

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

\_\_\_\_\_  
In re:

)  
) Chapter 11  
)

CMTSU Liquidation, Inc., *et al.*,<sup>1</sup>

) Case No. 17-10772 (BLS)

f/k/a CIBER, Inc.,

*et al.*

) Jointly Administered  
)

Debtors.  
\_\_\_\_\_

**DEBTORS' PLAN OF LIQUIDATION PURSUANT  
TO CHAPTER 11 OF THE BANKRUPTCY CODE**

**MORRISON & FOERSTER LLP**

Brett H. Miller (admitted *pro hac vice*)  
Dennis L. Jenkins (admitted *pro hac vice*)  
Todd M. Goren (admitted *pro hac vice*)  
Daniel J. Harris (admitted *pro hac vice*)  
250 West 55th Street  
New York, New York 10019  
Telephone: (212) 468-8000  
Facsimile: (212) 468-7900

**POLSINELLI PC**

Christopher A. Ward (Del. Bar No. 3877)  
Justin K. Edelson (Del. Bar No. 5002)  
222 Delaware Avenue, Suite 1101  
Wilmington, Delaware 19801  
Telephone: (302) 252-0920  
Facsimile: (302) 252-0921

*Counsel for Debtors and Debtors-in-Possession*

<sup>1</sup> The Debtors in the above-captioned chapter 11 cases, along with the last four digits of Debtor CMTSU Liquidation, Inc.'s federal tax identification number (the other Debtors do not have EINs) are: CMTSU Liquidation, Inc. (6833) (f/k/a CIBER, Inc.), CMTSU Liquidation 2, Inc. (f/k/a CIBER Consulting, Incorporated), and CMTSU Liquidation 3, LLC (f/k/a CIBER International LLC).

## TABLE OF CONTENTS

<b>ARTICLE I. DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW</b>	<b>1</b>
A. Defined Terms	1
B. Rules of Interpretation	<del>12</del> <u>13</u>
C. Computation of Time	13
D. Governing Law	13
E. Reference to Monetary Figures	13
F. Controlling Document	<del>13</del> <u>14</u>
<b>ARTICLE II. ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS, PROFESSIONAL FEE CLAIMS, AND U.S. TRUSTEE STATUTORY FEES</b>	<del>13</del> <u>14</u>
A. Administrative Claims	<del>13</del> <u>14</u>
B. Priority Tax Claims	<del>14</del> <u>15</u>
C. Professional Fee Claims	15
D. U.S. Trustee Statutory Fees	<del>15</del> <u>16</u>
<b>ARTICLE III. CLASSIFICATION, TREATMENT, AND VOTING OF CLAIMS AND INTERESTS</b>	<b>16</b>
A. Summary of Classifications	16
B. Treatment of Classes of Claims and Interests	17
C. Interest on Allowed Claims	19
D. Special Provision Governing Unimpaired Claims	<del>19</del> <u>20</u>
E. Elimination of Vacant Classes	20
F. Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code	20
G. Limited Substantive Consolidation	20
<b>ARTICLE IV. MEANS FOR IMPLEMENTATION OF THE PLAN</b>	<del>20</del> <u>21</u>
A. Distributions on Account of Allowed Claims and Allowed Interests	<del>20</del> <u>21</u>
B. Sources of Consideration for Plan Distributions	21
C. Post-Effective Date Debtors	21
D. Management of the Post-Effective Date Debtors	23
E. Creation of the Oversight Committee	25
F. Standard of Care for Manager, Sole Officer and Director, and Oversight Committee	26
G. Creation of Administrative and Priority Claims Reserve	<del>26</del> <u>27</u>
H. Creation of Wind Down Reserve	27
I. Creation of General Unsecured Claims Reserve	27
J. Zayo Settlement	<del>27</del> <u>28</u>
K. D&O Policies	28
L. Sale Order; Purchase Agreement	28
M. Wind Down	28
N. Cancellation of Securities and Agreements	29
O. Corporate Action	<del>29</del> <u>30</u>
P. Effectuating Documents; Further Transactions	30
Q. Exemption from Certain Taxes and Fees	30
R. Causes of Action	<del>30</del> <u>31</u>
S. Post-Effective Date Fees and Expenses	31
T. Closing the Chapter 11 Cases	<del>31</del> <u>32</u>
<b>ARTICLE V. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES</b>	<del>31</del> <u>32</u>
A. Assumption, Assumption and Assignment, and Rejection of Executory Contracts and Unexpired Leases	<del>31</del> <u>32</u>
B. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases	32
C. Claims Based on Rejection of Executory Contracts and Unexpired Leases	33
D. Purchase Agreement; Assigned Contracts	<del>33</del> <u>34</u>
E. Modifications, Amendments, Supplements, Restatements, or Other Agreements	<del>33</del> <u>34</u>
F. Insurance Policies	34
G. Indemnification Claims	<del>34</del> <u>35</u>
H. Reservation of Rights	<del>35</del> <u>37</u>
<b>ARTICLE VI. PROVISIONS GOVERNING DISTRIBUTIONS</b>	<del>35</del> <u>37</u>
A. Calculation of Amounts to Be Distributed	<del>35</del> <u>37</u>

