the Plan, to cure any defect or omission, or to
8 reconcile any inconsistency in the Plan or any order of the Bankruptcy Court, including, without
9 limitation, the Confirmation Order;

10 I. To hear and determine all applications for compensation and reimbursement of
11 expenses of professionals under sections 330, 331, and 503(b) of the Bankruptcy Code;

12 J. To hear and determine any disputes arising in connection with the interpretation,
13 implementation, execution, or enforcement of the Plan, the Confirmation Order or any other order of
14 the Bankruptcy Court;

15 K. To hear or determine any action to recover assets of the Estate, wherever located,
16 including any and all Estate Causes of Action;

17 L. To hear and determine any actions or matters related to Estate Causes of Action,
18 whether or not such actions or matters are pending on the Effective Date;

19 M. To hear and determine any matters concerning state, local, and federal taxes in
20 accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

21 N. To hear any other matter not inconsistent with the Bankruptcy Code;

22 O. To hear any other matter deemed relevant by the Court; and

23 P. To enter a Final Decree closing the Chapter 11 Case.

24 **XI. MISCELLANEOUS PROVISIONS**

25 **A. Payment Of Statutory Fees.**

26 All quarterly fees due and payable to the Office of the United States Trustee pursuant to
27 section 1930(a)(6) of title 28 of the United States Code shall be duly paid in full on or before the
28 Effective Date, as required by section 1129(a)(12) of the Bankruptcy Code. The Estate shall be

1 responsible for timely payment of such quarterly fees due and payable after the Effective Date and
2 until the Chapter 11 Case is closed, pursuant to section 1930(a)(6) of title 28 of the United States
3 Code, with respect to cash disbursements made by the Disbursing Agent under the Plan. After the
4 Effective Date and until the Chapter 11 Case is closed, the Liquidating Agent shall file with the Office
5 of the United States Trustee monthly financial reports specifying all disbursements made pursuant to
6 the Plan and shall make all payments based upon such disbursements as required by applicable law.

7 **B. Satisfaction and Termination.**

8 Except as otherwise expressly provided in this Plan or the Confirmation Order, as of the
9 Effective Date, all entities that have held, currently hold or may hold a Claim that is satisfied pursuant
10 to the terms of the Plan are permanently enjoined from taking any of the following actions against the
11 Debtor, the Estate, the Liquidating Agent, the Committee, their successors or their property on account
12 of any such satisfied Claims: (a) commencing or continuing, in any manner or in any place, any action
13 or other proceeding; (b) enforcing, attaching, collecting or recovering in any manner any judgment,
14 award, decree or order; (c) creating, perfecting or enforcing any lien or encumbrance; (d) asserting a
15 setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to
16 the Debtor or the Liquidating Agent; and (e) commencing or continuing any action, in any manner or
17 in any place, that does not comply with or is inconsistent with the provisions of the Plan.

18 **C. Preservation Of Rights Of Action.**

19 Except to the extent any rights, claims, causes of action, defenses, and counterclaims are
20 expressly and specifically released in connection with this Plan or in any settlement agreement
21 approved during the Chapter 11 Case: (i) any and all Estate Causes of Action and D&O Claims
22 accruing to the Debtor's Estate shall vest in the Estate on the Effective Date, whether or not litigation
23 relating thereto is pending on the Effective Date, and whether or not any such Estate Causes of Action
24 and/or D&O Claims have been listed or referred to in this Plan, the Disclosure Statement, or any other
25 document filed with the Bankruptcy Court, and (ii) the Debtor's Estate does not waive, release,
26 relinquish, forfeit, or abandon (nor shall it be estopped or otherwise precluded or impaired from
27 asserting) any Estate Cause of Action or Estate Claim that constitutes property of the Debtor's Estate:
28 (a) whether or not such Estate Cause of Action and/or Estate Claim has been listed or referred to in

1 this Plan, the Disclosure Statement, or any other document filed with the Bankruptcy Court, (b)
2 whether or not such Estate Cause of Action or Estate Claim is currently known to the Debtor or the
3 Liquidating Agent, and (c) whether or not a defendant in any litigation relating to such Estate Cause of
4 Action and/or Estate Claim filed a proof of claim in the Chapter 11 Case, filed a notice of appearance
5 or any other pleading or notice in the Chapter 11 Case, voted for or against this Plan, or received or
6 retained any consideration under this Plan.

7 **D. Headings.**

8 Headings are used in the Plan for convenience and reference only, and shall not constitute a part of
9 the Plan for any other purpose.

10 **E. Binding Effect.**

11 The Plan shall be binding upon and inure to the benefit of the Debtor's Estate, holders of Claims,
12 holders of Equity Interests, and their respective successors or assigns.

13 **F. Revocation Or Withdrawal.**

14 1. Right To Revoke.

15 The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date.

16 2. Effect Of Withdrawal Or Revocation.

