

**Exhibit 2**

**Redline Disclosure Statement**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
HAMPSHIRE GROUP, LIMITED, <u>et al.</u> , <sup>1</sup>	)	Case No.: 16-12634 (BLS)
	)	
Debtors.	)	(Jointly Administered)
	)	

**DISCLOSURE STATEMENT FOR FIRST AMENDED JOINT CHAPTER 11 PLAN OF  
LIQUIDATION  
PROPOSED BY THE DEBTORS AND THE OFFICIAL COMMITTEE ~~OF~~  
OF UNSECURED CREDITORS OF HAMPSHIRE GROUP, LTD., ET AL.**

THIS PROPOSED DISCLOSURE STATEMENT HAS BEEN SUBMITTED FOR BANKRUPTCY COURT APPROVAL BUT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT. THIS IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF ANY CHAPTER 11 PLAN. ACCEPTANCES OR REJECTIONS OF A CHAPTER 11 PLAN MAY NOT BE SOLICITED UNTIL A DISCLOSURE STATEMENT HAS BEEN APPROVED ON AN INTERIM BASIS BY THE BANKRUPTCY COURT.<sup>2</sup>

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Dated: Wilmington, Delaware  
~~July 19~~ August \_\_, 2017

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<sup>1</sup> The Debtors are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Hampshire Group, Limited (7107), Hampshire Brands, Inc., f/k/a Hampshire Designs, Inc. (1174), and Hampshire International, LLC (5327).

<sup>2</sup> This text box will be removed upon entry of an order of the Bankruptcy Court approving this Disclosure Statement on an interim basis.

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**EXHIBITS**

- A. Plan**
- B. Committee Liquidation Analysis**
- C. Liquidation Trust Agreement**

I.

INTRODUCTION

Hampshire Group, Limited, Hampshire Brands, Inc., and Hampshire International, LLC (collectively, the “Debtors”), the debtors and debtors-in-possession in the above-captioned cases (the “Chapter 11 Cases”) pending in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”) and the Official Committee of Unsecured Creditors of Hampshire Group, Limited, *et al.* (the “Committee” or “Creditors’ Committee” and, collectively with the Debtors, the “Plan Proponents”), hereby submit this disclosure statement, dated as of ~~July 19~~ August [ ], 2017 (as amended, modified, or supplemented from time to time, including all exhibits hereto, the “Disclosure Statement”), pursuant to section 1125 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”), with respect to the First Amended Joint Chapter 11 Plan of Liquidation Proposed by the Debtors and the Official Committee of Unsecured Creditors of Hampshire Group, Ltd., et al., dated as of ~~July 19~~ August [ ], 2017 (as amended, modified, or supplemented from time to time, the “Plan”). This Disclosure Statement is to be used in connection with the solicitation by the Plan Proponents of votes on the Plan. A copy of the Plan is attached hereto as **Exhibit A**.

THE PLAN PROPONENTS HAVE SOUGHT APPROVAL OF THIS DISCLOSURE STATEMENT ON AN INTERIM BASIS FOR PURPOSES OF SOLICITING VOTES ON THE PLAN.

THE PLAN PROPONENTS WILL BE SEEKING APPROVAL OF THIS DISCLOSURE STATEMENT ON A FINAL BASIS AT THE SAME HEARING AT WHICH THE PLAN PROPONENTS WILL SEEK ENTRY OF AN ORDER OF THE BANKRUPTCY COURT CONFIRMING THE PLAN. ONLY HOLDERS OF ALLOWED CLAIMS IN CLASS 2 (GENERAL UNSECURED CLAIMS) ARE ENTITLED TO VOTE TO ACCEPT OR REJECT THE PLAN. HOLDERS OF SECURED CLAIMS IN CLASS 1 ARE UNIMPAIRED UNDER THE PLAN AND, THEREFORE, ARE DEEMED TO ACCEPT THE PLAN AND ARE NOT ENTITLED TO VOTE ON THE PLAN. HOLDERS OF INTERESTS IN CLASS 3 ARE IMPAIRED AND SHALL NOT RECEIVE OR RETAIN ANY PROPERTY ON ACCOUNT OF SUCH INTERESTS UNDER THE PLAN AND, THEREFORE, ARE DEEMED TO REJECT THE PLAN AND ARE NOT ENTITLED TO VOTE ON THE PLAN.

THE PLAN PROPONENTS BELIEVE THAT THE PLAN IS IN THE BEST INTERESTS OF AND PROVIDES THE HIGHEST AND MOST EXPEDITIOUS RECOVERIES TO HOLDERS OF ALL CLAIMS AGAINST THE DEBTORS. THE PLAN PROPONENTS URGE ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO ACCEPT THE PLAN.

THE SOLICITATION PACKAGE ACCOMPANYING EACH OF THE BALLOTS CONTAINS APPLICABLE VOTING INSTRUCTIONS. **TO BE COUNTED, YOUR BALLOT MUST BE PROPERLY COMPLETED, SIGNED, AND ACTUALLY RECEIVED BY COUNSEL TO THE COMMITTEE ON OR PRIOR TO 5:00 P.M.**

(PREVAILING EASTERN TIME), ON SEPTEMBER 620, 2017 (THE “VOTING DEADLINE”).

All capitalized terms used in this Disclosure Statement and not defined herein shall have the meanings ascribed to such terms in the Plan. Unless otherwise stated, all references herein to “Exhibits” are references to exhibits to this Disclosure Statement.

## II.

### NOTICE TO HOLDERS OF CLAIMS

The purpose of this Disclosure Statement is to enable you, as a creditor whose Claim is impaired under the Plan, to make an informed decision in exercising your right to accept or reject the Plan.

**THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT INFORMATION THAT MAY BEAR UPON YOUR DECISION TO VOTE TO ACCEPT OR REJECT THE PLAN. PLEASE READ THIS DOCUMENT WITH CARE.**

**PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF. IN THE EVENT OF ANY CONFLICT BETWEEN THE DESCRIPTION SET FORTH IN THIS DISCLOSURE STATEMENT AND THE TERMS OF THE PLAN OR ANY OTHER APPLICABLE DOCUMENT, THE TERMS OF THE PLAN OR ANY SUCH APPLICABLE DOCUMENT SHALL GOVERN.**

**THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016(b) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE (THE “BANKRUPTCY RULES”) AND NOT NECESSARILY IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAW OR OTHER NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT HAS BEEN NEITHER APPROVED NOR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION (THE “SEC”), NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT. PERSONS OR ENTITIES TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING SECURITIES OR CLAIMS OF THE DEBTORS SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSE FOR WHICH SUCH DOCUMENTS WERE PREPARED.**

**THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS UNAUDITED. BECAUSE OF THE DEBTORS’ FINANCIAL DIFFICULTIES AND THE COMPLEXITY OF THE DEBTORS’ FINANCIAL MATTERS, THE BOOKS AND RECORDS OF THE DEBTORS, UPON WHICH THIS**

**DISCLOSURE STATEMENT IN PART IS BASED, MAY BE INCOMPLETE OR INACCURATE. THE PLAN PROPONENTS HAVE MADE REASONABLE EFFORTS TO FAIRLY PRESENT ALL SUCH INFORMATION.**

**THE CONTENTS OF THIS DISCLOSURE STATEMENT SHOULD NOT BE CONSTRUED AS LEGAL, BUSINESS OR TAX ADVICE. EACH CREDITOR SHOULD CONSULT ITS OWN LEGAL COUNSEL, ACCOUNTANTS AND/OR ADVISORS AS TO ANY POTENTIAL LEGAL, TAX OR OTHER MATTERS CONCERNING SUCH CREDITOR.**

**THIS DISCLOSURE STATEMENT CONTAINS PROJECTIONS WITH RESPECT TO THE ORDERLY LIQUIDATION OF THE DEBTORS' ESTATES. THERE CAN BE NO ASSURANCE THAT ANY ASSUMPTIONS CONTAINED IN THIS DISCLOSURE STATEMENT ARE ACCURATE OR WILL BE SUCCESSFULLY CONCLUDED. PROJECTIONS, BY NATURE, ARE BASED UPON FUTURE EVENTS THAT CANNOT BE PREDICTED WITH ANY DEGREE OF CERTAINTY. CERTAIN RISKS (INCLUDING LITIGATION AND COLLECTION RISKS), UNCERTAINTIES, AND CONTINGENCIES BEYOND THE CONTROL OF EITHER PLAN PROPONENT MAY ARISE, THEREBY RESULTING IN AN ACTUAL OUTCOME THAT COULD BE MATERIALLY DIFFERENT (POSITIVE OR NEGATIVE) FROM THE PROJECTIONS. THE PLAN PROPONENTS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND AS TO THE ACTUAL OUTCOME OF ANY FUTURE LIQUIDATION ACTIVITIES, INCLUDING ANY LEVEL OF RECOVERIES FROM ANY FILED LITIGATION. EACH CREDITOR AND ITS RESPECTIVE COUNSEL AND/OR ADVISORS MUST CAREFULLY READ AND CONSIDER THE ASSUMPTIONS THAT ARE PART OF THE PROJECTIONS IN DETERMINING WHETHER TO VOTE FOR OR AGAINST THE PLAN.**

**AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, SECURITIES, OR OTHER LEGAL EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST, OR EQUITY INTERESTS IN, THE DEBTORS AND DEBTORS IN POSSESSION IN THESE CHAPTER 11 CASES.**

**FOR THE AVOIDANCE OF DOUBT, NOTHING SET FORTH IN THE PLAN OR IN THIS DISCLOSURE STATEMENT SHALL CONSTITUTE A GUARANTEE, WAIVER, ADMISSION, OR CONCESSION OF ANY KIND BY EITHER PLAN PROPONENT OR BY ANY OTHER PERSON OR ENTITY ACTING IN ANY CAPACITY.**

Each Holder of a Claim entitled to vote to accept or reject the Plan should read this Disclosure Statement and the Plan in their entirety before voting. No solicitation of votes to



accept or reject the Plan may be made except pursuant to this Disclosure Statement and section 1125 of the Bankruptcy Code. Except for the Plan Proponents (in their capacity as such) and certain of the professionals they have retained, no person has been authorized to use or promulgate any information with respect to this Disclosure Statement, the Plan, and/or the solicitation of votes to accept or reject the Plan other than the information contained in this Disclosure Statement, and any information not contained in this Disclosure Statement may not be relied upon as having been authorized by the Plan Proponents with respect to solicitation of votes on the Plan. You should not rely on any information relating to this Disclosure Statement, the Plan, and/or the solicitation of votes to accept or reject the Plan other than the information contained in this Disclosure Statement and in the Exhibits hereto.

After carefully reviewing this Disclosure Statement, including the attached Exhibits, please indicate your acceptance or rejection of the Plan by voting either to “accept the Plan” or to “reject the Plan” on the enclosed ballot and return the completed ballot to the address set forth on the ballot, in the enclosed return envelope. All votes to accept or reject the Plan must be cast by using the appropriate ballot. Votes which are cast in any other manner will not be counted. **To be counted, your signed original ballot must be actually received by counsel to the Committee at the address listed on the ballot no later than the Voting Deadline. If you have questions regarding the voting procedures, please contact Steven W. Golden, Pachulski Stang Ziehl & Jones LLP, counsel to the Committee, at [sgolden@pszjlaw.com](mailto:sgolden@pszjlaw.com) or at (212) 561-7700.**

**DO NOT RETURN ANY OTHER DOCUMENTS WITH YOUR BALLOT.**

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against, or Interest in, the Debtors and their respective successors and assigns, whether or not the Claim or Interest of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan.

**THE PLAN PROPONENTS URGE ALL HOLDERS OF ALLOWED CLAIMS IN CLASS 2 (GENERAL UNSECURED CLAIMS) TO ACCEPT THE PLAN.**

**III.**

**EXPLANATION OF CHAPTER 11**

**A. Overview of Chapter 11**

Chapter 11 is the principal chapter of the Bankruptcy Code pursuant to which a corporation or business entity, acting as the debtor in possession, may reorganize its business or liquidate in an orderly fashion for the benefit of its creditors and other parties in interest.

The commencement of a chapter 11 case creates an estate comprising all the legal and equitable interests of the debtor as of the date the petition is filed. Sections 1101, 1107, and 1108 of the Bankruptcy Code provide that a debtor may continue to operate its business and remain in possession of its property as a “debtor in possession” unless the bankruptcy court orders the appointment of a trustee. In the Debtors’ Chapter 11 Cases, the Debtors remain as

debtors in possession. Additionally, pursuant to section 1102(a) of the Bankruptcy Code, the United States Trustee for Region 3 (the “U.S. Trustee”) appointed the Committee to represent the interests of all unsecured creditors in these Chapter 11 Cases.

The filing of a petition under the Bankruptcy Code triggers the automatic stay provisions of the Bankruptcy Code. Section 362 of the Bankruptcy Code provides, among other things, for an automatic stay of all attempts by creditors or other third parties to collect on prepetition claims against a debtor or otherwise interfere with the debtor’s property or business. Section 362(b) of the Bankruptcy Code provides, among other things, that the exercise of certain regulatory or policing powers by governmental authorities is not subject to the automatic stay. Except as otherwise ordered by the bankruptcy court, the automatic stay remains in full force and effect until the effective date of a confirmed chapter 11 plan.

## **B. Chapter 11 Plan**

The formulation of a chapter 11 plan is a principal goal and purpose of a chapter 11 case. The chapter 11 plan sets forth, among other things, the means for satisfying claims against and interests in a debtor’s estate. A chapter 11 plan may provide anything from a complex restructuring of a debtor’s business and its related obligations to a simple liquidation of the debtor’s assets. Upon confirmation of the chapter 11 plan, it becomes binding on the debtor and all of its creditors, equity holders and other parties, and all prior obligations owed by the debtor to any such parties are compromised and exchanged for the obligations specified in the chapter 11 plan. In these Chapter 11 Cases, the Plan includes provisions which the Plan Proponents believe provide a fair and equitable allocation of the Debtors’ Assets that will be distributed to creditors through the Liquidation Trust created under the Plan.

After a chapter 11 plan has been filed, the holders of allowed impaired claims against a debtor are permitted to vote to accept or reject the plan. Section 1125 of the Bankruptcy Code requires that, before soliciting acceptances of the Plan, the Plan Proponents prepare and file a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the Plan. **This Disclosure Statement is presented to Holders of Claims against the Debtors to satisfy the requirements of section 1125 of the Bankruptcy Code in connection with the Plan Proponents’ solicitation of votes on the Plan.**

## **C. Confirmation of a Chapter 11 Plan**

If all classes of claims and/or interests, as applicable, that are entitled to vote accept a chapter 11 plan, the bankruptcy court may confirm the plan if the bankruptcy court independently determines that the requirements of section 1129(a) of the Bankruptcy Code have been satisfied. **The Plan Proponents believe the Plan satisfies all the applicable requirements of section 1129(a) of the Bankruptcy Code.**

Chapter 11 of the Bankruptcy Code does not require that each holder of a claim or interest in a particular class vote in favor of a chapter 11 plan for the bankruptcy court to determine that the class has accepted the plan. Rather, a class of claims will be deemed to have accepted a chapter 11 plan if the court determines that the plan has been accepted by creditors,

other than any entity designated under section 1126(e) of the Bankruptcy Code, that hold at least two-thirds in amount and more than one-half in number of the allowed claims of such class that have voted to accept or reject the plan. **In these Chapter 11 Cases, only the Holders of Allowed Claims in Class 2 (General Unsecured Claims) who timely submit a ballot by the Voting Deadline will be counted as either accepting or rejecting the Plan.**

In addition, classes of claims or interests that are not “impaired” under a chapter 11 plan are conclusively presumed to have accepted the plan and thus are not entitled to vote. Furthermore, classes that are to receive no distribution under the plan are conclusively deemed to have rejected the plan. Accordingly, acceptances of a chapter 11 plan generally will be solicited only from holders of claims or interests in an impaired class. **In these Chapter 11 Cases, Class 2 (General Unsecured Claims) is the only impaired Class under the Plan that is entitled to vote to accept or reject the Plan. Holders of Class 1 Secured Claims are unimpaired under the Plan and, therefore, are deemed to accept the Plan and are not entitled to vote. Holders of Class 3 Interests are impaired and shall not receive or retain any property on account of such Interests under the Plan and, therefore, are deemed to reject the Plan and are not entitled to vote.**

#### IV.

#### OVERVIEW OF THE PLAN

The Plan provides for the treatment of Claims against and Interests in the Debtors, as well as the treatment of certain unclassified Administrative Expense Claims, Priority Employee Claims, Professional Fee Claims, and Priority Tax Claims.