B.	Disbursing Agent	<del>36</del> <u>37</u>
C.	Delivery of Distributions and Undeliverable or Unclaimed Distributions	<del>36</del> <u>37</u>
D.	Compliance with Tax Requirements/Allocations	<del>37</del> <u>39</u>
E.	Claims Paid or Payable by Third Parties	<del>38</del> <u>40</u>
<b>ARTICLE VII. PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED, AND</b>		
<b>DISPUTED CLAIMS AND INTERESTS</b>		<del>39</del> <u>41</u>
A.	Resolution of Disputed Claims and Interests	<del>39</del> <u>41</u>
B.	Disallowance of Claims	<del>41</del> <u>42</u>
C.	Amendments to Claims	<del>41</del> <u>43</u>
<b>ARTICLE VIII. SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS</b>		<del>41</del> <u>43</u>
A.	Compromise and Settlement of Claims, Interests, and Controversies	<del>41</del> <u>43</u>
B.	Release of Liens	<del>42</del> <u>43</u>
C.	Subordinated Claims	<del>42</del> <u>44</u>
D.	Debtors' Release	<del>42</del> <u>44</u>
E.	Third Party Release	<del>43</del> <u>45</u>
F.	Exculpation	<del>45</del> <u>47</u>
G.	Injunction	<del>45</del> <u>47</u>
H.	Waiver of Statutory Limitations on Releases	<del>47</del> <u>48</u>
I.	Setoffs	<del>47</del> <u>49</u>
<b>ARTICLE IX. CONDITIONS PRECEDENT TO THE EFFECTIVE DATE OF THE PLAN</b>		<del>48</del> <u>49</u>
A.	Conditions Precedent to the Effective Date of the Plan	<del>48</del> <u>49</u>
B.	Waiver of Conditions	<del>48</del> <u>50</u>
C.	Effect of Non-Occurrence of the Effective Date	<del>48</del> <u>50</u>
<b>ARTICLE X. MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN</b>		<del>48</del> <u>50</u>
A.	Modification and Amendments	<del>48</del> <u>50</u>
B.	Effect of Confirmation on Modifications	<del>49</del> <u>51</u>
C.	Revocation or Withdrawal of the Plan	<del>49</del> <u>51</u>
<b>ARTICLE XI. RETENTION OF JURISDICTION</b>		<del>49</del> <u>51</u>
<b>ARTICLE XII. MISCELLANEOUS PROVISIONS</b>		<del>51</del> <u>53</u>
A.	Additional Documents	<del>51</del> <u>53</u>
B.	Dissolution of Committee	<del>51</del> <u>53</u>
C.	Reservation of Rights	<del>52</del> <u>53</u>
D.	Successors and Assigns	<del>52</del> <u>54</u>
E.	Service of Documents	<del>52</del> <u>54</u>
F.	Term of Injunctions or Stays	<del>53</del> <u>54</u>
G.	Entire Agreement	<del>53</del> <u>55</u>
H.	Nonseverability of Plan Provisions	<del>53</del> <u>55</u>
I.	Waiver or Estoppel	<del>53</del> <u>55</u>

## **INTRODUCTION**

The Debtors propose the following *Debtors' Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*. Capitalized terms used in the Plan and not otherwise defined have the meanings ascribed to such terms in Article I hereof. Reference is made to the Disclosure Statement, filed in connection herewith, for a discussion of the Debtors' history, as well as a summary and analysis of the Plan and certain related matters. The Debtors are proponents of the Plan within the meaning of section 1129 of the Bankruptcy Code.

## **ARTICLE I.**

### **DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW**

#### **A. *Defined Terms***

As used in the Plan, capitalized terms have the meanings set forth below.