17 If the Debtor revokes or withdraws the Plan prior to the Confirmation Date, or if the
18 Confirmation Date or the Effective Date does not occur, then the Plan shall be deemed null and void.
19 In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims
20 by or against the Debtor or its Estate or any other person or to prejudice in any manner the rights of the
21 Debtor, the Debtor or its Estate or any person in any further proceedings involving the Debtor.

22 **G. Governing Law.**

23 Unless a rule of law or procedure is supplied by (i) federal law (including the Bankruptcy
24 Code and Bankruptcy Rules), or (ii) an express choice of law provision in any agreement, contract,
25 instrument or document provided for, or executed in connection with, this Plan, the rights and
26 obligations arising under the Plan and any agreements, contracts, documents and instruments executed
27 in connection with this Plan shall be governed by, and construed and enforced in accordance with, the
28 laws of the State of California without giving effect to the principles of conflict of laws thereof.

1 **H. Withholding, Reporting, And Payment Of Taxes.**

2 In connection with the Plan and all instruments issued in connection therewith and
3 distributions thereon, the Liquidating Agent shall comply with all withholding and reporting
4 requirements imposed by any federal, state, local, or foreign taxing authority and all distributions
5 hereunder shall be subject to any such withholding and reporting requirements. The Liquidating
6 Agent shall report and pay taxes on the income of the Reserves as required by applicable law. In
7 addition, to the extent required by applicable law, reported distributions from such reserves shall
8 include all interest and investment income, if any, attributable to the Cash or property being distributed
9 net of taxes which are, or are estimated to be, due and payable thereon.

10 **I. Other Documents And Actions.**

11 The Debtor on and prior to the Effective Date and the Liquidating Agent after the Effective
12 Date may execute such other documents and take such other actions as may be necessary or
13 appropriate to effectuate the transactions contemplated under this Plan.

14 **J. Modification Of The Plan.**

15 Prior to the Effective Date, the Debtor shall have the sole authority and power to alter,
16 amend, or modify the Plan pursuant to section 1127 of the Bankruptcy Code. After the Effective Date,
17 the Liquidating Agent shall have the sole authority and power to alter, amend, or modify the Plan
18 pursuant to section 1127 of the Bankruptcy Code.

19 **K. Notices.**

20 Any notice to the Debtor, Liquidating Agent, Committee, or United States Trustee required or
21 permitted to be provided under the Plan shall be in writing and served by either (a) certified mail,
22 return receipt requested, postage prepaid, (b) hand delivery, or (c) reputable overnight delivery service,
23 freight prepaid, to be addressed as follows:

24

25 **Debtor:**

26 Vineyard National Bancorp
27 4000 Barranca Parkway
28 Suite 250
 Irvine, CA 92604
 Attention: Donald H. Pelgrim, Jr.

1 **With a copy to:**

2 Landau & Berger LLP
3 1801 Century Park East
4 Suite 1460
5 Los Angeles, CA 90067
6 Attention: Jon L. Dalberg

7 **Liquidating Agent:**

8 [TO COME]

9 **Committee Counsel:**

10 Winston & Strawn LLP
11 101 California Street, 39th Floor
12 San Francisco, California 94111-5802
13 Attention: Robert A. Julian, Esq./ Todd Dressel, Esq.

14 **Office of the United States Trustee:**

15 United States Trustee
16 3685 Main Street Suite 300
17 Riverside, CA 92501
18 Attention: Timothy Farris

19 **L. Severability of Plan Provisions.**

20 If, prior to Confirmation, any term or provision of the Plan does not govern the treatment of
21 Claims or Equity Interests, or is held by the Bankruptcy Court to be invalid, void or unenforceable, the
22 Bankruptcy Court shall have the power to alter and interpret such term(s) or provision(s) to make it
23 valid or enforceable to the maximum extent practicable, consistent with the original purpose of the
24 term or provision held to be invalid, void or unenforceable, and such term or provision shall then be
25 applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the
26 remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no
27 way be affected, impaired or invalidated by such holding, alteration or interpretation. The
28 Confirmation Order shall constitute a judicial determination and shall provide that each term and
provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is
valid and enforceable pursuant to its terms.

M. Successors And Assigns.

The rights, benefits, and obligations of any entity named or referred to in the Plan shall be
binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors, and

1 assigns of such entity.

2 N. **Post-Confirmation Notice.**

3 From and after the Effective Date, any person who desires notice of any pleading or document filed
4 in the Bankruptcy Court, or any hearing in the Bankruptcy Court, or other matter as to which the
5 Bankruptcy Code requires notice to be provided, shall file a request for post-confirmation notice and
6 shall serve the request on the Liquidating Agent; provided, however, the United States Trustee shall be
7 deemed to have requested post-confirmation notice.