##### A. Plan Objectives

The Plan contemplates the substantive consolidation of the Debtors’ Estates into a single Estate for all purposes associated with Confirmation and Consummation. The Plan further provides for the establishment on the Effective Date of the Liquidation Trust for the primary purpose of administering and liquidating the Trust Assets and for the secondary purposes of, *inter alia*, (a) analyzing and pursuing Causes of Action; (b) resolving all Administrative Expense Claims, Professional Fee Claims, and Claims; and (c) making all Distributions provided for under the terms of the Plan. The Liquidation Trust shall be under the direction and control of the Liquidation Trustee, as trustee of the Liquidation Trust, subject to the terms of the Plan and the Liquidation Trust Agreement. On the Effective Date, all Assets of the Debtors’ Estates, including, but not limited to, Causes of Action, any recoveries related to the issuance of the Bond and the related letter of credit draw, certain accounts receivable, ~~any federal or state tax refunds,~~ and Cash, shall vest in the Liquidation Trust. The Plan contemplates the monetization of the Trust Assets and the distribution of the net proceeds thereof to Holders of Allowed Administrative Expense Claims, Allowed Priority Employee Claims, Allowed Professional Fee Claims, Allowed Priority Tax Claims, Allowed Secured Claims, and Allowed General Unsecured Claims in order of their payment priority as set forth in the Plan, in full and final satisfaction of the Debtors’ obligations to such Holders of Allowed Administrative Expense

Claims, Allowed Priority Employee Claims, Allowed Professional Fee Claims, Allowed Priority Tax Claims, Allowed Secured Claims, and Allowed General Unsecured Claims.

**B. Summary of Distributions Under the Plan and Committee Liquidation Analysis**

The following is a summary of the Distributions projected to be made under the Plan. It is qualified in its entirety by reference to the full text of the Plan, which is attached to this Disclosure Statement as **Exhibit A**. In the event of any conflict between the summary set forth in this Disclosure Statement and the terms of the Plan, the terms of the Plan shall govern.

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, Priority Employee Claims, Professional Fee Claims, and Priority Tax Claims, as described in Article V.A.1 through Article V.A.4 of the Plan, have not been classified in the Plan and, thus, are excluded from the Classes that follow. The following table summarizes the classification of the Classes of Claims and Interests under the Plan and whether you are entitled to vote on the Plan.

<u>CLASS</u>	<u>DESCRIPTION</u>	<u>IMPAIRED/ UNIMPAIRED</u>	<u>VOTING STATUS</u>
Class 1	Secured Claims	Unimpaired	Deemed to Accept
Class 2	General Unsecured Claims	Impaired	Voting
Class 3	Interests	Impaired	Deemed to Reject

Attached to this Disclosure Statement as **Exhibit B** is a liquidation analysis prepared by the professionals retained by the Committee (the “Committee Liquidation Analysis”) in support of confirmation of the Plan. As set forth in the Committee Liquidation Analysis, the Committee estimates that recoveries for Holders of Allowed Claims in Class 2 (General Unsecured Claims) could be between ~~0.2~~ [ ]% and ~~29~~ [ ]% under the Plan. The Committee also believes that Holders of Allowed Claims in Class 2 (General Unsecured Claims) would receive smaller distributions in a liquidation under chapter 7 of the Bankruptcy Code. The Committee Liquidation Analysis provides three alternative scenarios (low, middle, and high) under each of (i) the Plan and (ii) a liquidation under chapter 7 of the Bankruptcy Code, based on various factors in these Chapter 11 Cases, including, without limitation, the projected Allowed amounts of Administrative Expense Claims, Priority Employee Claims, Professional Fee Claims, Priority Tax Claims, Secured Claims, and General Unsecured Claims, estimated recoveries on assets that have not yet been liquidated, and estimated litigation recoveries, among others. Notably, the Committee estimates that, under the “Medium” estimated recovery, Holders of Allowed Claims in Class 2 (General Unsecured Claims) would recover approximately ~~13~~ [ ]% under the Plan as opposed to receiving approximately ~~4~~ [ ]% under the “Medium” estimated recovery in a liquidation under chapter 7 of the Bankruptcy Code. In addition, the Committee believes that distributions in a chapter 7 case would likely be delayed due to the time it will take a chapter 7 trustee to assess the Debtors’ assets, review and analyze claims, and evaluate and litigate claims

against third parties. The Committee encourages Holders of Allowed Claims in Class 2 (General Unsecured Claims), who are entitled to vote on the Plan, to review the Committee Liquidation Analysis (including all footnotes thereto) in assessing whether to accept or reject the Plan.

Because any recoveries on Causes of Action that may be asserted by the Liquidation Trust on behalf of the Debtors, their Estates, and/or the Liquidation Trust and any recoveries on certain other assets remain uncertain as of the filing of this Disclosure Statement, the Debtors are unable at this time to estimate the potential Distributions that could be made under the Plan to Holders of Allowed Claims in Class 2 (General Unsecured Claims). Nevertheless, based upon the Debtors' estimate of the value of their assets, together with the Debtors' understanding of the chapter 11 plan process, as well as the expected additional costs and delays incident to a liquidation under chapter 7 as outlined in Section IX.C of this Disclosure Statement, entitled "Best Interests of Creditors Test," the Debtors believe the Plan will provide a greater distribution to creditors than a liquidation under chapter 7.

## V.

### QUESTIONS AND ANSWERS REGARDING THIS DISCLOSURE STATEMENT AND THE PLAN

#### **Why are the Plan Proponents sending me this Disclosure Statement?**

The Plan Proponents are seeking Bankruptcy Court approval of the Plan. Prior to soliciting acceptances of the Plan, section 1125 of the Bankruptcy Code requires the preparation, filing, and approval of a Disclosure Statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding whether to accept or reject the Plan. On August [\_\_\_], 2017, the Bankruptcy Court entered an order, *inter alia*, approving the Disclosure Statement on an interim basis and authorizing the Plan Participants to solicit votes on the Plan. This Disclosure Statement is being sent to you in accordance with the Bankruptcy Court's order and the requirements of chapter 11 of the Bankruptcy Code.

#### **What happens to my recovery if the Plan is not confirmed or does not go effective?**

If the Plan is not confirmed and/or does not become effective in a timely manner, the Plan Proponents believe these Chapter 11 Cases would be converted to cases under chapter 7 of the Bankruptcy Code. The Plan Proponents believe that conversion to chapter 7 likely would, at a minimum, delay Distributions, may impact the value of certain of the Debtors' remaining Assets (such as accounts receivable), and likely would result in Holders of Allowed Claims in Class 2 (General Unsecured Claims) receiving smaller Distributions on account of their Allowed Claims. For a more detailed description of the consequences of conversion of these Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, see Section IX.C of this Disclosure Statement, entitled "Best Interests of Creditors Test."

**If the Plan provides that I get a distribution, do I get it upon Confirmation or when the Plan goes effective, and what do you mean when you refer to “Confirmation,” “Effective Date” and “Consummation?”**

“Confirmation” of the Plan refers to the approval of the Plan by the Bankruptcy Court. Confirmation of the Plan does not guarantee that you will receive the distribution contemplated under the Plan. After Confirmation of the Plan, there are conditions that need to be satisfied or waived so that the Plan can be consummated and become effective. References to the “Effective Date” mean the date that all conditions to the Plan becoming effective have been satisfied or waived and the Plan has been substantially consummated. Distributions will only be made on the Effective Date or as soon as practicable thereafter, based on, among other things, the terms of the Plan, the amount of Distributable Cash, the aggregate amounts of Administrative Expense Claims, Priority Employee Claims, Professional Fee Claims, Priority Tax Claims, Secured Claims, and General Unsecured Claims outstanding against the Debtors, the amount of Cash necessary to fund the Plan Reserves, and the Liquidation Trustee’s business judgment.

**Where is the Cash required to fund the Plan coming from?**

The Cash required to fund the Plan will come from, among other sources, (i) Cash held by the Debtors on the Effective Date; (ii) collection of the Debtors’ remaining unpaid accounts receivable; (iii) any recoveries related to the issuance of the Bond and the related letter of credit draw; (iv) monetization of any other Trust Assets; and (v) the prosecution and/or settlement of Causes of Action.

**How do I vote for or against the Plan?**

This Disclosure Statement and a ballot, or ballots, to be used for voting on the Plan are being distributed to the Holders of Allowed Claims in Class 2 (General Unsecured Claims) who are entitled to vote on the Plan. If you are a Holder of one or more Claims in Class 2 (the “Voting Class”), you may vote to accept or reject the Plan by completing the ballot and returning the signed original ballot in the enclosed envelope on or prior to the Voting Deadline.

**What is the deadline to vote on the Plan?**

All ballots must be sent to counsel to the Committee, Pachulski Stang Ziehl & Jones LLP, 780 Third Avenue, 34<sup>th</sup> Floor, New York, New York 10017; Attention: Steven W. Golden, Esq. so as to be actually received on or before the Voting Deadline, which is **September 6<sup>th</sup>, 2017 at 5:00 p.m. (prevailing Eastern Time)**.

**Why is the Bankruptcy Court holding a confirmation hearing?**

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court to hold a hearing on confirmation of the Plan. Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of the Plan.



**When is the confirmation hearing scheduled to occur?**

The Bankruptcy Court has scheduled the confirmation hearing for **September 13~~27~~, 2017 at 1:00~~1:30~~ p.m.** (prevailing Eastern Time) before the Honorable Judge Brendan L. Shannon, United States Bankruptcy Judge, in the United States Bankruptcy Court, 824 North Market Street, 6<sup>th</sup> Floor, Wilmington, Delaware 19801 to consider (i) final approval of this Disclosure Statement as providing adequate information pursuant to section 1125 of the Bankruptcy Code; and (ii) confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code. The confirmation hearing may be adjourned from time to time without further notice except for an announcement of the adjourned date made at the confirmation hearing or any adjournment thereof, or by a notice or hearing agenda filed on the docket in these Chapter 11 Cases. Objections to confirmation of the Plan must be filed and served on the respective counsel for the Plan Proponents and counsel for the U.S. Trustee, by no later than **September 6~~20~~, 2017 at 5:00~~4:00~~ p.m. (prevailing Eastern Time)** (the “Confirmation Objection Deadline”) in accordance with the notice of the confirmation hearing that accompanies this Disclosure Statement. Unless objections to Confirmation of the Plan are timely served and filed by no later than the Confirmation Objection Deadline, such objections may not be considered by the Bankruptcy Court.

**What is the purpose of the confirmation hearing?**

At the confirmation hearing, the Bankruptcy Court will determine whether to confirm the Plan. Confirmation and consummation of a chapter 11 plan is a principal objective of a chapter 11 case. Confirmation of a chapter 11 plan by the Bankruptcy Court binds the debtor, any person acquiring property under the chapter 11 plan, any creditor or equity interest holder of a debtor, and any other person or entity as may be ordered by the Bankruptcy Court in accordance with the applicable provisions of the Bankruptcy Code.

**What role does the Bankruptcy Court play after the confirmation hearing?**

After the Plan has been confirmed, the Bankruptcy Court will retain exclusive jurisdiction over certain matters arising out of, or related to, the Chapter 11 Cases and the Plan, as described more fully in Article X.O of the Plan.

**Do the Debtors and the Committee recommend voting in favor of the Plan?**

Yes. For the reasons set forth in this Disclosure Statement, in the opinion of the Debtors and the Committee, the Plan is preferable to liquidation under chapter 7 of the Bankruptcy Code and is preferable to any other reasonably available alternative because the Debtors and the Committee believe the Plan provides the best opportunity for a larger distribution to the Holders of Allowed Claims in Class 2 (General Unsecured Claims) than would otherwise result from a liquidation under chapter 7 of the Bankruptcy Code or any other reasonably available alternative. **Accordingly, the Debtors and the Committee recommend that Holders of Allowed Claims in the Voting Class support Confirmation of the Plan and vote to accept the Plan.**

## VI.

### HISTORY OF THE DEBTORS

#### A. History, Operations, and Business

Prior to the winding down of their business operations, the Debtors were providers of fashion apparel across a broad range of product categories, channels of distribution, and price points. The Debtors specialized in, among other things, designing and marketing men's sportswear to department stores, chain stores, and mass market retailers under licensed brands, their own proprietary brands, and the private labels of customers. Brands manufactured and sold by the Debtors pursuant to license agreements have included Dockers® and James Campbell®. The Debtors' corporate headquarters were most recently located in Anderson, South Carolina, having previously been located in New York, New York.

Debtor, Hampshire Group, Limited ("HGL"), is a publicly held corporation organized under the laws of the State of Delaware. HGL is the sole shareholder of debtor and debtor in possession Hampshire Brands, Inc. ("HBI"), a Delaware corporation, and HGL is the sole managing member of debtor and debtor in possession Hampshire International, LLC, a Delaware limited liability company. In addition, HGL, directly or indirectly, owns equity interests in certain domestic and foreign non-debtor affiliated entities, all of which are no longer active.

Approximately eighteen (18) months prior to the Petition Date, the Debtors' prepetition secured lenders declared the Debtors to be in default under the prepetition credit agreement. The Debtors and their prepetition secured lenders had agreed to amend and extend the prepetition credit agreement and entered into certain related forbearance agreements in connection therewith.

Over the approximately 15-month period prior to the Petition Date, the Debtors explored various options and took certain steps in an effort to gain access to additional capital and liquidity, stem losses, increase operating efficiencies, and increase cash flow. These steps included, without limitation (i) a stock sale in September 2015 of a former wholly-owned subsidiary, Rio Garment S.A.; (ii) efforts, albeit ultimately unsuccessful, to refinance their senior secured debt; (iii) unsuccessful efforts to raise additional capital; (iv) reduction of operating costs, including a significant reduction of employee headcount; and (v) termination of certain license arrangements.

Beginning in or about June 2016, in an effort to maximize value for the benefit of stakeholders, the Debtors commenced an orderly, out-of-court liquidation and wind-down of their business operations. Prior to the Petition Date, the Debtors' creditors and stockholders were informed of such efforts.

The Debtors commenced their Chapter 11 Cases because, on November 15, 2016, a large unsecured creditor (Onewoo Corporation) obtained a prejudgment order of attachment against Debtors, HGL and HBI, in litigation commenced by it in June 2016 against HGL, HBI, and certain officers of the Debtors in Case No. 1:16-CV-4623 (PKC) (AJP), captioned *Onewoo*



*Corp., et al. v. Hampshire Brands, Inc., et al.*, in the United States District Court for the Southern District of New York (the “Onewoo Litigation”).

**B. The Debtors’ Assets**

The Debtors’ Assets at this time primarily consist of Cash, the Debtors’ remaining unpaid accounts receivable, any recoveries related to the issuance of the Bond and the related letter of credit draw, ~~any federal or state tax refunds~~, and Causes of Action.

**VII.**

**THE DEBTORS’ CHAPTER 11 CASES**

**A. Commencement of the Debtors’ Chapter 11 Cases**

On November 23, 2016, each of the Debtors voluntarily filed a case under chapter 11 of the Bankruptcy Code. The Chapter 11 Cases were commenced in the Bankruptcy Court, and were assigned to the Honorable Brendan Linehan Shannon, United States Bankruptcy Judge. On December 6, 2016, the Bankruptcy Court entered an order directing the joint administration of the Debtors’ Chapter 11 Cases.

**B. Appointment of the Official Committee of Unsecured Creditors**

On December 7, 2016, the U.S. Trustee appointed the Committee, pursuant to section 1102 of the Bankruptcy Code, to represent the interests of all unsecured creditors in these Chapter 11 Cases. The current members of the Committee are: (i) I-Mar LLC; (ii) Triburg USA, Inc.; (iii) Aurora Investments Global Ltd.; (iv) Onewoo Corporation; and (v) BRE 114 West 41st Street LLC.

**C. Retention of Professionals and an Officer**

During the Chapter 11 Cases, the Bankruptcy Court approved the retention of: (i) Blank Rome LLP, as counsel to the Debtors; (ii) Pachulski Stang Ziehl & Jones LLP, as counsel to the Committee; and (iii) Gavin/Solmonese LLC, as financial advisor to the Committee. In addition, the Bankruptcy Court approved the retention of William Drozdowski as Chief Financial Officer of the Debtors.

**D. Significant Business Events after the Petition Date**

Section 363 of the Bankruptcy Code (i) authorizes a debtor in possession to use, sell, or lease property of the estate in the ordinary course of business without notice or a hearing (11 U.S.C. § 363(c)), and (ii) grants the debtor in possession the power, subject to approval of the Bankruptcy Court, to use, sell, or lease property of the estate outside of the ordinary course of business (11 U.S.C. § 363(b)).