1. “*Administrative and Priority Claims Reserve*” means the reserve to be established, maintained, and funded in Cash by Post-Effective Date CMTSU LLC in an amount equal to the Administrative and Priority Claims Reserve Amount pursuant to Article IV.G hereof.

2. “*Administrative and Priority Claims Reserve Amount*” means (i) on the Effective Date, an amount determined by the Debtors, and (ii) at any time after the Effective Date, an amount determined by the Manager, which amount, in each case, shall be sufficient to pay all accrued but unpaid U.S. Trustee Fees and Priority Claims that are Allowed after the Effective Date to the extent that such Claims have not been paid in full on or before the Effective Date and include reserves for Disputed Priority Claims, amounts needed to fund the ongoing costs and expenses of such reserve, and the payment of taxes, if any.

3. “*Administrative Claim*” means any Claim for the costs and expenses of the administration of the Debtors' Estates pursuant to sections 503(b) or 507(b) of the Bankruptcy Code to the extent not previously paid, including (a) the actual and necessary costs and expenses incurred after the Petition Date through the Effective Date of preserving the Estates; (b) all U.S. Trustee Fees; (c) any indebtedness or obligations assumed by the Debtors in connection with the conduct of their businesses; and (d) any Claim for goods delivered to the Debtors within twenty (20) days of the Petition Date and entitled to administrative priority pursuant to section 503(b)(9) of the Bankruptcy Code, but excluding Professional Fee Claims.

4. “*Administrative Claims Objection Bar Date*” means the first Business Day that is one hundred and eighty (180) days after the Effective Date, subject to being extended by Order of the Bankruptcy Court upon motion of the Post-Effective Date Debtors.

5. “*Affiliate*” has the meaning set forth in section 101(2) of the Bankruptcy Code.

6. “*Allowed*” means with respect to Claims: (a) any Claim, proof of which is timely Filed by the applicable Claims Bar Date (or a Claim for which a Proof of Claim is not required to be Filed under the Plan, the Bankruptcy Code, or a Final Order of the Bankruptcy Court); (b) any

Claim that is listed in the Schedules as not contingent, not unliquidated, and not disputed, and for which no Proof of Claim has been timely Filed; or (c) any Claim allowed pursuant to the Plan or a Final Order of the Bankruptcy Court; provided, that with respect to any Claim described in clause (a) above, such Claim shall be considered Allowed only if no objection to the allowance of such Claim has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or if such an objection is so interposed and the Claim shall have been Allowed by a Final Order; provided, further, that the Debtors or the Post-Effective Date Debtors, as applicable, may affirmatively determine to allow any Claim notwithstanding the fact that the period within which an objection may be interposed has not yet expired. “Allowed” means with respect to Interests, the 82,897,395 shares of common stock of CMTSU Liquidation, Inc. ~~(f/k/a Ciber, Inc.)~~ issued and outstanding, or such other Interests as may be allowed by agreement of the Manager or pursuant to an Order of the Bankruptcy Court. Claims or Interests allowed solely for purposes of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered “Allowed” hereunder for any other purpose, unless otherwise specified in this Plan or by order of the Bankruptcy Court. Any Claim that is listed in the Schedules as of the Effective Date as contingent, unliquidated, or disputed, and for which no Proof of Claim is or has been timely Filed, is disallowed and shall be expunged without further action by the Debtors and without further notice to any party or action, approval, or Order of the Bankruptcy Court. “Allow” and “Allowing” shall have correlative meanings.

7. “*Amended and Restated Post-Effective Date CMTSU Inc. Certificate of Incorporation*” means the amended and restated certificate of incorporation for CMTSU Inc., Filed by the Debtors as part of the Plan Supplement and as may be further amended or supplemented by the Debtors in accordance with the Plan prior to the Effective Date.

8. “*Amended and Restated Post-Effective Date CMTSU Inc. Bylaws*” means the amended and restated bylaws for CMTSU Inc., Filed by the Debtors as part of the Plan Supplement and as may be further amended or supplemented by the Debtors in accordance with the Plan prior to the Effective Date.

9. “*Amended and Restated Post-Effective Date CMTSU LLC Agreement*” means the amended and restated limited liability company agreement for CMTSU Liquidation 3, LLC, Filed by the Debtors as part of the Plan Supplement and as may be further amended or supplemented by the Debtors in accordance with the Plan prior to the Effective Date.

10. “*Assigned Contracts*” has the meaning ascribed to such term in the Purchase Agreement.