8 DATED: November 16, 2009

Respectfully submitted,

VINEYARD NATIONAL BANCORP

By:

/s/ Donald H. Pelgrim

Donald H. Pelgrim

Executive Vice President and Chief

Administrative Officer of Debtor

Vineyard National Bancorp.

17 Presented By:

18 LANDAU & BERGER, LLP

19 By: /s/ Jon L. R. Dalberg

20 Jon L.R. Dalberg

21 Attorneys for Vineyard National Bancorp

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LIST OF EXHIBITS

- Exhibit "1" List of Executory Contracts Assumed
- Exhibit "2" List of Executory Contracts Rejected

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EXHIBIT "1" TO PLAN

LIST OF ASSUMED CONTRACTS

Effective upon the Effective Date, the Debtor hereby assumes the following executory contracts and unexpired leases, and will make the Cure Payments so specified. Inclusion herein does not constitute an admission by the Debtor that an executory contract or unexpired lease exists, is valid or that it is an executory contract or lease. As a matter of prudence, the following list includes contracts and leases which may have previously been rejected or canceled or assigned or which may have expired:

NONE

EXHIBIT "2" TO PLAN

LIST OF REJECTED CONTRACTS

Effective upon the Effective Date, the Debtor hereby rejects the following executory contracts and unexpired leases. Inclusion herein does not constitute an admission by the Debtor that an executory contract or unexpired lease exists, is valid or that it is an executory contract or lease. Notwithstanding any failure to list an executory contract or unexpired lease on this Exhibit "2", the provisions of section VIII.C of the Plan operate to reject all executory contracts and unexpired leases that have not been previously assumed, assumed pursuant to Section VIII.A of the Plan, or rejected by order of the Bankruptcy Court pursuant to Bankruptcy Code section 365. As a matter of prudence, the following list includes contracts and leases which may have previously been rejected or canceled or assigned or which may have expired:

REF #	NAME	ADDRESS	AGREEMENT	DATE
	Mini-U-Storage III	2975 Warner Ave., Irvine, CA 92606	Rental Agreement	7/27/09
	Premier Business Centers	4000 Barranca Parkway, Suite 250, Irvine, CA 92604	License Agreement	7/13/09

In re: VINEYARD NATIONAL BANCORP,	Debtor.	CHAPTER 11
		CASE NUMBER 09-26401-RN

PROOF OF SERVICE OF DOCUMENT

I, Natalie M. Cereseto, am employed in the city and county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is: Landau & Berger LLP, 1801 Century Park East, Suite 1460, Los Angeles, CA 90067.

A true and correct copy of the foregoing document described: **DEBTOR'S PLAN OF LIQUIDATION** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On November 30, 2009, I checked the CM/ECF docket for this bankruptcy case and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

Timothy J Farris timothy.j.farris@usdoj.gov
United States Trustee (RS) ustpreion16.rs.ecf@usdoj.gov

Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL(indicate method for each person or entity served):

On November 30, 2009, I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

BY U.S. MAIL

Honorable Richard M. Neiter
U.S. Bankruptcy Court
255 East Temple Street, Suite 1652
Los Angeles, CA 90012

United States Trustee
Timothy J Farris
3685 Main St Ste 300
Riverside, CA 92501

Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____, I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

November 30, 2009
Date

Natalie M. Cereseto
Type Name

NMCereseto
Signature

In re: VINEYARD NATIONAL BANCORP,

Debtor.

CHAPTER 11

CASE NUMBER 09-26401-RN

Additional Service Information (if needed):

I. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (“NEF”)

Henkie F Barron hbarron@winston.com, docketsf@winston.com
Jeffrey W Broker jbroker@brokerlaw.biz
Jon L Dalberg jdalberg@lblawllp.com, mprokocki@lblawllp.com
Jesse S Finlayson jfinlayson@faw-law.com, wmills@faw-law.com
Ivan L Kallick ikallick@manatt.com, ihernandez@manatt.com
Sharon M Kopman skopman@lblawllp.com, skopman@lblawllp.com;ncereseto@lblawllp.com
Rodger M Landau rlandau@lblawllp.com, kmoss@lblawllp.com
John W Mills jmills@kilpatrickstockton.com
Hydee J Mulichak Hydee.Mulichak@sbgk.com
Marie C Pollio bankruptcy@goodwin.com
Ramesh Singh claims@recoverycorp.com

II. SERVED BY U.S. MAIL

Counsel to Creditor's Committee

Robert A. Julian, Esq.
Todd J. Dressel, Esq.
Winston & Strawn LLP
101 California Street
San Francisco, CA 94111-5894

Eric E. Sagerman, Esq.
Winston & Strawn LLP
333 South Grand Avenue, 38th Floor
Los Angeles, California 90071

Counsel for Secured Lender FTBN

Leonard M. Shulman
Shulman, Hodges & Bastian LLP
26632 Towne Centre Drive, Suite 300
Foothill Ranch, CA 92610