Since the Petition Date, the Debtors have operated their business in the ordinary course as debtors in possession and have, among other things, liquidated their remaining inventory,

collected accounts receivable, and complied with their duties and obligations as chapter 11 debtors in possession.

In addition, the Debtors conducted an expedited sale process for the assets related to the Debtors' James Campbell business (which consisted of inventory, intellectual property and other assets). As part of the sale process for the James Campbell assets, the Debtors, with the support of the Committee, (i) conducted an auction at which two bidders actively participated and bid, (ii) negotiated and executed an asset purchase agreement and other documents related to the sale of such assets and (iii) on January 13, 2017, obtained entry of an order of the Bankruptcy Court authorizing and approving the sale of the James Campbell assets to The Fashion Exchange, LLC or its designee, for a total purchase price of approximately \$900,000.

On or about March 31, 2017, the Debtors ceased business operations, closed their remaining offices, and terminated their remaining staff, with William Drozdowski continuing to serve as interim Chief Financial Officer of the Debtors pursuant to an order of the Bankruptcy Court entered on March 8, 2017. In April 2017, the Debtors completed the sale of their remaining inventory.

#### **E. Filing of Schedules and Statements; Establishment of Claims Bar Date**

In early January 2017, each of the Debtors filed its Schedules of Assets and Liabilities and Statement of Financial Affairs. The aggregate scheduled liabilities of each Debtors were approximately as follows:

<b>Debtor</b>	<b>Secured<sup>3</sup></b>	<b>Priority Unsecured</b>	<b>Unsecured</b>
Hampshire Group, Ltd.	\$7,332,449.29	\$130,064.25	\$14,613,894.55
Hampshire Brands, Inc.	\$7,332,449.29	\$120,553.86	\$32,566.24
Hampshire International, LLC	\$7,332,449.29	\$0.00	Unliquidated

By order entered on January 30, 2017 (the "General Bar Date Order"), the Bankruptcy Court established March 6, 2017 (the "General Bar Date") as the deadline for any person (other than a Governmental Unit) asserting a Claim against any Debtor that arose prior to the Petition Date to file a proof of claim. The General Bar Date Order also approved the form of notice served on, *inter alia*, parties known to the Debtors to hold or assert a prepetition claim against the Debtors. The following chart summarizes the proofs of claim that were filed against each Debtor as of the General Bar Date:

<b>Debtor</b>	<b># of Claims</b>	<b>Aggregate Amount<sup>4</sup></b>
Hampshire Group, Ltd.	28	\$28,746,685.30
Hampshire Brands, Inc.	11	\$3,251,803.27
Hampshire International, LLC	3	\$502,105.58

<sup>3</sup> While each Debtor scheduled a secured claim in the amount listed above, the Debtors' aggregate secured debt as of the Petition Date was approximately \$7,332,449.29. The claim of Salus, as first priority secured creditor, was fully paid as of March 30, 2017.

<sup>4</sup> Some creditors filed proofs of claim in identical amounts against multiple Debtors. In addition, certain of the filed claims included in the proofs of claim chart appearing above supersede a corresponding scheduled liability that was included in the preceding chart of scheduled liabilities.

**F. Pay Down of Salus**

As of the Petition Date, the Debtors and certain non-debtor affiliates, as borrowers, owed approximately \$7,332,449.29 to their prepetition lenders, Salus Capital Partners, LLC and Salus CLO 2012-1, Ltd. (together, "Salus"), pursuant to that certain Credit Agreement dated as of September 26, 2013 (as amended, restated, supplemented, extended, and/or otherwise modified from time to time, the "Prepetition Credit Agreement").

On December 6, 2016, the Bankruptcy Court entered an order authorizing the Debtors to use cash collateral of Salus on an interim basis.

On January 5, 2017, the Bankruptcy Court entered an order authorizing, on a final basis, the Debtors' use of cash collateral through and including January 28, 2017. Pursuant to two stipulations entered into by the Debtors, the Committee, and Salus, the Debtors' use of cash collateral was extended through and including March 31, 2017.

On or about March 30, 2017, the Debtors paid off the remaining balance owed to Salus under the Prepetition Credit Agreement.

**G. Hanover Customs Bond, Letter of Credit Draw, and Possible Recovery by Estates**

Prior to the Petition Date, in or about July 2014, at the request of Debtor HBI, Hanover Insurance Company and/or certain of its affiliates ("Hanover") issued a customs Bond for the benefit of the U.S. Customs and Border Protection ("CBP"). To secure obligations to Hanover in connection with the Bond, HBI, as applicant, and Salus Capital Partners, LLC, as co-applicant, applied to Sterling National Bank ("Sterling") for an irrevocable standby letter of credit in the original amount of \$400,000, which subsequently was increased to an aggregate amount of \$500,000 (the "Letter of Credit"). The Letter of Credit was secured by cash that was borrowed from Salus and was deposited into a Salus account at Sterling. As noted above, the Debtors have satisfied their obligations to Salus, including repaying amounts borrowed to secure the Letter of Credit.

On or about February 14, 2017, Hanover submitted to Sterling a sight draw request for the entire amount of the Letter of Credit. Sterling paid to Hanover the draw on the Letter of Credit in the amount of \$500,000. On March 17, 2017, the Bankruptcy Court entered an order approving a stipulation among the Debtors, the Committee, Salus, and Sterling, *inter alia*, allowing Sterling to apply funds on deposit to reimburse Sterling for payment of the Letter of Credit draw and related fees and costs.

On April 25, 2017, HBI gave notice to CBP of its termination of the Bond, subject to the required ten (10) business days' notice.

The Plan Proponents understand that Hanover currently is holding the \$500,000 from the Letter of Credit draw, pending a resolution of any claims that CBP may assert with respect to the Bond. The Liquidation Trustee, on behalf of the Liquidation Trust, will seek to enforce all rights and claims with respect to any recoveries related to the issuance of the Bond and the Letter of Credit draw.

## H. Other Potential Sources of Recovery by the Estates

On May 19, 2017, the Bankruptcy Court entered an order authorizing and approving the Debtors' entry into an agreement to engage Atwell, Curtis & Brooks, Ltd. to collect up to approximately \$120,000 of unpaid accounts receivable of the Debtors. Collection efforts remain ongoing.

In addition, under the Plan, the Liquidation Trustee is empowered to investigate, prosecute, and resolve claims and Causes of Action. While the investigation and analysis of potential Causes of Action remains ongoing, the Liquidation Trustee may investigate, among other things, the following: all Avoidance Actions, including, without limitation, preference actions and fraudulent transfer actions. As reflected in the Debtors' Schedules of Assets and Liabilities and Statement of Financial Affairs, the Debtors made approximately \$5.3 million in payments during the ninety (90) day period prior to the filing of the bankruptcy cases. In addition, prior to the Petition Date, one or more of the Debtors engaged in the purchase and/or disposition of certain assets and/or ownership interests, including, without limitation, transactions involving Rio, Gramicci, and termination of the New York City lease, among others. The Liquidation Trustee may also investigate any potential Causes of Action involving any of the Debtors' current or former Insiders; all claims for recoveries relating to the \$500,000 Customs Bond and the related letter of credit draw; and/or all claims against any Person regarding the pre-bankruptcy termination, modification or withdrawal of any license agreement or other contract between any of the Debtors and such Person. Each of the above, as well as other transactions and other potential Causes of Action, may be investigated by the Liquidation Trustee and, if appropriate, litigation may be commenced. At this juncture, it is difficult to estimate precisely the outcomes and magnitude of any possible recoveries on any potential Causes of Action.

## VIII.

### SUMMARY OF KEY PROVISIONS OF THE PLAN

As a result of the chapter 11 process and through the Plan, the Plan Proponents expect that creditors will obtain a greater recovery from the Estates than in a liquidation under chapter 7 of the Bankruptcy Code. A copy of the Plan is annexed hereto as **Exhibit A** and forms a part of this Disclosure Statement. The summary of the Plan set forth in this Disclosure Statement is qualified in its entirety by the more detailed provisions set forth in the Plan. In the event of any conflict between the summary set forth in this Disclosure Statement and the terms of the Plan, the terms of the Plan shall govern.

#### **A. Classification and Treatment of Claims and Equity Interests**

Except as otherwise provided in this Disclosure Statement or in the Plan, all requests for allowance of administrative expenses, all Claims against the Debtors, and all Equity Interests in the Debtors shall be classified as set forth below for all purposes, including voting, confirmation, and distributions under the Plan.

**1. Unclassified Claims (Administrative Expense Claims, Priority Employee Claims, Professional Fee Claims, and Priority Tax Claims)**

As provided by section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, Priority Employee Claims, Professional Fee Claims, and Priority Tax Claims are not classified under the Plan and instead are treated separately in accordance with section 1129(a)(9) of the Bankruptcy Code. Administrative Expense Claims, Priority Employee Claims, Professional Fee Claims, and Priority Tax Claims are not designated as classes of Claims for purposes of the Plan or for purposes of sections 1123, 1124, 1125, 1126, or 1129 of the Bankruptcy Code.

**a. Administrative Expense Claims and Administrative Expense Claims Bar Dates**

An Administrative Expense Claim (other than ~~a claim for statutory~~ fees ~~due payable either~~ to the U.S. Trustee ~~or the Clerk of the Bankruptcy Court pursuant to 28 U.S.C. § 1930, or any claim by a Governmental Unit for a tax or penalty described in Bankruptcy Code sections 503(b)(1)(B) and 503(b)(1)(C), as provided for in Bankruptcy Code section 503(b)(1)(D))~~ must be filed with the Bankruptcy Court so as to be received on or before the First Administrative Expense Claims Bar Date or the Second Administrative Expense Claims Bar Date, as applicable, or such other date as may be agreed to by the Liquidation Trustee—, ~~or as otherwise may be directed by a Final Order of the Bankruptcy Court upon a motion filed by the affected claimant pursuant to Bankruptcy Rule 9006(b)(1) seeking allowance of a late-filed Administrative Expense Claim based upon excusable neglect (an “Excusable Neglect Order”).~~

**i. First Administrative Expense Claims Bar Date**

On May 8, 2017, the Bankruptcy Court entered an order (i) establishing **June 15, 2017, at 5:00 p.m. (Eastern Time)** as the deadline by which Persons were required to file a request seeking allowance of an Administrative Expense Claim (subject to certain exclusions) that arose between the Petition Date and April 30, 2017, and (ii) approving the form and manner of notice of the First Administrative Expense Claims Bar Date.

**ii. Proposed Second Administrative Expense Claims Bar Date**

The Plan provides that any Person who requests allowance of an Administrative Expense Claim arising between May 1, 2017 and the Effective Date, or who otherwise requests allowance of any other administrative expense pursuant to section 503 of the Bankruptcy Code (other than a Professional Fee Claim) and who is not subject to the First Administrative Expense Claims Bar Date, must file a request for allowance of such Administrative Expense Claim by no later than **5:00 p.m. (Eastern Time) on the date that is thirty (30) days after the Effective Date**, or the next business day thereafter. The Second Administrative Expense Claims Bar Date will be established in the Confirmation Order.

**iii. Treatment of Timely Filed Administrative Expense Claims**

Timely filed Administrative Expense Claims shall be treated as follows under the Plan:

Within 90 days after the Effective Date, the Liquidation Trustee will allow, settle, or object to all timely filed Administrative Expense Claims. Any defense, setoff, offset, or deduction to any timely filed Administrative Expense Claim shall be raised or asserted in connection with any objection filed with respect to such Administrative Expense Claim in accordance with Article V.A.1 of the Plan. The 90-day deadline described in this paragraph may be expanded pursuant to order of the Bankruptcy Court for good cause shown or by consent of the claimant and the Liquidation Trustee.

On or as soon as practicable after the Effective Date, after the Liquidation Trustee has funded (i) the initial \$250,000 of the Post-Effective Date Trust Expense Reserve and (ii) the 401(k) Plan Termination Reserve, the Liquidation Trustee will distribute, on a Pro Rata basis, the Distributable Cash by (a) making Pro Rata Distributions of Cash to each Holder of an Allowed Administrative Expense Claim and (b) funding a Plan Reserve in Cash for all Disputed Administrative Expense Claims the aggregate amount of which equals the sum of (y) the Pro Rata Distribution calculated based upon the undisputed amount, if any, of each Disputed Administrative Expense Claim, after taking into account any claims, rights, or defenses of the Debtors, their Estates, or the Liquidation Trust, and (z) the Liquidation Trustee's good faith estimate of a sufficient amount to satisfy the disputed amount of each Disputed Administrative Expense Claim. On not less than a quarterly basis, the Liquidation Trustee shall distribute the Distributable Cash (if any) in accordance with the preceding sentence until such time as (i) all Allowed Administrative Expense Claims have been paid in full in Cash, or as otherwise agreed to by the Holder of an Administrative Expense Claim and the Liquidation Trustee, or (ii) the Trust Assets have been exhausted.

For the avoidance of doubt, ~~prior to the occurrence of the Second Administrative Expense Claims Bar~~ on or as soon as practicable after the Effective Date, the Liquidation Trustee ~~is authorized~~ shall, in the reasonable exercise of his or her business judgment, ~~to fund a Plan Reserve for Administrative Expense Claims in accordance with the terms of the Plan and, after such Plan Reserve for Administrative Expense Claims has been funded, to make Distributions to Holders of Allowed Priority Employee Claims, in accordance with the terms of Article V.A.2 of the Plan, and~~ make Distributions and/or fund Plan Reserves for ~~Priority Employee Claims and/or Professional Fee Claims in accordance with the terms of Article V.A.2 and Article V.A.3, respectively,~~ of the Plan.

The Liquidation Trustee will use reasonable best efforts to, on or prior to December 31, 2017, (i) resolve all Disputed Administrative Expense Claims and (ii) make all Distributions to Holders of Allowed Administrative Expense Claims.

One (1) allowed administrative expense claim in the amount of \$3,024.00 was filed on or prior to the First Administrative Expense Claims Bar Date and that claim has since been resolved. Given that the Debtors ceased business operations prior to the First Administrative Expense Claims Bar Date, the Plan Proponents do not anticipate that any material Administrative Expense Claims will be filed on or prior to the Second Administrative Expense Claims Bar Date.



Any Holder of an Administrative Expense Claim that does not timely assert such Administrative Expense Claim in accordance with Article V.A.1 of the Plan, or in accordance with an Excusable Neglect Order ~~of the Bankruptcy Court~~, shall have its Administrative Expense Claim be deemed Disallowed under the Plan and be forever barred from asserting such Administrative Expense Claim against the Debtors, their Estates, the Liquidation Trust, or any of their Assets or property. ~~Any such Administrative Expense Claim shall be deemed Disallowed without further order of the Bankruptcy Court and the holder thereof shall be enjoined from commencing or continuing any action, employing process, or acting to collect, offset, recoup, or recover such Administrative Expense Claim.~~

It is the Plan Proponents' position that, if a Holder of an Administrative Expense Claim does not timely object to treatment of its Claim under the Plan, such Holder shall be deemed to consent to treatment of its Administrative Expense Claim that is different from that set forth in 11 U.S.C. § 1129(a)(9).

#### **b. Priority Employee Claims**

Certain Priority Employee Claims for employee benefits, such as unpaid severance and unused vacation time, are listed on the Schedules. According to the Debtors' books and records, approximately eight (8) former employees may hold claims for unpaid prepetition severance and/or vacation in the aggregate amount of approximately \$67,015.02 that may be entitled to priority claim status pursuant to Bankruptcy Code section 507(a)(4). The Debtors are in the process of reconciling such Priority Employee Claims and reserve the right to amend the Schedules and/or to mark any claim as having been partially or fully satisfied, waived and/or extinguished, as applicable. Priority Employee Claims shall be treated as follows under the Plan:

On or as soon as practicable after the Effective Date, after the Liquidation Trustee has paid, resolved, or reserved for, as applicable, all Administrative Expense Claims in accordance with Article V.A.1 of the Plan, the Liquidation Trustee ~~will distribute, on a Pro Rata basis, the Distributable Cash by (a) making Pro Rata Distributions of Cash to each Holder of an~~ shall pay the Allowed amount of each Allowed Priority Employee Claim ~~and (b) funding a Plan Reserve in Cash for all Disputed Priority Employee Claims the aggregate amount of which equals the sum of (y) the Pro Rata Distribution calculated based upon the undisputed amount, if any, of each such Disputed Priority Employee Claim after taking into account any claims, rights, or defenses of the Debtors, their Estates, or the Liquidation Trust, and (z) the Liquidation Trustee's good faith estimate of a sufficient amount to satisfy the disputed amount of each Disputed Priority Employee Claim. On not less than a quarterly basis, the Liquidation Trustee shall distribute the Distributable Cash (if any) in accordance with the preceding sentence until such time as (i) all Allowed Priority Employee Claims have been paid in full in Cash, or as otherwise agreed to by the Holder of a Priority Employee Claim and the Liquidation Trustee, or (ii) the Trust Assets have been exhausted.~~ in accordance with the terms of the Plan and other orders of the Bankruptcy Court.