11. “*Avoidance Actions*” means any and all actual or potential claims and Causes of Action to avoid or recover a transfer of property or avoid an obligation incurred by the Debtors pursuant to any applicable section of the Bankruptcy Code, including sections 502, 510, 542, 544, 545, 547–553, and 724(a) of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws. Avoidance Actions shall not include any such claims or Causes of Action that were conveyed to the Purchaser in connection with the Sale Transaction.

12. “*Ballot*” means a ballot, e-ballot, or master ballot, as applicable, authorized by the Bankruptcy Court pursuant to the Solicitation Procedures Order to indicate acceptance or rejection of the Plan and to opt out of the release provided by Article VIII.E hereof.

13. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101–1532, as the same may be amended from time to time.

14. “*Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware, having jurisdiction over the Chapter 11 Cases, or any other court of the United States exercising competent jurisdiction over the Chapter 11 Cases or any proceeding therein.

15. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, as applicable to the Chapter 11 Cases, promulgated under section 2075 of the Judicial Code and the general rules, Local Bankruptcy Rules, and chambers rules of the Bankruptcy Court.

16. “*Bar Date Order*” means that certain *Order (A) Establishing Bar Dates for Filing Proofs of Claim, (B) Approving the Form and Manner of Notice Thereof, and (C) Granting Related Relief*, entered on May 30, 2017 [Docket No. 294].

17. “*Bid Procedures Order*” means the *Order (I) Establishing Bidding Procedures and Granting Related Relief and (II) Approving the Bid Protections Related to the Sale of Certain Assets Free and Clear of Liens, Claims, Encumbrances, and Interests*, entered on May 2, 2017 [Docket No. 150].

18. “*Board of Directors*” means the duly-appointed board of directors, respectively, of CMTSU Liquidation, Inc. and CMTSU Liquidation 2, Inc.

19. “*Board Members*” means the members of the Board of Directors.

20. “*Business Day*” means any day, other than a Saturday, Sunday, or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

21. “*Cash*” means the legal tender of the United States or the equivalent thereof.

22. “*Causes of Action*” means, subject to the releases, exculpations, and injunctions set forth in the Plan, any claim, cause of action, controversy, right of setoff, cross claim, counterclaim, or recoupment, and any claim on contracts or for breaches of duties imposed by law or in equity, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, fixed or contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law, including Avoidance Actions, that were property of the Debtors or in which the Debtors held rights as of the Effective Date.

23. “*Chapter 11 Cases*” means the chapter 11 cases commenced by the Debtors on the Petition Date and styled In re CMTSU Liquidation, Inc., et al., f/k/a CIBER, Inc., et al., Case No. 17-10772 (BLS), which are currently pending before the Bankruptcy Court.

24. “*Claim*” means a “claim” (as defined in section 101(a)(5) of the Bankruptcy Code) against any of the Debtors.

25. “*Claims and Noticing Agent*” means Prime Clerk LLC, in its capacity as claims and noticing agent for the Debtors pursuant to 28 U.S.C. § 156(c), and any successor thereto after the Effective Date.

26. “*Claims Bar Date*” means the bar date by which a Proof of Claim must be or must have been Filed, as established (a) by a Final Order of the Bankruptcy Court, including, without limitation, the Bar Date Order, or (b) pursuant to the Plan.

27. “*Claims Objection Bar Date*” means the first Business Day that is one hundred and eighty (180) days after the Effective Date, subject to being extended by Order of the Bankruptcy Court upon motion of the Post-Effective Date Debtors.

28. “*Claims Register*” means the official register of Claims maintained by the Claims and Noticing Agent.

29. “*Class*” means a category of Holders of Claims or Interests pursuant to section 1122(a) of the Bankruptcy Code, as set forth in Article III.B hereof.

30. “*Class 3 Cash-Out Election*” means the election by a Holder of an Allowed Class 3 Claim to receive Cash in an amount equal to 35% of such Holder’s Allowed Class 3 Claim on the Effective Date or as soon as reasonably practicable thereafter.

31. “*Committee*” means the official committee of unsecured creditors appointed in the Chapter 11 Cases pursuant to section 1102(a) of the Bankruptcy Code pursuant to that certain *Notice of Appointment of Committee of Unsecured Creditors* filed by the U.S. Trustee on April 19, 2017 [Docket No. 87], as amended by the *Amended Notice of Appointment of Committee of Unsecured Creditors* [Docket No. 437] filed by the U.S. Trustee on July 7, 2017.

32. “*Committee Members*” means all current and former members of the Committee.

33. “*Confirmation*” means the entry of the Confirmation Order on the docket of the Chapter 11 Cases.

34. “*Confirmation Date*” means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases within the meaning of Bankruptcy Rules 5003 and 9021.

35. “*Confirmation Hearing*” means the hearing to consider Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code.

36. “*Confirmation Order*” means the Order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

37. “*Consulting Agreement*” means that certain consulting agreement dated March 15, 2016 between the Debtors and Stephen Kurtz.

38. ~~37.~~ “*Consummation*” means the occurrence of the Effective Date.

39. ~~38.~~ “*Contract Assumption Schedule*” means the list of Executory Contracts and Unexpired Leases to be assumed pursuant to the Plan Filed by the Debtors as part of the Plan Supplement and as may be further amended or supplemented by the Debtors in accordance with the Plan prior to the Effective Date.

40. ~~39.~~ “*Cure Obligations*” means: (a) all amounts required to cure any monetary defaults (or such other amount as may be agreed upon by the parties under an Executory Contract or Unexpired Lease); and (b) any other obligations required to cure any nonmonetary defaults under any Executory Contract or Unexpired Lease that is to be assumed by the Debtors pursuant to sections 365 or 1123 of the Bankruptcy Code.

41. ~~40.~~ “*D&O Policies*” means all insurance policies for liability of any past, present or future Board of Directors and the Debtors’ past, present or future members, managers, trustees, directors, and officers, and those persons serving in a functionally equivalent role, either maintained by the Debtors or with ongoing coverage obligations as of the Effective Date, including, but not limited to, any “tail policy.”

42. ~~41.~~ “*Debtors’ Release*” means the release given on behalf of the Debtors and their Estates to the Released Parties other than the Debtors as set forth in Article VIII.D hereof.

43. ~~42.~~ “*Debtors*” means CMTSU Liquidation, Inc. (f/k/a Ciber, Inc.), CMTSU Liquidation 2, Inc. (f/k/a Ciber Consulting, Incorporated), and CMTSU Liquidation 3, LLC (f/k/a Ciber International LLC).

44. ~~43.~~ “*Disbursing Agent*” means Post-Effective Date CMTSU LLC.

45. ~~44.~~ “*Disclosure Statement*” means the *Disclosure Statement for the Debtors’ Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*, dated September 29, 2017 [Docket No. 665-3], as amended, supplemented, or otherwise modified from time to time, including all exhibits and schedules thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code.

46. ~~45.~~ “*Disputed*” means, with respect to any Claim, any Claim that is not yet Allowed.

47. ~~46.~~ “*Distribution Date*” means a date or dates, as determined by the Disbursing Agent, on which the Disbursing Agent makes a distribution, or causes a distribution to be made, of Cash to the Holders of Allowed Claims or Allowed Interests.

48. ~~47.~~ “*Distribution Record Date*” means, with respect to any distributions to the Holders of Allowed Claims or Allowed Interests, the date that is fifteen (15) days prior to any such distribution.

49. ~~48.~~ “*Effective Date*” means a Business Day as determined by the Debtors on which: (a) the Confirmation Date has occurred; (b) no stay of the Confirmation Order is in



effect; and (c) all conditions precedent specified in Article IX hereof have been satisfied or waived.

50. ~~49.~~ “*Entity*” has the meaning set forth in section 101(15) of the Bankruptcy Code.

51. ~~50.~~ “*Estates*” means the estates created for the Debtors on the Petition Date pursuant to sections 301 and 541 of the Bankruptcy Code.

52. ~~51.~~ “*Exculpated Parties*” means, solely to the extent of the Exculpation, each of (a) the Debtors and any of their respective Related Parties; and (b) the Committee and any of its respective Related Parties.

53. ~~52.~~ “*Exculpation*” means the exculpation provision set forth in Article VIII.F hereof.

54. ~~53.~~ “*Executory Contract*” means a contract or lease to which a Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

55. ~~54.~~ “*Federal Judgment Rate*” means the rate equal to the weekly average 1-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the Effective Date.

56. ~~55.~~ “*File*,” “*Filed*,” or “*Filing*” means file, filed, or filing in the Chapter 11 Cases with the Bankruptcy Court or, with respect to the filing of a Proof of Claim, the Claims and Noticing Agent.

57. ~~56.~~ “*Final Order*” means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended from time to time, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be Filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought; provided, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or the Local Bankruptcy Rules, may be filed relating to such order shall not prevent such order from being a Final Order.

58. ~~57.~~ “*General Unsecured Claim*” means any unsecured Claim that is not a Priority Claim.