~~The Liquidation Trustee will use reasonable best efforts to, on or prior to December 31, 2017, resolve all Priority Employee Claims.~~ Nothing herein shall be deemed to prohibit the Plan Proponents and/or the Liquidation Trustee from investigating, objecting to the allowance of,

and/or amending the Schedules with respect to any Priority Employee Claim. Nothing herein shall be construed as authorizing payment on account of any Priority Employee Claim in excess of the amount authorized for such claims under the Bankruptcy Code. The amount of any Allowed Priority Employee Claim in excess of the caps established for such claims under the Bankruptcy Code shall be treated as a General Unsecured Claim.

It is the Plan Proponents' position that, if a Holder of a Priority Employee Claim does not timely object to treatment of its Claim under the Plan, such Holder shall be deemed to consent to treatment of its Priority Employee Claim that is different from that set forth in 11 U.S.C. § 1129(a)(9).

**c. Professional Fee Claims**

Each Professional requesting compensation for services rendered and reimbursement for expenses incurred during the period from the Petition Date through the Effective Date must file and serve a properly noticed final fee application by no later than **forty-five (45) days after the Effective Date**. Any objection, defense, setoff, offset, or deduction to any such request for compensation or reimbursement of expenses must be raised in connection with the hearing on such final fee application. The Professional shall have an Allowed Professional Fee Claim in the amount of all compensation and reimbursement of expenses allowed pursuant to a Bankruptcy Court order granting such final fee application. Each Holder of an Allowed Professional Fee Claim shall be entitled to receive payment on account of its Allowed Professional Fee Claim as set forth in Article V.A.3 of the Plan.

After the Liquidation Trustee has paid, resolved, or reserved for, as applicable, all Priority Employee Claims in accordance with Article V.A.2 of the Plan, the Liquidation Trustee will distribute, on a Pro Rata basis, the Distributable Cash by (a) making Pro Rata Distributions of Cash to each Holder of an Allowed Professional Fee Claim and (b) funding a Plan Reserve in Cash for all Disputed Professional Fee Claims the aggregate amount of which equals the sum of (y) the Pro Rata Distribution calculated based upon the undisputed amount, if any, of each such Disputed Professional Fee Claim after taking into account any claims, rights, or defenses of the Debtors, their Estates, or the Liquidation Trust, and (z) the Liquidation Trustee's good faith estimate of a sufficient amount to satisfy the disputed amount of each Disputed Professional Fee Claim. On not less than a quarterly basis, the Liquidation Trustee shall distribute the Distributable Cash (if any) in accordance with the preceding sentence until such time as (i) all Allowed Professional Fee Claims have been paid in full in Cash, or as otherwise agreed to by the Holder of a Professional Fee Claim and the Liquidation Trustee, or (ii) the Trust Assets have been exhausted.

All Holders of Professional Fee Claims consent to the treatment of their Allowed Professional Fee Claims and to the timing of payments on such Allowed Professional Fee Claims as set forth herein.



#### d. Priority Tax Claims

Pursuant to the General Bar Date Order, any Governmental Unit asserting a claim arising prior to the Petition Date against a Debtor was required to a proof of claim by May 22, 2017, at 5:00 p.m. (Eastern Time).

A Priority Tax Claim must either (i) be listed on the Schedules or (ii) be filed with the Bankruptcy Court so as to be received on or before the Governmental Unit Claims Bar Date, or such other date as may be established by the Bankruptcy Court or agreed to by the Liquidation Trustee. Any Holder of a Priority Tax Claim for which a Claim was neither scheduled nor a Proof of Claim timely filed shall have a Disallowed Claim ~~under the Plan and be forever barred from asserting such Claim against the Estates, the Liquidation Trust, or any of their respective Assets or property. Any such Claim shall be Disallowed and the holder thereof shall be enjoined from commencing or continuing any action, employing process, or acting to collect, offset, recoup, or recover on such Claim.~~

After the Liquidation Trustee has paid, resolved, or reserved for, as applicable, all Professional Fee Claims in accordance with Article V.A.3 of the Plan, the Liquidation Trustee will distribute, on a Pro Rata basis, the Distributable Cash by (a) making regular installment payments of Cash, consistent in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, to each Holder of an Allowed Priority Tax Claim and (b) funding a Plan Reserve in Cash for all Disputed Priority Tax Claims the aggregate amount of which equals the sum of (y) the Pro Rata Distribution calculated based upon the undisputed amount, if any, of each such Disputed Priority Tax Claim after taking into account any claims, rights, or defenses of the Debtors, their Estates, or the Liquidation Trust, and (z) the Liquidation Trustee's good faith estimate of a sufficient amount to satisfy the disputed amount of each Disputed Priority Tax Claim. The Liquidation Trustee, in his or her discretion, will make additional regular installment payments of Cash to Holders of Allowed Priority Tax Claims until such time as (i) all Allowed Priority Tax Claims have been paid in full in Cash, or as otherwise agreed to by any Holder thereof and the Liquidation Trustee, or (ii) the Trust Assets have been exhausted.

It is the Plan Proponents' position that, if a Holder of a Priority Tax Claim does not timely object to treatment of its Claim under the Plan, such Holder shall be deemed to consent to treatment of its Priority Tax Claim that may be different from that set forth in 11 U.S.C. § 1129(a)(9)(C).

#### 2. Classification and Treatment of Secured Claims (Class 1)

**Classification:** Class 1 consists of all Secured Claims.

**Treatment:** On the Effective Date, or as soon as reasonably practicable thereafter, each Holder of an Allowed Class 1 Claim will receive, at the election of the Liquidation Trustee, one of the following treatments in full satisfaction of its Allowed Class 1 Claim:

- (a) The Liquidation Trustee will convey to the Holder of the Allowed Class 1 Claim the collateral in which such Holder has a security interest;

- (b) The Liquidation Trustee will pay to the Holder of the Allowed Class 1 Claim, up to the amount of such Allowed Class 1 Claim, any net proceeds actually received from the sale or disposition of the collateral in which such Holder has a security interest;
- (c) Provided there is Distributable Cash on hand, the Liquidation Trustee will pay Cash to the Holder of the Allowed Class 1 Claim in the amount of such Allowed Class 1 Claim;
- (d) Such other distributions or treatment that are necessary to leave the rights of the Holder of the Allowed Class 1 Claim unimpaired or that are necessary to otherwise satisfy the requirements of Chapter 11 of the Bankruptcy Code; or
- (e) Such other and less favorable distributions or treatments as may be agreed upon by and between the Holder of the Allowed Class 1 Claim and the Liquidation Trustee.

The Liquidation Trustee may, in his or her discretion, select which of these treatments each Holder of an Allowed Class 1 Claim will receive. The Liquidation Trustee shall have until the later of (a) the Effective Date and (b) ninety (90) days after a Class 1 Claim has become an Allowed Class 1 Claim to elect which treatment to provide to such Holder of an Allowed Class 1 Claim.

### **3. Classification and Treatment of General Unsecured Claims (Class 2)**

**Classification:** Class 2 consists of all General Unsecured Claims.

**Treatment:** After the Liquidation Trustee has paid, resolved, or reserved for, as applicable, all Administrative Expense Claims, Priority Employee Claims, Professional Fee Claims, Priority Tax Claims, and Secured Claims, each in accordance with Article V.A or Article V.B of the Plan, as applicable, the Liquidation Trustee will distribute, on a Pro Rata basis, the Distributable Cash by (a) commencing making Pro Rata Distributions of Cash to each Holder of an Allowed General Unsecured Claim, and (b) funding a Plan Reserve for all Disputed General Unsecured Claims the aggregate amount of which equals the sum of (y) the undisputed amount, if any, of each Disputed General Unsecured Claim after taking into account any claims, rights, or defenses of the Debtors, their Estates, or the Liquidation Trust, and (z) the Liquidation Trustee's good faith estimate of a sufficient amount to satisfy the disputed amount of each Disputed General Unsecured Claim. Thereafter, in accordance with the preceding sentence, the Liquidation Trustee, in his or her discretion, will make further periodic Pro Rata Distributions and/or fund a Plan Reserve for all Disputed General Unsecured Claims until such time as (i) all Allowed General Unsecured Claims have been paid in full in Cash, or as otherwise agreed to by the Holder of a General Unsecured Claim and the Liquidation Trustee, or (ii) the Trust Assets have been exhausted.

#### **4. Classification and Treatment of Interests (Class 3)**

**Classification:** Class 3 consists of all Interests in the Debtors.

**Treatment:** On the Effective Date, all Interests in the Debtors shall be cancelled, and the Holders of Class 3 Interests shall not be entitled to, and shall not receive or retain, any property on account of such Interests under the Plan.

#### **B. Means for Implementation of the Plan**

##### **1. Substantive Consolidation**

The Plan Proponents seek entry, pursuant to section 105 of the Bankruptcy Code, of a Bankruptcy Court order that, effective upon the Effective Date, substantively consolidates the Debtors' Estates into a single consolidated Estate and consolidates all of the debts of all of the Debtors, for all purposes associated with Confirmation and Consummation.

Generally, substantive consolidation of the estates of multiple debtors in a bankruptcy case effectively combines the assets and liabilities of the multiple debtors for certain purposes under a plan. The effect of substantive consolidation is the pooling of the assets of, and the claims against, the multiple debtors for the purposes of voting on the plan and satisfying liabilities from a common fund. *In re Augie/Restivo Baking Co.*, 860 F.2d 515, 518 (2d Cir. 1988).

There is no express statutory authority for substantive consolidation; rather, substantive consolidation exists as an equitable remedy. *In re Owens Corning*, 419 F.3d 195 (3d Cir. 2005). The Bankruptcy Court's ability to order substantive consolidation derives from its general equitable powers under section 105(a) of the Bankruptcy Code, which provides that the Bankruptcy Court may issue orders necessary to carry out the provisions of the Bankruptcy Code. *In re DRW Property Co.*, 54 B.R. 489, 494 (Bankr. N.D. Tex. 1985). Some courts have also found authority for substantive consolidation in section 1123(a)(5)(C) of the Bankruptcy Code. Section 1123(a)(5)(C) provides in part, "a plan shall provide adequate means for the plan's implementation, such as merger or consolidation of the debtor with one or more persons." 11 U.S.C. § 1123(a)(5)(C); *see, e.g., In re Stone & Webster, Inc.*, 286 B.R. 532, 541 (Bankr. D. Del. 2002) ("Courts have held that [Section 1123(a)(5)(C)] indicates Congress' intent that a chapter 11 debtor may merge or consolidate with other entities, including other debtors, as part of the reorganization process . . . [and that] substantive consolidation is expressly authorized by . . . § 1123(a)(5)(C)"). There are, however, no statutorily prescribed standards for court approval of substantive consolidation. Instead, courts apply certain judicially-developed standards to determine the appropriateness of substantive consolidation. Courts have held that substantive consolidation may be authorized, for example, (i) where creditors consent, (ii) where, prior to the petition date, the debtors "disregarded separateness so significantly their creditors relied on the breakdown of entity borders and treated them as one legal entity", or (iii) where, after the Petition Date, the Debtors' "assets and liabilities are so scrambled that separating them is prohibitive and hurts all creditors." *Owens Corning*, 419 F.3d at 212.

The Plan Proponents believe that the Plan satisfies the test articulated in *Owens Corning*. It appears that, prior to the Petition Date, the Debtor entities disregarded their separateness so significantly that certain of the Debtors' creditors treated the Debtors as one entity. Among other things, the Debtors generally recorded inventory and accounts receivable as assets of Debtor, HBI, while cash generated from sales of inventory and from collections of accounts receivable was centralized in Debtor, HGL, which used such cash to pay its own liabilities and the liabilities of the other two Debtor entities. There is also evidence that creditors appear to have treated the Debtors as one entity. For example, multiple claimants filed duplicative claims against more than one Debtor even though it does not appear such claimants assert that the liability is joint and several. Further, in at least two instances, parties who commenced prepetition litigation against the Debtors named more than one Debtor entity as a defendant out of an apparent lack of clarity as to which Debtor entity potentially may have been liable to the party commencing such litigation. The Plan Proponents have determined it would be difficult, time-consuming, and costly to attempt to allocate to each individual Debtor the assets and liabilities belonging to each such Debtor. The Plan Proponents believe that substantive consolidation of the Debtors as set forth in the Plan will avoid the costs and delay of allocating assets and liabilities on an entity-by-entity basis while eliminating duplicative claims, thereby potentially reducing the size of the claims pool and potentially increasing any pro rata distribution to holders of Allowed General Unsecured Claims. Accordingly, the Plan Proponents submit that substantive consolidation of the Debtors is warranted under the facts and circumstances of these Chapter 11 Cases.

Under the terms of the Plan, on and after the Effective Date, all Assets and liabilities of the Debtors shall be treated as though they were merged into the Estate of Hampshire Group, Ltd. for all purposes associated with Confirmation and Consummation, and all guarantees by any Debtor of the obligations of any other Debtor shall be eliminated so that any Claim and any guarantee thereof by any other Debtor, as well as any joint and several liability of any Debtor with respect to any other Debtor shall be treated as one collective obligation of the Debtors, subject to all rights, claims, defenses, and arguments available to the Debtors or the Liquidation Trust.

Substantive consolidation will not (i) alter the state of incorporation or state of formation of any Debtor for purposes of determining the applicable law for any of the Causes of Action, (ii) alter or impair the legal and equitable rights of the Liquidation Trustee to prosecute any of the Causes of Action, or (iii) otherwise impair, release, discharge, extinguish or affect any of the Causes of Action or issues raised as a part thereof.

Notwithstanding anything in the Plan or in the Confirmation Order to the contrary, the entry of the Confirmation Order ordering substantive consolidation of the Estates shall not have any effect upon the separate and distinct legal entities as they existed at the time of any prepetition transaction that is the subject of any litigation; *provided, however*, that the foregoing provision shall not serve to prejudice or compromise whatever rights, if any, the Debtors or the Liquidation Trustee, as applicable, may have to contend in any pending or future adversary proceeding or other lawsuit that the Debtors or the Liquidation Trustee, as applicable, may prosecute claims for fraudulent conveyance or fraudulent transfer arising from transfers made by one or more of the Debtors based on any theory or doctrine, including any federal, state, or common law alter-ego, veil-piercing, or any other theory or doctrine that would permit or require

the disregard of corporate separateness or facts as they existed at the time of the transaction in question. Moreover, substantive consolidation shall not affect the obligation of each Debtor or the Liquidation Trustee to pay quarterly fees to the Office of the U.S. Trustee pursuant to 28 U.S.C. § 1930 until the earlier of the time that a particular Case has been closed, dismissed, or converted.

Notwithstanding anything to the contrary herein, on the Effective Date, all Claims by a Debtor against any other Debtor will be extinguished without any distributions being made on account of such Claims.

## **2. The Liquidation Trust**

### **a. Formation and Name of the Liquidation Trust**

On the Effective Date, the Liquidation Trust, pursuant to and in accordance with the Liquidation Trust Agreement attached to this Disclosure Statement as **Exhibit C**, shall be established for the primary purpose of administering and liquidating the Trust assets and for the secondary purposes of, *inter alia*, (a) analyzing and pursuing Causes of Action; (b) resolving all Administrative Expense Claims, Professional Fee Claims, and Claims; and (c) making all Distributions provided for under the terms of the Plan. From and after the Effective Date, the Liquidation Trust shall be called the “Hampshire Liquidation Trust” for all purposes.

### **b. Federal Income Tax Treatment of the Liquidation Trust**

For federal income tax purposes, it is intended that the Liquidation Trust be classified as a “grantor trust” for federal income tax purposes, pursuant to sections 671-677 of the Internal Revenue Code of 1986, as amended, and that the Liquidation Trust be owned by the Beneficiaries. 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 each of the Trust Assets and then contributed such interest to the Liquidation Trust.

### **c. Funding the Liquidation Trust**

On the Effective Date, all of the Assets of the substantively consolidated Estate, as well as the rights and powers of the Debtors, the consolidated Estate and the Creditors’ Committee, shall automatically vest in the Liquidation Trust. Specifically, and without limitation, the Liquidation Trust, through the Liquidation Trustee, shall have the right to prosecute all Causes of Action, receive all accounts receivable and the proceeds related thereto, and receive all recoveries related to the issuance of the Bond and the related Letter of Credit draw.

As soon as practicable after the Effective Date, but in no event later than ninety (90) days thereafter, (i) the Liquidation Trustee shall determine the fair market value of the Liquidation Trust Assets as of the Effective Date, based on a good faith determination, and (ii) the Liquidation Trustee shall establish appropriate means to apprise the Beneficiaries of such valuation. The valuation shall be used consistently by all parties, including, without limitation, the Debtors, the Liquidation Trust, and the Beneficiaries, for all federal income tax purposes.

**d. Termination of Liquidation Trust**

The duties, responsibilities and powers of the Liquidation Trustee shall terminate in accordance with the terms of the Plan and the Liquidation Trust Agreement after (a) all the Trust Assets have been fully administered, (b) all reasonably possible Distributions have been made in accordance with the terms of the Plan have been made, and (c) all Disputed Claims have been resolved.

Upon the termination of the Liquidation Trust, the Liquidation Trustee shall file with the Bankruptcy Court, on notice to Beneficiaries and the Post-Confirmation Service List, a report thereof, seeking an order discharging the Liquidation Trustee and a final decree closing any open Chapter 11 Cases. The Liquidation Trustee shall not unduly prolong the duration of the Liquidation Trust. As efficiently and expeditiously as possible, the Liquidation Trustee shall endeavor to resolve, settle or otherwise dispose of all Trust Assets, effect the distribution of the Trust Assets in accordance with the terms of the Plan, and terminate the Liquidation Trust as soon as practicable.

**e. Vesting and Transfer of Assets to the Liquidation Trust**

Pursuant to Bankruptcy Code section 1141(b), the Assets of the Estates shall vest in the Liquidation Trust; provided, however, that the Liquidation ~~Trust~~Trustee may abandon or otherwise not accept any Assets that the Liquidation Trustee believes, in good faith, have no meaningful value to the Liquidation Trust. Any Assets the Liquidation ~~Trust~~Trustee so abandons or otherwise does not accept shall not vest in the Liquidation Trust and shall revert in the Debtors; provided, however, that pursuant to an order of the Bankruptcy Court following the provision of reasonable notice to Beneficiaries by filing a notice in accordance with Bankruptcy Rule 6007(a) on the Court's docket for these Chapter 11 Cases, the Liquidation Trustee may abandon any Assets to any Person.

On the Effective Date, the Liquidation ~~Trust~~Trustee shall (i) take possession, custody, and control of all books, records, and files of the Debtors and their Estates; and (ii) provide for the retention and storage of such books, records, and files until such time as the Liquidation Trustee determines, in accordance with the Liquidation Trust Agreement, that retention of same is no longer necessary or required. Nothing herein shall be construed to deem the Liquidation Trustee to have possession, custody or control of the books, records, and files of the Debtors and their Estates not actually in the possession, custody or control of the Liquidation Trustee on the Effective Date.

As of the Effective Date, all Assets vested in the Liquidation Trust and all Assets dealt with in the Plan, shall be free and clear of all Claims, Liens, and Interests except as otherwise specifically provided in the Plan or in the Confirmation Order. The Liquidation Trustee shall make distributions in accordance with the Plan and the Liquidation Trust Agreement.

Nothing herein shall be construed to limit or expand the terms of section 522(c) of the Bankruptcy Code.



**f. Appointment of the Liquidation Trustee**

The Liquidation Trustee shall be selected by the Committee in consultation with the Debtors. The Committee, in consultation with the Debtors, and subject to entry of the Confirmation Order and the occurrence of the Effective Date, has selected Richard S. Lauter, Esq., a partner in the law firm of Lewis Brisbois Bisgaard & Smith LLP, to be the Liquidation Trustee. During the Chapter 11 Cases, Lewis Brisbois Bisgaard & Smith LLP has served as counsel to I-MAR LLC, one of the members of the Committee. Notwithstanding such prior representation, the Liquidation Trustee shall function as an independent, disinterested fiduciary for the Estates and creditors. The Debtors and Committee believe that Mr. Lauter is qualified to serve as Liquidation Trustee. The Liquidation Trustee may obtain a bond in an amount equal to the reasonable value of the Trust Assets as agreed upon by the Liquidation Trustee in consultation with the U.S. Trustee.

**g. Powers and Authority of Liquidation Trustee**

The Liquidation Trustee shall be the exclusive trustee of the Trust Assets for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3). The Liquidation Trustee shall serve as the representative of the Estates in accordance with the provisions of the Bankruptcy Code. The powers and authority of the Liquidation Trustee shall include, without limitation other than as provided in the Plan or the Liquidation Trust Agreement, the power to:

(i) invest (to the extent permissible under current Internal Revenue Service guidelines) or withdraw funds of the Liquidation Trust, make distributions, incur obligations for reasonable and necessary expenses in liquidating and converting any remaining Assets to Cash, and pay taxes and other obligations owed by the Liquidation Trust or the Debtors from funds held by the Liquidation Trustee in accordance with the Plan;

(ii) perform all of the obligations and agreements of the Liquidation Trust and/or of the Liquidation Trustee provided for in the Plan and in the Liquidation Trust Agreement;

(iii) hold legal title to all rights of the Debtors and their Estates in or arising from the Trust Assets, including without limitation, the right to vote any claim or interest in a case under the Bankruptcy Code and receive any distribution therein;

(iv) protect and enforce the rights to the Trust Assets by any method deemed appropriate including, without limitation, by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;

(v) perform the duties, exercise the powers, and assert the rights of a trustee under sections 704 and 1106 of the Bankruptcy Code, including, without limitation, investigating, commencing, prosecuting or settling Causes of Action (including, without limitation, Avoidance Actions), enforcing contracts, and asserting claims, defenses, offsets and privileges;

(vi) determine, satisfy, object to, compromise, or estimate on reasonable terms all claims or liabilities created, incurred, or assumed by the Liquidation Trust;

(vii) determine on reasonable terms the amount and timing of regular installment payments to Holders of Allowed Priority Tax Claims, consistent with section 1129(a)(9)(C) of the Bankruptcy Code and in accordance with the terms of the Plan;

(viii) pay all expenses and make all other payments relating to the Liquidation Trust;

(ix) establish, keep, and maintain the Post-Effective Date Trust Expense Reserve and the 401(k) Plan Termination Reserve, each in accordance with the terms of the Plan;

(x) establish, keep, and maintain Plan Reserves for the benefit of the Holders of Disputed Claims;

(xi) account separately for Plan Reserves in accordance with the terms of the Plan;

(xii) except as otherwise provided in the Plan, in the discretion of the Liquidation Trustee, setoff against any Claim (and the payments or other distributions to be made pursuant to the Plan with respect to such Claims) any Cause of Action against the Holder of such Claim, but neither the failure to so setoff any Cause of Action nor the allowance of any Claim shall constitute a waiver or release by the Liquidation Trust or Liquidation Trustee of any Cause of Action;

(xiii) market, negotiate, enter into, execute and perform on reasonable terms agreements for the sale or other disposition of the Trust Assets;

(xiv) prepare and deliver written statements or notices, quarterly or otherwise, required by law to be delivered to Beneficiaries;

(xv) prepare and file post-confirmation quarterly disbursement and status reports, with copies of such reports served on the Post-Confirmation Service List, and pay all quarterly fees to the U.S. Trustee which are required by applicable law;

(xvi) prepare, or have prepared, and file with the appropriate taxing authority all tax and information returns with respect to the Debtors and the Liquidation Trust (including, without limitation, United States federal, state, local, or foreign tax or information returns required to be filed by the Debtors and the Liquidation Trust) and pay taxes properly payable by the Debtors and the Liquidation Trust, if any, and cause all taxes payable by the Debtors and the Liquidation Trust, if any, to be paid exclusively out of the Trust Assets; provided, however, that, subject to section 503(b)(1)(D) of the Bankruptcy Code, nothing herein shall obligate the Liquidation Trustee to pay or make any Distribution on account of any tax that is not Allowed in these Chapter 11 Cases;

(xvii) maintain and preserve the originals of all instruments and documents pertaining to the Trust Assets to the extent such instruments and documents are in the possession or control of the Liquidation Trustee upon or after the Effective Date;



(xviii) take any of the foregoing actions, and execute any documents relating thereto, in the Liquidation Trustee's own name, on behalf of the Debtors or the Liquidation Trust (including but not limited to all settlement agreements);

(xix) exercise and perform the rights, powers and duties held by the Debtors or the Estates, including without limitation the authority under section 1123(b)(3) of the Bankruptcy Code, to provide for the prosecution, settlement, adjustment, retention and enforcement of claims and interests of the Estates, including but not limited to the commencement, prosecution and settlement of the Causes of Action and the authority to exercise all rights and powers under sections 506(c), 544–551, 1106, 1107 and 1108 of the Bankruptcy Code;

(xx) exercise all rights, privileges, power and authority that may be exercised by any officer, director, shareholder, or other party acting in the name of any Debtor or the Estates with like effect as if duly authorized, exercised and taken by action of such officers, directors, shareholders, or other party;

(xxi) administer, terminate and/or wind down any plan sponsored or administered by a Debtor prepetition for employee benefits, retirement benefits, or otherwise governed by the Employee Retirement Income Security Act of 1974 (as amended) and, in connection therewith, make any filings or reports as may be appropriate or required by federal, state or local law or regulations;

(xxii) engage independent contractors, employees, and professionals on reasonable terms to assist the Liquidation Trustee with respect to his or her responsibilities, including, but not limited to, any independent contractor, employee, or professionals formerly employed by the Debtors or the Creditors' Committee;

(xxiii) prosecute, compromise and/or settle on reasonable terms claims and Causes of Action and objections to Claims, including, without limitation, asserting counterclaims, setoff, or recoupment against Claims, on behalf of Debtors, their Estates, and/or the Liquidation Trust;

(xxiv) liquidate on reasonable terms any remaining Trust Assets and provide for the distributions therefrom in accordance with the provisions of the Plan with the full rights and powers of the Debtors and their Estates;

(xxv) manage the continued liquidation of the Trust Assets, and to otherwise administer the Liquidation Trust;

(xxvi) stand in the shoes of the Debtors and assert or waive attorney client privilege and other privileges between each and any of the Debtors and their professionals (whether such professionals represented any of the Debtors prior to, or after, the Petition Date) with respect to any matter affecting Trust Assets, all as permitted by and consistent with applicable law;

(xxvii) interpret the Plan in the Liquidation Trustee's reasonable discretion;

(xxviii) amend the Schedules in accordance with Bankruptcy Rule 1009; and

(xxix) exercise such other powers and authority as may be vested in the Liquidation Trustee by the Plan or any Final Order, or as may be necessary and proper to carry out the provisions of the Plan; provided, however, that such other powers and authority are not inconsistent with the Plan or applicable law.

The Liquidation Trustee, on behalf of the Liquidation Trust, shall have discretion to pursue, not pursue and/or settle all Causes of Action and objections to Claims or Administrative Expense Claims on reasonable terms as the Liquidation Trustee determines is in the best interests of the Liquidation Trust, and the Liquidation Trustee shall not have any liability whatsoever for the outcome of that decision, except upon entry of a Final Order determining that the Liquidation Trustee committed gross negligence, fraud, or intentional misconduct. Any settlement of either a Cause of Action or an objection to a Claim or an Administrative Expense Claim shall be subject to prior approval of the Bankruptcy Court; provided, that the Liquidation Trustee shall not be required to obtain prior Bankruptcy Court approval of (i) a settlement of any Cause of Action if the amount sought to be recovered by the Liquidation Trustee in the complaint or other initiating document is less than \$50,000, (ii) the allowance of any Disputed General Unsecured Claim filed or scheduled in an amount less than \$50,000, or (iii) the allowance of any Disputed Administrative Expense Claim, Priority Employee Claim, Priority Tax Claim, or Secured Claim filed or scheduled in an amount less than \$10,000. The Liquidation Trustee shall provide at least fourteen (14) days notice of any such proposed settlement to the Post-Confirmation Service List and to any known party whose rights may be affected by such proposed settlement. If no timely objection is interposed, such settlement shall be authorized and approved for all purposes and the Liquidation Trustee shall be authorized to submit a proposed form of order to the Bankruptcy Court approving such settlement. If a timely objection is interposed, the Liquidation Trustee shall request a hearing before the Bankruptcy Court, which hearing shall be scheduled for no earlier than seven (7) days after the objection deadline. Nothing contained in this paragraph shall be deemed to limit the Liquidation Trustee's right to file a motion pursuant to Local Rule 9006-1(e) seeking to shorten notice of any hearing date and/or objection deadline.

In connection with the administration of the Liquidation Trust, the Liquidation Trustee is authorized to perform all acts necessary and desirable to accomplish the purposes of the Plan. If the Liquidation Trustee cannot take any action, including without limitation the prosecution of any Causes of Action or the objection to any Claim, by reason of an actual or potential conflict of interest, the Liquidation Trustee may appoint an independent Person to take such action in the Liquidation Trustee's place and stead, including without limitation the retention of professionals, which may include professionals retained by the Liquidation Trustee, ~~for the purpose of taking such actions.~~

The Liquidation Trustee shall respond, within a reasonable period of time, to all reasonable requests for information received from any Holder of a Claim, Administrative Expense Claim, or Professional Fee Claim.

#### **h. Retention and Compensation of Professionals**

The Liquidation Trustee may, without further order of the Bankruptcy Court, employ various professionals, including, but not limited to, counsel, consultants, and financial advisors,

as needed to assist in fulfilling the Liquidation Trustee's obligations under the Plan, and on whatever reasonable terms the Liquidation Trustee deems appropriate, including, without limitation, contingency fee arrangements. The Liquidation Trustee may employ professionals that were previously employed by the Creditors' Committee or the Debtors.

The Liquidation Trustee shall, subject to further order of the Bankruptcy Court, upon written request, provide copies of all invoices for fees and expenses incurred by a professional rendering services to the Liquidation Trustee or the Liquidation Trust, to the Holders of Professional Fee Claims, the members of the Committee (notwithstanding the dissolution of the Committee on the Effective Date) and to any Beneficiary until such time as the Allowed amount of the claim of such requesting party has been paid in full, otherwise been resolved, or been disallowed.

**i. Compensation of Liquidation Trustee**

In addition to reimbursement for actual out-of-pocket expenses incurred by the Liquidation Trustee, the Liquidation Trustee shall be entitled to receive reasonable compensation for services rendered on behalf of the Liquidation Trust ~~on terms consistent with the Liquidation Trust Agreement~~ at the rate of \$500 per hour billed in increments of one-tenth (1/10<sup>th</sup>) of an hour.

The Liquidation Trustee shall, subject to further order of the Bankruptcy Court, upon written request, provide copies of all invoices for fees and expenses incurred by the Liquidation Trustee to any Holders of Professional Fee Claims, the members of the Committee (notwithstanding the dissolution of the Committee on the Effective Date), and to any Beneficiary until such time as the Allowed amount of the claim of such requesting party has been paid in full, otherwise been resolved, or been disallowed.

**j. Resignation of Liquidation Trustee**

The Liquidation Trustee may resign at any time. The Liquidation Trustee shall file such written resignation with the Bankruptcy Court and shall serve such written resignation on the Post-Confirmation Service List. Any party in interest may request a hearing before the Bankruptcy Court regarding the Liquidation Trustee's resignation. If no such hearing is requested, the resignation shall take effect thirty (30) days after the filing of the notice of resignation with the Bankruptcy Court. The resigning Liquidation Trustee shall, by the earliest date possible, deliver to the Liquidation Trustee's successor all of the Trust Assets that were in the possession of the resigning Liquidation Trustee along with a complete record and inventory of all such Trust Assets.

**k. Removal of Liquidation Trustee**

The Bankruptcy Court may remove a Liquidation Trustee for good cause shown on a motion submitted by a Beneficiary of the Liquidation Trust or the U.S. Trustee following notice to parties in interest, including without limitation, other Beneficiaries, the Post-Confirmation Service List, and the Liquidation Trustee. The removal will take effect upon the date the Bankruptcy Court specifies. Any removed Liquidation Trustee shall, by the earliest date possible, deliver to the Liquidation Trustee's successor all of the Trust Assets that were in the

possession of the removed Liquidation Trustee along with a complete record and inventory of all such Trust Assets.