59. ~~58.~~ “*General Unsecured Claims Reserve*” means the reserve established on the Effective Date, or as soon thereafter as practicable, to provide for the payment of Allowed Class 3 Claims, which reserve shall be funded solely with the Cash, if any, held or otherwise owned by Post-Effective Date CMTSU LLC that is not used or otherwise needed to fund fully the Administrative and Priority Claims Reserve and the Wind Down Reserve.

60. ~~59.~~ “*Governmental Bar Date*” means October 6, 2017, at 5:00 p.m. (prevailing Eastern Time).

61. ~~60.~~ “*Governmental Unit*” has the meaning set forth in section 101(27) of the Bankruptcy Code.

62. ~~61.~~ “*Holder*” means any Entity holding a Claim or an Interest.

63. ~~62.~~ “*Impaired*” means, with respect to a Claim or an Interest, or a Class of Claims or Interests, “impaired” within the meaning of section 1124 of the Bankruptcy Code.

64. “*Indemnification Agreements*” means those agreements entered into between the Debtors and certain of the Board Members in March and April 2017.

65. ~~63.~~ “*Indemnification Claim*” means any Claim asserted by an Indemnified Person against any of the Debtors arising from the Indemnification Provisions.

66. ~~64.~~ “*Indemnification Provisions*” means each of the Debtors’ indemnification or advancement provisions ~~currently in place, whether in~~ under the Debtors’ bylaws, certificates of incorporation, other formation documents, Board of Directors’ resolutions, employment contracts for any Indemnified Person, or otherwise contained in an order of the Court. For the avoidance of doubt, the definition of Indemnification Provisions in the Plan does not include indemnification or advancement provisions under the Indemnification Agreements.

67. ~~65.~~ “*Indemnified Person*” means any Board Member or officer of the Debtors who served in such capacity on or after the Petition Date and such Board Members’ and officers’ respective Affiliates.

68. ~~66.~~ “*Initial Distribution Date*” means the date on which the Disbursing Agent makes initial distributions to Holders of Allowed Claims pursuant to the Plan.

69. ~~67.~~ “*Insurance Policies*” means any insurance policies issued at any time to or providing coverage at any time to the Debtors and any agreements or instruments related thereto (including, without limitation, the D&O Policies).

70. ~~68.~~ “*Interest*” means any interest, equity, or share in the Debtors, including all options, warrants, or other rights to obtain such an interest or share in the Debtors, whether or not certificated, transferable, preferred, common, voting, or denominated “stock” or membership interests or a similar security, including any Claim subject to subordination under section 510(b) of the Bankruptcy Code arising therefrom.

71. ~~69.~~ “*Judicial Code*” means title 28 of the United States Code, 28 U.S.C. §§ 1–4001.

72. ~~70.~~ “*Law*” means any statute, law, ordinance, ruling, consent decree, permit, policy, rule or regulation of, issued by, or entered into by any Governmental Unit and all judicial or administrative interpretations thereof and any common law doctrine.

73. ~~71.~~ “*Lien*” has the meaning set forth in section 101(37) of the Bankruptcy Code.

74. ~~72.~~ “*Local Bankruptcy Rules*” means the Local Bankruptcy Rules of the United States Bankruptcy Court for the District of Delaware.

75. ~~73.~~ “*Manager*” means initially Jon Goulding and any Person that replaces such initial manager in accordance with the Amended and Restated Post-Effective Date CMTSU LLC Agreement and the terms of this Plan.

76. ~~74.~~ “*Order*” means any judgment, order, injunction, decree, writ or license issued or entered by or with any Court, Governmental Unit, or arbitrator, whether preliminary, interlocutory or final, including any order entered by the Bankruptcy Court in the Chapter 11 Cases.

77. ~~75.~~ “*Other Priority Claim*” means a Claim asserting a priority described in section 507(a) of the Bankruptcy Code, other than an Administrative Claim, Professional Fee Claim, or a Priority Tax Claim.

78. ~~76.~~ “*Oversight Committee*” means the committee of ~~three~~five (35) members created pursuant to Article IV.E of the Plan.

79. ~~77.~~ “*Oversight Committee Members*” means the members of the Oversight Committee.

80. ~~78.~~ “*Person*” has the meaning set forth in section 101(41) of the Bankruptcy Code.

81. ~~79.~~ “*Petition Date*” means April 9, 2017.

82. ~~80.~~ “*Plan*” means this *Debtors’ Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code*, as further amended, supplemented, or otherwise modified from time to time, including the Plan Supplement, which is incorporated in the Plan by reference and made part of the Plan as if set forth in the Plan.