### **I. Successor Liquidation Trustee**

Any vacancy in the office of Liquidation Trustee shall be filled by the nomination of a majority of the participating members of the Committee (notwithstanding the dissolution of the Committee on the Effective Date), subject to the approval of the Bankruptcy Court, after at least fourteen (14) days' notice of such nomination shall have been provided to Beneficiaries and the Post-Confirmation Service List, with an opportunity to object and be heard in connection therewith. If at least three (3) members of the Committee do not participate in the nomination of a successor Liquidation Trustee within twenty (20) days after the Liquidation Trustee files a written notice of resignation or otherwise becomes unable to serve, the Bankruptcy Court shall designate a successor after a hearing on notice to Beneficiaries and the Post-Confirmation Service List.

Any successor Liquidation Trustee's acceptance of appointment as a successor Liquidation Trustee shall be in writing and shall be filed with the Bankruptcy Court, with a copy served on Beneficiaries and the Post-Confirmation Service List. The acceptance shall become effective when filed with the Bankruptcy Court. The Liquidation Trustee shall thereupon be considered a Liquidation Trustee of the Liquidation Trust without the necessity of any conveyance or instrument. Each successor Liquidation Trustee shall have all of the rights, powers, duties, authority, and privileges as if named as the initial Liquidation Trustee hereunder. Each successor Liquidation Trustee shall be exempt from any liability related to the acts or omissions of any prior Liquidation Trustee.

### **m. Records**

The Liquidation Trustee shall maintain good and sufficient books and records relating to the Trust Assets, Cash, Distributable Cash, Plan Reserves, the management thereof, all post-Confirmation transactions undertaken by the Liquidation Trustee, all expenses incurred by or on behalf of the Liquidation Trustee after the Effective Date, and all distributions contemplated or effectuated under the Plan. Subject to further order of the Court, such records shall be maintained and preserved by the Liquidation Trustee until the earlier to occur of (i) entry of the final decree closing the Chapter 11 Cases and (ii) termination of the Liquidation Trust.

### **n. Liability of the Liquidation Trustee**

The Liquidation Trustee shall not be personally liable for any claim asserted against the Liquidation Trust or the Liquidation Trustee, except as set forth below. The Liquidation Trustee shall not be liable for any error of judgment made in good faith, or with respect to any action taken or omitted to be taken in good faith, unless the Liquidation Trustee was grossly negligent. Notwithstanding anything to the contrary set forth herein or in the Liquidation Trust Agreement, no provision of the Plan or the Liquidation Trust Agreement shall be construed to relieve the Liquidation Trustee from liability for gross negligence, fraud or willful misconduct. ~~The Liquidation Trustee shall not be liable for any error of judgment made in good faith, or with~~

~~respect to any action taken or omitted to be taken in good faith, unless the Liquidation Trustee was grossly negligent.~~

**o. Indemnification**

From and after the Effective Date, the Liquidation Trustee and the independent contractors, employees and/or professionals employed by the Liquidation Trust (collectively, the “Indemnified Parties” and each an “Indemnified Party”) shall be, and hereby are, indemnified by the Liquidation Trust, to the fullest extent permitted under applicable law, from and against any and all claims, debts, dues, accounts, actions, suits, causes of action, bonds, covenants, judgments, damages, attorneys’ fees and defense costs, and other assertions of liability arising out of any such Indemnified Parties’ good faith exercise of what such Indemnified Party reasonably understands to be its powers or the discharge of what such Indemnified Party reasonably understands to be its duties conferred by the Plan, the Liquidation Trust Agreement, or by any order of the Bankruptcy Court entered pursuant to, or in furtherance of, the Plan, applicable law, or otherwise (except only for actions or omissions to act to the extent determined by a Final Order of a court of competent jurisdiction to be due to such Indemnified Party’s own respective fraud, gross negligence or willful misconduct), including but not limited to, acts or omissions concerning pursuing or not pursuing any Causes of Action or objections to Claims, on and after the Effective Date. The foregoing indemnification shall also extend to matters directly or indirectly, in connection with, arising out of, based on, or in any way related to (i) the Plan; (ii) the services to be rendered pursuant to the Plan; (iii) any document or information, whether verbal or written, referred to herein or supplied to the Liquidation Trustee; or (iv) proceedings by or on behalf of any claimant or Creditor. Subject to the terms of the Plan and the Liquidation Trust Agreement, the Liquidation Trust shall, on demand, advance or pay promptly, in either case from the Post-Effective Date Trust Expense Reserve, on behalf of each Indemnified Party, reasonable attorneys’ fees and other expenses and disbursements which such Indemnified Party would be entitled to receive pursuant to the foregoing indemnification obligation; provided, however, that any Indemnified Party receiving any such advance shall execute a written undertaking to repay such advance amounts if a court of competent jurisdiction ultimately determines that such Indemnified Party is not entitled to indemnification hereunder due to the gross negligence, fraud, or willful misconduct of such Indemnified Party. Any person entitled to indemnification hereunder shall have the right to employ such person’s own separate counsel in any such action, payable solely from the Post-Effective Date Trust Expense Reserve, subject to the terms and conditions of the Plan.

[An Indemnified Party seeking indemnification \(including any advancement\) from the Liquidation Trust shall file with the Bankruptcy Court a motion for indemnification or advancement, on notice to the U.S. Trustee, the Post-Confirmation Service List, and any known party whose rights may be affected by such motion. Absent an order of the Bankruptcy Court, no Trust Assets shall be used to advance or otherwise pay any sums to or for the benefit of any Indemnified Party in connection with an indemnification.](#)

The Liquidation Trustee is authorized, but not required, to obtain and purchase (solely from funds in the Post-Effective Date Trust Expense Reserve) insurance coverage with respect to the responsibilities, liabilities, and obligations of the Indemnified Parties under the Plan.

**3. The Source of Distributions**

The sources of all distributions and payments under the Plan are the Trust Assets (or proceeds of any Trust Assets), including without limitation Cash and Distributable Cash, proceeds of ~~any~~all Causes of Action, all rights and claims with respect to any recoveries related to the issuance of the Bond and the Letter of Credit draw, and proceeds of or recoveries from any other remaining property of the Debtors and their Estates.

**4. Provision for Treatment of Disputed Administrative Expense Claims and Disputed Claims**

Unless otherwise ordered by the Bankruptcy Court, from and after the Effective Date, the Liquidation Trustee shall have the exclusive right to (i) amend the Schedules and (ii) object to the allowance of Administrative Expense Claims or Claims that have been filed with the Bankruptcy Court. All objections may be litigated to Final Order; provided, however, that the Liquidation Trustee may compromise and settle any Administrative Expense Claim, Professional Fee Claim, or Claim without the approval of the Bankruptcy Court unless such approval is otherwise required by the terms of the Plan. At such time as a Disputed Administrative Expense Claim, Disputed Professional Fee Claim, or Disputed Claim becomes Allowed, as applicable, either by entry of a Final Order or a settlement reached with the Liquidation Trustee, the Holder thereof will receive, as soon as practicable thereafter, the distributions to which such Holder is then entitled under the Plan. ~~For the avoidance of doubt, the Liquidation Trustee shall not object to any Administrative Expense Claim, Professional Fee Claim, or Claim if a Final Order has been entered allowing such Administrative Expense Claim, Professional Fee Claim, or Claim.~~

**5. Abandonment of Property**

If and to the extent the Liquidation Trustee determines to abandon any Trust Assets, then the Liquidation Trustee may abandon such assets in accordance with the Plan or any further order of the Court on no less than fourteen (14) days' written notice to Beneficiaries and the Post-Confirmation Service List.

**6. Distribution of Property Under the Plan**

**a. Manner of Cash Payments**

Cash payments to domestic Holders of Allowed Claims will be denominated in U.S. dollars and will be made by checks drawn on a domestic bank selected by the Liquidation Trustee or, at the Liquidation Trustee's option, by wire transfer from a domestic bank. Cash payments to foreign Holders of Allowed Claims may be paid, at the Liquidation Trustee's option, either in the same manner as payments to domestic entities or in any funds and by any means that are necessary or customary in the particular foreign jurisdiction.

**b. Setoff and Recoupment**

**NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE PLAN, THE LIQUIDATION TRUSTEE, ON BEHALF OF THE LIQUIDATION TRUST, MAY**



**SETOFF, RECOUP, OR WITHHOLD AGAINST DISTRIBUTIONS ON ACCOUNT OF ANY CLAIM OR ANY ADMINISTRATIVE EXPENSE CLAIM, ANY CLAIMS THAT A DEBTOR, THE ESTATES, OR THE LIQUIDATION TRUST MAY HAVE AGAINST THE HOLDER OF SUCH CLAIM OR ADMINISTRATIVE EXPENSE CLAIM. THE LIQUIDATION TRUST AND THE LIQUIDATION TRUSTEE WILL NOT BE DEEMED TO WAIVE OR RELEASE ANY CLAIM AGAINST THE HOLDER OF SUCH CLAIM OR ADMINISTRATIVE EXPENSE CLAIM, ~~AS APPLICABLE~~, BY FAILING TO EFFECT SUCH A SETOFF OR RECOUPMENT; BY ALLOWING ANY CLAIM OR ADMINISTRATIVE EXPENSE CLAIM, AS APPLICABLE, AGAINST THE DEBTORS OR THE LIQUIDATION TRUST; OR BY MAKING A DISTRIBUTION ON ACCOUNT OF SUCH CLAIM OR ADMINISTRATIVE EXPENSE CLAIM.**

**c. No De Minimis Distributions**

Notwithstanding anything to the contrary in the Plan, no Cash payment of less than \$50 will be made by the Liquidation Trustee to any Holder of an Allowed Claim. No consideration will be provided in lieu of the *de minimis* distributions that are not made under the terms of the Plan.

If the amount of any Distribution to be made pursuant to the Plan on account of an Allowed Claim would be less than \$50, the Liquidation Trustee will not pay such Distribution and will hold such Distribution for the benefit of the Holder of such Allowed Claim. When and if the aggregate amount of Distributions on account of such Allowed Claim totals at least \$50, the Liquidation Trustee will distribute such Distributions to the Holder of such Allowed Claim in accordance with the terms of the Plan.

If, at the time a final Distribution is to be made under the Plan, the aggregate amount of Distributions held by the Liquidation Trustee for the benefit of a Holder of an Allowed Claim total less than \$50, then (i) such Distributions shall not be paid to such Holder and such Distributions shall vest in the Liquidation Trust and be distributed to other Holders of Allowed Claims in accordance with the terms of the Plan, and (ii) the Holder of such Allowed Claim will be forever barred from receiving such Distribution or asserting any claim against the Liquidation Trust, the Trust Assets, or the Liquidation Trustee on account of such Allowed Claim.

**d. No Distributions with Respect to Disputed Claims**

Notwithstanding any other Plan provision, Distributions will be made on account of a Disputed Claim only after, and only to the extent that, the Disputed Claim becomes an Allowed Claim or is deemed to be an Allowed Claim for Distribution purposes.

**e. Undeliverable or Unclaimed Distributions**

Distributions to Beneficiaries holding Allowed Claims will initially be made by U.S. mail as follows:

- i. Distributions will be sent to the address, if any, (i) set forth on a filed Proof of Claim, as amended by any written notice of address change filed



on the Docket for ~~the~~these Chapter 11 Cases no later than ten (10) Business Days prior to the date of any Distribution, or (ii) such other address as the Beneficiary provides to the Liquidation Trustee in writing (including via email) at least thirty (30) days prior to the date of such Distribution; or

- ii. If no such address is available, distributions will be sent to the address set forth on the Schedules.

If no address is available as set forth above, the Distribution will be deemed to be undeliverable. If a Distribution is returned to the Liquidation Trustee as an undeliverable Distribution, or is deemed to be an undeliverable Distribution, the Liquidation Trustee shall make no further Distribution to the entity holding the Allowed Claim on which the Distribution is being made unless and until the Liquidation Trustee is timely notified in writing of that entity's current address.

If, at the time a final Distribution is to be made under the Plan, the Liquidation Trustee is holding an undeliverable Distribution for any Allowed Claim for which the Liquidation Trustee has not received written notice of the current address of the entity holding such Allowed Claim, then (i) such Distribution shall vest in the Liquidation Trust and be distributed to other Holders of Allowed Claims in accordance with the terms of the Plan and (ii) the entity holding such Allowed Claim will be forever barred from receiving such undeliverable Distribution or asserting any claim against the Liquidation Trust, the Trust Assets, or the Liquidation Trustee. Nothing contained in the Plan shall be deemed to require the Liquidation Trustee to attempt to locate any entity holding an Allowed Claim whose Distribution is undeliverable.

If an instrument delivered as a Distribution to a Beneficiary is not negotiated within one hundred and eighty (180) days after such instrument was sent to the Beneficiary, then the instrument shall be null and void and payment thereon shall be stopped, the Beneficiary shall be deemed to have waived any right to receive such Distribution on account of its Allowed Claim, and the applicable funds shall be used otherwise by the Liquidation Trustee in accordance with the terms of the Plan.

## **C. Litigation**

### **1. Preservation of Causes of Action**

The Liquidation Trustee, ~~on behalf of the Debtors, their Estates and/or the Liquidation Trust, shall~~ shall, for all purposes, retain, and may exclusively enforce, any and all claims, rights, or Causes of Action (including, without limitation, Avoidance Actions), whether arising before or after the Petition Date, in any court or other tribunal, including, without limitation, an adversary proceeding filed in these Chapter 11 Cases. The Liquidation Trustee, ~~on behalf of the Debtors, their Estates and/or the Liquidation Trust~~, shall have the exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise on any reasonable terms any and all claims, rights and Causes of Action, and shall not be required to seek prior approval from the Bankruptcy Court to do so, except as otherwise provided in the Plan, and shall have the full rights and powers to commence and pursue any such Cause of Action (including, without

limitation, any Avoidance Action), on or after the Effective Date ~~to at least the same extent as a trustee or debtor in possession could commence such actions prior to the Effective Date. With respect to any matter affecting Trust Assets, the Liquidation Trustee stands in the shoes of the Debtors and Debtors in Possession, the Debtors' Estates, the Creditors' Committee, and/or the Liquidation Trust and may take such actions in their name without the need to intervene in, amend any pending matters, proceedings, or actions, or obtain any further order of the Bankruptcy Court.~~

Specifically, and without limitation, the following Causes of Action shall vest in the Liquidation Trust: (i) all Avoidance Actions; (ii) all Causes of Action against any of the Debtors' current or former Insiders; (iii) all Causes of Action against Rio; (iv) all claims for recoveries relating to the issuance of the Bond and the related letter of credit draw; and (v) all claims against any Person regarding the termination, modification or withdrawal of any license agreement between any of the Debtors and such Person. Causes of Action vested in the Liquidation Trust include, without limitation, any and all known and/or unknown Causes of Action, against any Person, including without limitation (a) the Persons identified in this paragraph and any Person identified on the Debtors' Schedules of Assets and Liabilities and Statements of Financial Affairs, including such Persons identified as holding a Claim against the Debtors, as having received a transfer of any property from the Debtors, and/or (b) any Person who filed a Proof of Claim in these Chapter 11 Cases.

Because all such Causes of Action are subject to the uncertainties and risks of potential litigation, the Debtors do not, at this time, seek to estimate the potential Distributions under the Plan to Holders of Allowed Claims in Class 2 (General Unsecured Claims).

The Liquidation Trustee ~~is authorized~~ shall have authority to exercise and perform the rights, powers and duties ~~held by~~ of the ~~Debtors, their Estates and/or the Liquidation Trust,~~ including without limitation the authority under Bankruptcy Code section 1123(b)(3) to provide for the settlement, adjustment, retention and enforcement of claims and interests of the ~~Debtors, their Estates or the Liquidation Trust,~~ including, but not limited to all Causes of Action (including, without limitation, Avoidance Actions).

Unless a claim or Cause of Action is expressly waived, relinquished, released, compromised, or settled in the Plan or in any Final Order, ~~the Liquidation Trustee, on behalf of the Debtors, their Estates and/or the Liquidation Trust, expressly reserves such claim or~~ all claims and Cause of Action are expressly reserved for later adjudication (including without limitation, claims and Causes of Action which the Liquidation Trustee, the Debtors or the Creditors' Committee may presently be unaware, or which may arise or exist by reason of additional facts or circumstances unknown at this time, or facts or circumstances which may change or be different from those now believed to exist) 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 or Consummation of the Plan based on this 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.

Any Person to whom the Debtors have incurred an obligation (whether on account of the provision of goods, services or otherwise), or who has received goods or services from the Debtors or a transfer of money or property of 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 Liquidation Trustee on behalf of the Liquidation Trust, subsequent to the Effective Date and may, if appropriate, be the subject of a filed action or other proceeding after the Effective Date, regardless of whether (i) such Person or entity has filed a Proof of Claim against the Debtors in these Chapter 11 Cases; (ii) such Person's or entity's Proof of Claim has been objected to; (iii) such Person's or entity's Claim was included in the Schedules; or (iv) such Person's or entity's scheduled Claims have been objected to or have been identified as disputed, contingent, or unliquidated.

**THE LIQUIDATION TRUSTEE WILL MAKE THE DECISION OF WHETHER OR NOT TO PURSUE ANY CAUSES OF ACTION AND TO SETTLE OR NOT SETTLE CAUSES OF ACTION. THIS DECISION WILL BE BASED UPON THE LIQUIDATION TRUSTEE'S REVIEW OF THE MERITS OF THE VARIOUS CAUSES OF ACTION AS WELL AS THE COSTS REQUIRED TO PROSECUTE SUCH CAUSES OF ACTION IN LIGHT OF THE LIMITED RESOURCES AVAILABLE FOR DISTRIBUTION TO CREDITORS. THE LIQUIDATION TRUSTEE (I) MAY SEEK TO RETAIN COUNSEL ON ANY REASONABLE TERMS, INCLUDING ON A CONTINGENCY BASIS, TO PROSECUTE SOME OR ALL CAUSES OF ACTION, (II) SEEK TO FINANCE ANY COSTS RELATING TO THE PROSECUTION OF SUCH LITIGATION, OR (III) DECIDE NOT TO PURSUE SUCH CAUSES OF ACTION AT ALL. THE LIQUIDATION TRUSTEE AND HIS OR HER FIRMS, PARTNERS, MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, PROFESSIONALS, SUCCESSORS AND ASSIGNS SHALL HAVE NO LIABILITY ARISING OUT OF THE GOOD FAITH DETERMINATIONS OF THE LIQUIDATION TRUSTEE OF WHETHER OR NOT TO PURSUE PROSECUTION OF AND/OR THE SETTLEMENT OF ANY CAUSES OF ACTION PURSUANT TO THE TERMS OF THE PLAN.**

**IN REVIEWING THIS DISCLOSURE STATEMENT AND THE PLAN, AND IN DETERMINING WHETHER TO VOTE IN FAVOR OF OR AGAINST THE PLAN AND WHETHER TO OBJECT TO APPROVAL OF THE DISCLOSURE STATEMENT AND/OR CONFIRMATION OF THE PLAN, HOLDERS OF CLAIMS AND INTERESTS (INCLUDING PARTIES THAT MAY HAVE RECEIVED PAYMENTS FROM THE DEBTORS WITHIN NINETY (90) DAYS PRIOR TO THE PETITION DATE AS REFLECTED ON THE DEBTORS' STATEMENTS OF FINANCIAL AFFAIRS) SHOULD CONSIDER THAT A CAUSE OF ACTION MAY EXIST AGAINST THEM, THAT THE PLAN PRESERVES ALL CAUSES OF ACTION, AND THAT THE PLAN AUTHORIZES THE LIQUIDATION TRUST TO PROSECUTE CAUSES OF ACTION.**

The Plan preserves all claims and Causes of Action against any and all third parties, including, but not limited to, Insiders, all creditors and interest holders, and others. Nothing contained in this Disclosure Statement or in the Plan shall be construed as an acknowledgement or concession regarding the existence or validity of any claim or Cause of Action.

## D. Exculpation and Injunction

### 1. Term of Bankruptcy Injunction or Stay

Except as otherwise expressly provided in the Plan or the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and which are in effect on the Confirmation Date, shall remain in full force and effect until the Effective Date.

### 2. Exculpation for Estate Fiduciaries

Upon the occurrence of the Effective Date, none of the Debtors, the Debtors' officers and directors who provided service from and after the Petition Date, the Debtors' managers, employees, members, agents, and any Professionals employed by the Debtors pursuant to an order of the Bankruptcy Court (each acting in such capacity after the Petition Date), the Creditors' Committee, its members, and its Professionals employed pursuant to an order of the Bankruptcy Court, shall have or incur any liability to any Person for any action taken or omitted to be taken during the period from the Petition Date through and including the Effective Date in connection with or related to or arising out of, the filing of the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, implementation, confirmation, or consummation of the Plan, this Disclosure Statement, any motion, order, release, settlement, transaction, or other agreement or document created or entered into or approved by the Bankruptcy Court, or any other Postpetition action taken or omitted to be taken in connection with the Plan or any other matter or proceeding in the Chapter 11 Cases, and all claims or causes of action based upon or arising out of any such actions or omissions are forever enjoined, barred, waived and released; provided, however, that nothing contained in the Plan shall affect the liability of any Person arising from any act, omission, transaction, agreement, event or other occurrence constituting willful misconduct, gross negligence, fraud or criminal conduct; provided, further, that nothing in Article IX.B of the Plan shall be deemed to prohibit any objection to any Administrative Expense Claim or Professional Fee Claim in accordance with the terms of the Plan, orders of the Bankruptcy Court, and/or the Bankruptcy Code.

### 3. Injunction

The Plan provides, and the Confirmation Order shall provide, among other things, that any Person (other than the Debtors, the Creditors' Committee, the Debtors' Estates or the Liquidation Trustee) who has held, holds, or may hold a claim against ~~or~~, interest in, or right with respect to the Debtors' Estates, the Assets, the Liquidation Trust, or the Trust Assets, or any claim against or interest in the Debtors, the Debtors' Estates or the Liquidation Trust for which the Debtors' Estates or the Liquidation Trust are or may be liable is, with respect to any such claim ~~or~~, interest, or right, permanently enjoined from and after the Effective Date from taking any of the following actions (other than actions taken in the Bankruptcy Court or in any of the Chapter 11 Cases to enforce any rights or obligations under the Plan or to defend challenges to the validity or amount of a Disputed Claim), absent further order of the Bankruptcy Court: (i) asserting, commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action or other

proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting any of the Debtors' Estates, the Assets, the Liquidation Trust, or the Trust Assets, on account of any claim for which the Debtors or Liquidation Trustee are directly or indirectly liable, including without limitation, by way of contribution, indemnity or otherwise; (ii) enforcing, levying, attaching (including, without limitation, any prejudgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against any of the Debtors' Estates, the Assets, the Liquidation Trust, or the Trust Assets; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any lien of any kind against the Debtors' Estates, the Assets, the Liquidation Trust, or the Trust Assets; (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan; ~~and~~ (v) prosecuting, commencing, continuing or otherwise asserting any right, claim or cause of action released pursuant to the Plan or that is otherwise inconsistent with the provisions of the Plan against the Debtors' Estates, the Assets, the Liquidation Trust, or the Trust Assets; and (vi) acting to obtain possession of the Trust Assets or to exercise control over the Trust Assets or any rights or interests of the Debtors, their Estates, the Liquidation Trust, or the Liquidation Trustee with respect to the Assets or the Trust Assets. If the Liquidation Trustee, the Trust Assets or the Debtors Estates are injured by any willful violation of such injunction, the Liquidation Trustee shall ~~recover~~be entitled to seek actual damages, including costs and attorneys' fees, and, in appropriate circumstances, ~~may recover~~ punitive damages, from the willful violator(s). Notwithstanding the foregoing, holders of Disputed Claims are not enjoined from and shall retain all rights to defend or prosecute such Disputed Claims in the Bankruptcy Court, including, without limitation, the right to assert affirmative defenses, setoff, or recoupment, if applicable. Nothing herein shall impair or delay any rights of any Holder of a Claim against the Debtors, their Estates, the Assets, the Liquidation Trust, or the Trust Assets, to pursue any action against any third party (including, without limitation, Insiders) who may be directly liable to such Holder.

Nothing contained in Article IX.C of the Plan shall be construed to in any way enjoin, prevent, or limit the Liquidation Trustee's rights, power, and authority under the Plan and the Liquidation Trust Agreement.

#### 4. Preservation of Insurance

The provisions of the Plan and the Confirmation Order shall not diminish or impair the enforceability of any insurance policies that may cover claims against any Debtor or any other Person or prevent any Person from seeking or enforcing coverage with respect to any claim under any applicable insurance policies of the Debtors. The Liquidation Trustee shall be authorized, in his or her sole discretion, to pay from the Post-Effective Date Trust Expense Reserve any fees, expenses, or premiums necessary to maintain such insurance coverage.

#### 5. Binding Effect

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

Administrative Expense Claim, or Professional Fee Claim against, or Interest in, the Debtors and their respective successors and assigns, whether or not the Claim, Administrative Expense Claim, Professional Fee Claim, or Interest of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan.

**E. Other Plan Provisions**

**1. The Effective Date**

The Plan will not be consummated or become binding unless and until the Effective Date occurs. The Effective Date will be the first Business Day after the following conditions have been satisfied:

- (a) The Confirmation Order, in a form reasonably acceptable to the Debtors and to the Creditors' Committee, shall have been entered by the Bankruptcy Court;
- (b) The Confirmation Order is not stayed;
- (c) The Liquidation Trustee and Plan Proponents shall have signed the Liquidation Trust Agreement; and
- (d) No material adverse effect has occurred in respect of the Assets.

Each of the above conditions precedent may be waived in whole or in part by the Plan Proponents without further notice or order of the Bankruptcy Court.

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

Subject to further order of the Court, if the Effective Date does not occur within ninety (90) days after entry of a Final Order confirming the Plan, the Plan Proponents reserve the right, in their sole and absolute discretion, to determine jointly that the Plan shall have become null and void. A joint notice shall be filed with the Court within three (3) Business Days after the occurrence of the Effective Date or any event that renders the Plan null and void.

**2. Dissolution of the Board of Directors, Dismissal of Officers and Directors, and Termination of Creditors' Committee**

Upon the Effective Date, the existing board of directors of any Debtor shall be deemed dissolved, and any remaining director, officer, employee, or independent contractor of any Debtor shall be dismissed, and each of the Debtors' directors, officers, employees, independent contractors, members, designated representatives, agents, and Professionals employed pursuant to a Bankruptcy Court order shall, subject to those matters set forth below, be released and discharged from any further authority, duties, responsibilities and obligations relating to, arising from, or in connection with the Debtors or the Chapter 11 Cases.

Each of the matters provided for under the Plan involving any corporate action to be taken by the Debtors shall, as of the Effective Date, be deemed to have occurred and be effective as provided herein, and shall be authorized and approved without any requirement of further



action by the Debtors, the Debtors' shareholders or the respective Debtor's board of directors or managers. Without limiting the foregoing, including, without limitation, Article X.B. of the Plan, the Liquidation Trustee is hereby authorized in his sole discretion, to dissolve or otherwise terminate on or after the Effective Date (i) a Debtor's existence, by filing a certificate of dissolution and a copy of the Confirmation Order with the secretary of state of their respective state of incorporation or state of formation, (ii) the existence of wholly-owned non-Debtor affiliates or subsidiaries, or (iii) any remaining health, welfare or benefit plans. As of the Effective Date, neither the Debtors nor the Liquidation Trustee shall be required to file any document, or take any other action, to withdraw any Debtor's business operation from any state in which it previously conducted business operations. The Confirmation Order shall contain language addressed to the appropriate Governmental Units to such effect.

From and after the Effective Date, the Debtors and their counsel are authorized, but not directed, to act on behalf of the Estates solely with respect to (i) all the applications filed pursuant to section 330 of the Bankruptcy Code seeking payment of fees and expenses incurred by any Professional, (ii) any post-confirmation modifications to, or motions seeking the enforcement of, the provisions of the Plan or the Confirmation Order, and (iii) providing such information, books and records as may be reasonably requested by the Liquidation Trustee on behalf of the Liquidation Trust. The Debtors, their employees, officers, directors and their respective counsel shall not be entitled to any compensation from the Trust Assets for any actions taken pursuant to this paragraph, except for reasonable out-of-pocket expenses (but not professional fees).

Upon the Effective Date, the Creditors' Committee shall cease to exist and its members, designated representatives, agents, and Professionals employed pursuant to a Bankruptcy Court order shall, subject to those matters set forth below, be released and discharged from any further authority, duties, responsibilities and obligations relating to, arising from, or in connection with the Creditors' Committee or the Chapter 11 Cases. The Creditors' Committee shall continue to exist after such date solely with respect to (i) all the applications filed pursuant to section 330 of the Bankruptcy Code seeking payment of fees and expenses incurred by any Professional, (ii) any post-confirmation modifications to, or motions seeking the enforcement of, the provisions of the Plan or the Confirmation Order, and (iii) providing such information, books and records as may be reasonably requested by the Liquidation Trustee on behalf of the Liquidation Trust. The Creditors' Committee and its Professionals shall not be entitled to any compensation from the Trust Assets for any actions taken pursuant to this paragraph, except for reasonable out-of-pocket expenses (but not professional fees).

The Debtors, the Creditors' Committee and the Liquidation Trustee shall be authorized to execute, deliver, file, or record such documents, contracts, instruments, releases and other agreements and take such other action as may be necessary to effectuate and further evidence the terms and provisions of the Plan.

**3. Executory Contracts and Unexpired Leases**

**a. Rejection of Executory Contracts and Unexpired Leases**

On the Effective Date, all agreements executed by the Debtors before the Effective Date, other than agreements that were previously either assumed and assigned or rejected by a Final Order, to the extent that these agreements constitute executory contracts or unexpired leases under Bankruptcy Code section 365, shall be rejected. The Confirmation Order shall constitute a Final Order under Bankruptcy Code section 365 approving such rejection.

**b. Bar Date for Rejection Damage Claims**

Any Rejection Damage Claims arising from rejection under the Plan of an executory contract or unexpired lease must be filed with the Bankruptcy Court and served on the Liquidation Trustee and his or her counsel within thirty (30) days after the Effective Date. Any Rejection Damage Claims that are not timely filed and served will be forever barred and unenforceable against the Debtors, the Estates, the Liquidation Trust, and the Liquidation Trustee, and their property, and the entities holding these Claims will be barred from receiving any Distributions under the Plan on account of their Rejection Damage Claims. The Liquidation Trustee shall have the right to object to any such Rejection Damage Claims; provided, however, that any such objections must be served and filed not later than one hundred twenty (120) days after the Effective Date, absent further order of the Bankruptcy Court.

**4. Entry of a Final Decree**

Promptly following the completion of all Distributions contemplated by the Plan and the full administration of all Trust Assets, the Liquidation Trustee will file a motion with the Bankruptcy Court seeking entry of a final decree closing these Chapter 11 Cases.

**5. U.S. Trustee Fees and Quarterly Reports**

From and after the Effective Date, pursuant to section 1129(a)(12) of the Bankruptcy Code, any outstanding quarterly fees due and owing to the U.S. Trustee under 28 U.S.C. § 1930(a)(6) and any applicable interest pursuant to 31 U.S.C. § 3717 shall be paid by the Liquidation Trustee from the Post-Effective Date Trust Expense Reserve. After the Effective Date, the Liquidation Trustee shall (i) file post-confirmation quarterly disbursement reports and quarterly status reports of funds on hand, distributions made since the previous report, a brief description of any pending litigation, with copies of all such reports served on the Post-Confirmation Service List and a listing of any claim objections or settlements the Liquidation Trustee has entered into since the previous report, and (ii) pay from the Post-Effective Date Trust Expense Reserve all quarterly fees to the U.S. Trustee which are required by applicable law. The Liquidation Trustee shall include in the Post-Effective Date Trust Expense Reserve reasonably sufficient monies to cover the quarterly fees of the U.S. Trustee incurred, or to be incurred, after the Effective Date.

**6. Post-Effective Date Effect of Evidences of Claims**

Commencing on the Effective Date, notes and other evidences of Allowed Claims will represent only the right to receive the Distributions contemplated under the Plan.

**7. ~~Amending Claims~~[Reserved]**

~~Upon a Creditor's receipt of a Distribution on account of an Allowed Claim pursuant to the Plan, such Creditor forever shall be barred, except with the consent of the Liquidation Trustee or by Final Order of the Bankruptcy Court, from amending any proof of claim upon which such Allowed Claim may be based.~~

**8. Cancellation of Interests**

On the Effective Date, all Interests in Hampshire Group, Limited, Hampshire Brands, Inc. and Hampshire International, LLC will be cancelled, annulled, and extinguished, and any issued and outstanding shares of common stock, preferred stock, stock options, warrants, membership interests, or other evidence of Interests (excluding those held by a Debtor) will be deemed cancelled and of no further force or effect without any further action by the Debtors or any other entity. Persons holding Interests will retain no rights and receive no consideration or Distribution under the Plan on account of their Interests, and entities holding any evidence of Interests (excluding those held by a Debtor) will have no rights arising from or relating to such evidence of their Interests or their cancellation.