83. ~~81.~~ “*Plan Supplement*” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, to be filed at least fourteen (14) days prior to the Voting Deadline, as amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof, the Bankruptcy Code, and the Bankruptcy Rules, including: (a) the Contract Assumption Schedule; (b) the Amended and Restated Post-Effective Date CMTSU LLC Agreement; (c) the Amended and Restated Post-Effective Date CMTSU Inc. Certificate of Incorporation; (d) the Amended and Restated Post-Effective Date CMTSU Inc. Bylaws; (e) the form of engagement letter between the Post-Effective Date Debtors and the initial Manager and Sole Officer and Director; (f) the identities of the initial Oversight Committee Members; (g) a list of the Post-Effective Date Debtors’ Retained Causes of Action; and (h) the amount to be reserved in the General Unsecured Claims Reserve on account of the Post-Effective Date Indemnification Claims.

84. ~~82.~~ “*Post-Effective Date CMTSU Inc.*” means CMTSU Liquidation, Inc., on and after the Effective Date.

85. ~~83.~~ “*Post-Effective Date CMTSU LLC*” means CMTSU Liquidation 3, LLC, on and after the Effective Date.

86. ~~84.~~ “*Post-Effective Date Debtors*” means Post-Effective Date CMTSU Inc. and Post-Effective Date CMTSU LLC.

87. ~~85.~~ “*Post-Effective Date Debtors’ Assets*” means, except as otherwise explicitly provided in this Plan, all assets and rights that constitute property of the Debtors’ Estates pursuant to section 541 of the Bankruptcy Code, including but not limited to: (a) all rights with respect to the Insurance Policies and any rights to assert claims with respect to such insurance policies; (b) the Debtors’ rights under the Purchase Agreement and any Transaction Document; (c) the Debtors’ rights with respect to any Executory Contracts or Unexpired Leases identified on the Contract Assumption Schedule; (d) the Cash remaining in the Debtors’ Estates on and after the Effective Date; and (e) the Debtors’ rights with respect to the Post-Effective Date Debtors’ Retained Causes of Action and any proceeds generated therefrom; provided, however, for purposes of clarification, Post-Effective Date CMTSU Inc. shall continue to hold the Interests in Post-Effective Date CMTSU LLC.

88. ~~86.~~ “*Post-Effective Date Debtors’ Retained Causes of Action*” means all Claims and Causes of Action of the Post-Effective Date Debtors, including those Claims and Causes of Action listed in the Plan Supplement.

89. ~~87.~~ “*Post-Effective Date Indemnification Claims*” means those Allowed Claims set forth in Article V.G.a.~~iii~~iv hereof, which shall constitute General Unsecured Claims for voting purposes.

90. ~~88.~~ “*Priority Claims*” means, collectively: (a) Administrative Claims; (b) Priority Tax Claims; (c) Other Priority Claims; and (d) Professional Fee Claims.

91. ~~89.~~ “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

92. ~~90.~~ “*Pro Rata*” means the proportion that an Allowed Claim or Allowed Interest in a particular Class bears to the aggregate amount of Allowed Claims or Allowed Interests in that Class, or the proportion that Allowed Claims or Allowed Interests in a particular Class bear to the aggregate amount of Allowed Claims or Allowed Interests in a particular Class and other Classes entitled to share in the same recovery as such Allowed Claims or Allowed Interests under the Plan.

93. ~~91.~~ “*Professional*” means any Entity retained in the Chapter 11 Cases in accordance with sections 327, 328, or 1103 of the Bankruptcy Code and to be compensated for services rendered and expenses incurred pursuant to sections 326, 327, 328, 329, 330, 331, or 363 of the Bankruptcy Code.

94. ~~92.~~ “*Professional Fee Claims*” means all Claims for accrued fees and expenses (including success fees) for services rendered and expenses incurred by a Professional from the Petition Date through and including the Effective Date to the extent that such fees and expenses

have not been paid or are not disallowed pursuant to an Order of the Bankruptcy Court and regardless of whether a fee application has been filed for such fees and expenses.

95. ~~93.~~ “*Professional Fee Order*” means the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals*, entered on May 11, 2017, [Docket No. 198].

96. ~~94.~~ “*Proof of Claim*” means a proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.