**9. Nondischarge of the Debtors' Debts**

**a. Nondischarge of the Debtors**

In accordance with Bankruptcy Code section 1141(d)(3), the Confirmation Order will not discharge Claims as against the Debtors.

**b. Prohibition from Taking Certain Actions**

Notwithstanding Article X.I.1 of the Plan, no Person or entity holding a Claim may receive any payment from, or seek recourse against, any Assets that are to be distributed under the Plan other than Assets required to be distributed to that Person or entity under the Plan. As of the Confirmation Date, all Persons and entities are precluded from asserting against any property that is to be distributed under the Plan any Claims, rights, causes of action, liabilities, or Interests based upon any act, omission, transaction, or other activity that occurred before the Confirmation Date except as expressly provided in the Plan or the Confirmation Order.

**10. No Recourse**

No Person entitled to receive a payment or Distribution under the Plan will have any recourse against the Liquidation Trust, the Liquidation Trustee, the Trust Assets, the Debtors or their Estates in connection with such Person's Administrative Expense Claim, Professional Fee Claim, or Claim, other than the right to receive Distributions in accordance with the terms of the Plan.

**11. No Admissions**

Notwithstanding anything to the contrary contained in the Plan, if the Plan is not confirmed, is revoked or otherwise the Effective Date does not occur, the Plan will be null and void, and nothing contained in the Plan or this Disclosure Statement will: (1) be deemed an admission by any of the Plan Proponents with respect to any matter discussed in the Plan, including liability on any Claim, Administrative Expense Claim, or Professional Fee Claim, or the propriety of any classification or treatment of same contained in the Plan; (2) constitute a waiver, acknowledgement, or release of any claims, Interests, or Causes of Action of the Debtors, their Estates, and/or the Liquidation Trust; or (3) prejudice in any manner the rights of the Plan Proponents or any other Person in any further proceedings.

**12. Revocation of the Plan**

The Plan Proponents reserve the right to withdraw the Plan before the Confirmation Date.

**13. Severability of Plan Provisions**

If, before confirmation, the Bankruptcy Court holds that any Plan term or provision is invalid, void, or unenforceable, the Bankruptcy Court may alter or interpret that term or provision so that it is valid and enforceable to the maximum extent possible consistent with the original purpose of that term or provision. That term or provision will then be applicable as altered or interpreted, except if such term or provision is inconsistent with the intent of any of the Plan Proponents, in which case the Plan may be unilaterally withdrawn by such Plan Proponent. Notwithstanding any such holding, alteration, or interpretation, and unless the Plan has been withdrawn, the Plan's remaining terms and provisions will remain in full force and effect and will in no way be affected, impaired, or invalidated. The Confirmation Order will constitute a judicial determination providing that each Plan term and provision, as it may have been altered or interpreted in accordance with Article X.M of the Plan, is valid and enforceable under its terms.

**14. Governing Law**

The rights and obligations arising under the Plan and any agreements, contracts, documents, or instruments executed in connection with the Plan will be governed by, and construed and enforced in accordance with, Delaware law without giving effect to Delaware's conflicts of law principles, unless a rule of law or procedure is supplied by: (1) federal law (including the Bankruptcy Code and the Bankruptcy Rules); or (2) an enforceable, express choice-of-law provision in any document provided for, or executed under or in connection with, the Plan terms.

**15. Retention of Jurisdiction**

Under the terms of the Plan, the Bankruptcy Court will retain and have exclusive jurisdiction:

(1) to hear and determine objections to Claims, Administrative Expense Claims, and Professional Fee Claims;

(2) to hear and determine any dispute arising under the Plan or the Liquidation Trust Agreement, including the implementation and execution of any necessary documents thereunder, and any requests to amend, modify, or correct the Plan or the Liquidation Trust Agreement;

(3) to grant extensions of any deadlines set forth in the Confirmation Order or the Plan as may be appropriate;

(4) to hear and determine any matter regarding the existence, nature, scope, and enforceability of any exculpation, stay, release, or injunction provided for under the Plan;

(5) to hear and determine all motions, adversary proceedings, applications, and contested or litigated matters that may be pending on the Effective Date or that, ~~pursuant to the Plan or applicable law, may be~~ are instituted by the Liquidation Trustee or the Liquidation Trust after the Effective Date, including without limitation all Causes of Action (including, without limitation, Avoidance Actions);

(6) to hear and determine motions for or objections to the assumption or rejection of executory contracts or unexpired leases pending on the Confirmation Date, and the allowance of claims resulting from the assumption or rejection of any executory contract or lease;

(7) to ensure that distributions to Holders of Allowed Administrative Expense Claims, Allowed Professional Fee Claims, and Allowed Claims are accomplished as provided herein;

(8) to resolve disputes as to the ownership of any Claim, Administrative Expense Claim, or Professional Fee Claim;

(9) to hear and determine any disputes relating to or in connection with the retention, employment, compensation, liability, indemnification, resignation, removal, or nomination of the Liquidation Trustee;

(10) to hear and determine any disputes relating to or in connection with the employment, compensation, liability, indemnification, resignation, or termination of any independent contractor, employee, or professional employed by the Liquidation Trustee or the Liquidation Trust;

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

(12) to issue such orders in aid of execution of the Plan, to the extent authorized by section 1142 of the Bankruptcy Code;

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

(14) to hear and determine all applications for compensation and reimbursement of expenses of Professionals under sections 330, 331 and 503(b) of the Bankruptcy Code;

(15) to hear and determine any issue for which the Plan requires a Final Order of the Court;

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

(17) to hear and determine anyall Causes of Action preserved under the Plan, including, without limitation, anyall Causes of Action under sections 541, 542, 544, 547, 548, 549, 550, 551, 553, and 1123(b)(3) of the Bankruptcy Code; and

(18) to enter a final decree closing one or more of the Chapter 11 Cases.

If the Bankruptcy Court abstains from exercising jurisdiction, or is without jurisdiction, over any matter, Article X.O of the Plan shall not effect, control, prohibit, or limit the exercise of jurisdiction by any other court that has jurisdiction over that matter. The principal objective of the Plan is to maximize the recovery to the Beneficiaries, and the retention of jurisdiction by the Bankruptcy Court shall be interpreted in a manner to accomplish that objective.

#### **16. Successors and Assigns**

Unless otherwise specified in the Plan, the rights, benefits, and obligations of any entity referred to in the Plan will be binding on, and will inure to the benefit of, any heir, executor, administrator, successor, or assign of that entity.

#### **17. Saturday, Sunday, or Legal Holiday**

If any payment or act under the Plan is required to be made or performed on a day that is not a Business Day, then the payment or act may be completed on the next succeeding day that is a Business Day, in which event the payment or act will be deemed to have been completed on the required day.

### **IX.**

#### **CONFIRMATION AND CONSUMMATION PROCEDURES**

##### **A. Confirmation Standard under Section 1129 of the Bankruptcy Code**

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the conditions to confirmation under section 1129 of the Bankruptcy Code are satisfied.

Such conditions include, but are not limited to, the following<sup>5</sup>:

<sup>5</sup> The Plan Proponents submit that Bankruptcy Code sections 1129(a)(6), (13), (14), (15), and (16) either do not apply to the Debtors or are not implicated by the Plan as proposed.



- a. The Plan complies with the applicable provisions of the Bankruptcy Code.
- b. The Plan Proponents have complied with the applicable provisions of the Bankruptcy Code.
- c. The Plan has been proposed in good faith and not by any means forbidden by law.
- d. Any payment made or promised by the Debtors or by an entity issuing securities or acquiring property 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 confirmation of the Plan, such payment is subject to the approval of the Bankruptcy Court as reasonable.
- e. The Plan Proponents, at or prior to the confirmation hearing, will satisfy the requirements of section 1129(a)(5) of the Bankruptcy Code by (i) identifying the proposed Liquidation Trustee and (ii) disclosing the name of any insider, if any, who will be employed or retained by the Liquidation Trustee after the Effective Date, together with the nature of any compensation for such insider.
- f. With respect to each impaired class of Claims or Interests, each holder of an impaired Claim or impaired Interest either has accepted the Plan or will receive or retain under the Plan, on account of the Claims or Interests held by such entity, property of a value, as of the applicable consummation date under the Plan, that is not less than the amount that such entity would receive or retain if the Debtors' Assets were liquidated on such date under chapter 7 of the Bankruptcy Code.
- g. Article V of the Plan provides for the treatment of allowed administrative expense claims and allowed priority claims in accordance with the terms of the Plan.
- h. At least one impaired class of Claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a Claim in such class.
- i. As discussed in Section IX.D of this Disclosure Statement, the Plan is feasible and is not likely to require further reorganization or restructuring.
- j. All fees payable under 28 U.S.C. § 1930 have been paid, or the Plan provides for the payment of all such fees on, or promptly after, the Effective Date.

**The Plan Proponents believe that the Plan will satisfy the statutory requirements of chapter 11 of the Bankruptcy Code, that the Plan Proponents have complied and will have complied with all of the provisions of the Bankruptcy Code, and that the Plan is being proposed and will be submitted to the Bankruptcy Court in good faith.**

**Because the law regarding confirmation of a chapter 11 plan is complex, persons or entities concerned with confirmation of the Plan should consult with their own counsel and/or advisors.**

**B. Acceptance**

Under the terms of the Plan, Class 2 (General Unsecured Claims) is the only Class entitled to vote on the Plan. Class 2 will have accepted the Plan if the Plan is accepted by creditors, other than an entity designated under section 1126(e) of the Bankruptcy Code, holding at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Allowed Claims in Class 2 that have voted to accept or reject the Plan.

If Class 2 fails to accept the Plan, and the Plan Proponents therefore cannot confirm the Plan in accordance with Bankruptcy Code section 1129(a)(10), the Plan Proponents reserve the right to modify the Plan in accordance with Bankruptcy Code section 1127(a), to withdraw the Plan before the Confirmation Date, or to seek other relief from the Bankruptcy Court.

**C. Best Interests of Creditors Test**

Under the Bankruptcy Code, confirmation of the Plan requires that each creditor or equity interest holder in an impaired class either (a) accept the Plan or (b) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value that such creditor or equity interest holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code (the “Best Interests of Creditors Test”).

After consideration of the likely effects a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors, the Plan Proponents have determined that confirmation of the Plan will provide each holder of an Allowed Claim in Class 2 (General Unsecured Claims) with at least as much of a Distribution as such holder would receive pursuant to a chapter 7 liquidation.

The Plan Proponents believe that liquidation under chapter 7 would result in no greater distributions than those provided for in the Plan. Indeed, the Plan Proponents believe the aggregate value realized from the Assets in a chapter 7 liquidation likely will be less than the value realized under the Plan due to, among other things, the need to liquidate assets quickly in chapter 7, which can result in a lower, “forced liquidation” value for such Assets. Any distribution in a chapter 7 liquidation likely would be delayed by the added time and expense required for a chapter 7 trustee and his or her professionals and advisors to assess the Debtors’ assets, review and analyze claims and scheduled liabilities, and evaluate potential Causes of Action. Further, any distribution in a chapter 7 liquidation could be diminished by the additional layer of chapter 7 administrative expenses. The expenses of administering the chapter 7 cases include the chapter 7 trustee’s commission, professional fees of the attorneys, accountants and/or other professionals and advisors that the chapter 7 trustee may need to retain, and other expenses of administering the chapter 7 estates. By statute, these chapter 7 administrative expenses are entitled to payment prior to payment of chapter 11 administrative expenses and priority claims. Furthermore, conversion of these Chapter 11 Cases to chapter 7 could delay payments of Distributions to Holders of Allowed Administrative Expense Claims, Allowed Priority Employee

Claims and others, which Distributions are to begin on or as soon as practicable after the Effective Date under the Plan.

After considering the effects that a chapter 7 liquidation could have on the proceeds that ultimately may be available for distribution to creditors, including: (i) the increased costs and expenses of a liquidation under chapter 7 arising from fees payable to a chapter 7 trustee and his or her professionals and advisors; (ii) the erosion in value of assets in a chapter 7 case in the context of the expeditious liquidation required under chapter 7 and the “forced sale” environment in which such a liquidation would likely occur; and (iii) the potential delay and impact on distributions to creditors as compared to distributions under the Plan, the Plan Proponents have determined that confirmation of the Plan likely will provide each holder of a Claim or Interest with not less than (and most likely more than) it would receive pursuant to liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

Based upon the Debtors’ estimate of the value of their assets, together with the Debtors’ understanding of the chapter 11 plan process, as well as the expected additional costs and delays incident to a liquidation under chapter 7 as outlined above, the Debtors believe the Plan will provide a greater distribution to creditors than would be achieved in a liquidation under chapter 7 and, therefore, is in the best interest of creditors.

Similarly, the Committee believes that creditors will receive a greater recovery under the Plan than in a chapter 7 liquidation. Attached hereto as **Exhibit B** is the Committee Liquidation Analysis, which sets forth the Committee’s estimate of the present value of Distributions from the proceeds of the hypothetical liquidation of the Assets of the Debtors (after subtracting the amounts attributable to the administrative expenses of the Chapter 11 Cases) as compared with the present value of the consideration offered to such Classes under the Plan. As set forth in the Committee Liquidation Analysis, the Committee believes the Plan is in the best interest of creditors as it is projected to result in greater recoveries for creditors than would be achieved in a chapter 7 liquidation.

#### **D. Feasibility**

The Bankruptcy Code requires that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization. The Plan provides, among other things, that Distributions will be made only to the extent of available Distributable Cash. The Plan also establishes and provides for the funding of certain Plan Reserves for Disputed Claims and to pay, *inter alia*, Trust Expenses, including, without limitation, professional fees of the Liquidation Trust, operating expenses of the Liquidation Trust, and quarterly fees payable to the U.S. Trustee, among other things. Accordingly, the Plan Proponents believe the Plan is feasible.

### **X. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

The Plan Proponents have evaluated various alternatives to the Plan as presently drafted and have concluded that the Plan is the best alternative for maximizing the potential recoveries for creditors.

As discussed above in Section IX.C of this Disclosure Statement, if the Plan is not confirmed and does not become effective in a timely fashion, the Chapter 11 Cases would be converted to cases under chapter 7 of the Bankruptcy Code, in which event a trustee would be elected or appointed to liquidate the Assets for distribution to creditors in accordance with the priorities established by the Bankruptcy Code. For the reasons set forth more fully above, the Plan Proponents have concluded that liquidation under chapter 7 (i) could result in smaller distributions being made to creditors than those provided for under the Plan and (ii) probably would result in potentially significant delays in making distributions to creditors, in particular, distributions that are to begin on or soon after the Effective Date of the Plan. Accordingly, the Plan Proponents have determined that confirmation of the Plan will provide the best alternative for each Holder of an Allowed Claim to receive a greater recovery than such Holder would receive in a chapter 7 liquidation.

An analysis prepared by the Committee of the potential impact of a chapter 7 liquidation on Distributions is set out in the Committee Liquidation Analysis, attached hereto as **Exhibit B**.

## **XI. CONCLUSION**

The Plan Proponents believe that the Plan is in the best interest of all holders of claims against the Debtors' Estates and urge all Holders of Allowed Claims in Class 2 (General Unsecured Claims) to vote to accept the Plan and to evidence such acceptance by returning their ballot(s) by the Ballot Deadline in accordance with the instructions accompanying such ballot(s) and this Disclosure Statement.

Dated: ~~July 19~~August \_\_, 2017

**HAMPSHIRE GROUP, LIMITED,  
HAMPSHIRE BRANDS, INC., AND  
HAMPSHIRE INTERNATIONAL, LLC**

**OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF HAMPSHIRE GROUP,  
LTD. ET AL.**

~~/s/ William Drozdowski~~

William Drozdowski  
Chief Financial Officer

~~/s/ Richard S. Lauter~~

Richard S. Lauter for I-Mar LLC  
Its Co-Chairperson

~~/s/ Robert Lash~~

Robert Lash for Onewoo Corporation  
Its Co-Chairperson

**BLANK ROME LLP**

**PACHULSKI STANG ZIEHL & JONES LLP**

~~/s/ Michael D. DeBaecke~~

~~/s/ Ilan D. Scharf~~

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**EXHIBIT A**

**Plan**



**EXHIBIT B**

**Committee Liquidation Analysis**

[\[To be filed at a later time\]](#)

**EXHIBIT C**

**Liquidation Trust Agreement**