97. ~~95.~~ “*Purchase Agreement*” means that certain Asset Purchase Agreement, dated as of May 17, 2017, by and between HTC Global Ventures, LLC, as Purchaser and Ciber, Inc. (n/k/a CMTSU Liquidation, Inc.), as Seller, as amended, supplemented, or modified from time to time.

98. ~~96.~~ “*Purchaser*” means HTC Global Ventures, LLC, together with its successors and permitted assigns.

99. ~~97.~~ “*Reinstated*” means rendering a Claim or Interest Unimpaired.

100. ~~98.~~ “*Related Parties*” means, with respect to any Person or Entity, any past or present representative, officer, director, agent, attorney, advisor, employee (other than the Debtors’ current or former employees), subsidiary or affiliate (other than the Debtors’ foreign subsidiaries or affiliates), shareholder, partner (general or limited), member, manager, trustee, executor, predecessor in interest, successor or assign of any such Person or Entity (each solely in their capacities as such).

101. ~~99.~~ “*Released Parties*” means: (a) the Debtors; (b) the Debtors’ current and former Board Members, officers, and managers; (c) the Committee and the Committee Members (each solely in their capacities as such); and (d) each of the foregoing Entities’ respective Related Parties (each solely in their capacities as such); provided, that as a condition to receiving or enforcing any release granted pursuant to Article VIII.E hereof, each Released Party and its Affiliates shall be deemed to have released the Releasing Parties, the Estates, and the Debtors from any and all Claims or Causes of Action (except any Claims Allowed or expressly preserved pursuant to this Plan) arising from or related to their relationship with the Debtors, but not, for the avoidance of doubt, Professional Fee Claims.

102. ~~100.~~ “*Releasing Parties*” means (a) the Released Parties and (b) all Holders of Claims or Interests that do not, by the Voting Deadline, make the Third Party Opt-Out Election.

103. ~~101.~~ “*Remaining Funds*” means the funds remaining in the General Unsecured Claims Reserve after payment of all Allowed Class 3 Claims and reserving for Disputed Class 3 Claims that may become Allowed until such Claims are withdrawn or disallowed pursuant to a Final Order, each in full in Cash pursuant to the Plan, including any interest payable pursuant to Article III.C hereof.

104. ~~102.~~ “*Sale Order*” means the *Order (A) Approving the Sale of Debtors’ Assets, Free and Clear of All Liens, Claims, Encumbrances and Other Interests, (B) Authorizing the*

*Assumption and Assignment of Certain Executory Contracts and Unexpired Leases Related Thereto, and (C) Granting Related Relief*, entered on May 19, 2017 [Docket No. 246].

105. ~~103.~~ “*Sale Transaction*” means that certain sale transaction between the Debtors and the Purchaser as set forth in the Purchase Agreement and the Sale Order.

106. ~~104.~~ “*Schedules*” means, collectively, the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code, as the same may have been or may be amended, modified, or supplemented from time to time.

107. ~~105.~~ “*SEC Inquiry*” means the pending Securities and Exchange Commission inquiry.

108. ~~106.~~ “*Secured Claim*” means a Claim: (a) secured by a Lien on property in which the Estates have an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of an Order entered by the Bankruptcy Court, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the Estates’ interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code, including Secured Tax Claims; or (b) otherwise Allowed pursuant to the Plan or a Final Order as a Secured Claim.

109. ~~107.~~ “*Secured Tax Claim*” means any Secured Claim that, absent its secured status, would be entitled to priority in right of payment under section 507(a)(8) of the Bankruptcy Code (determined irrespective of time limitations), including any related Secured Claim for penalties.

110. “*Settling Board Members*” means the members of the Board of Directors as of the Petition Date.

111. ~~108.~~ “*Sole Officer and Director*” means initially the Manager, appointed to serve as the initial sole officer and director of Post-Effective Date CMTSU Inc. and any Person(s) that replaces such initial sole officer and director pursuant to the Amended and Restated Post-Effective Date CMTSU Inc. Certificate of Incorporation, the Amended and Restated Post-Effective Date CMTSU Inc. Bylaws, and the terms of this Plan.

112. ~~109.~~ “*Solicitation Date*” means the date upon which the Debtors commenced the solicitation process in accordance with the Solicitation Procedures Order.

113. ~~110.~~ “*Solicitation Procedures*” means the solicitation procedures approved by the Solicitation Procedures Order.

114. ~~111.~~ “*Solicitation Procedures Order*” means the *Order (A) Approving Disclosure Statement; (B) Establishing Voting Record Date, Voting Deadline, and Other Dates; (C) Approving Procedures For Soliciting, Receiving, and Tabulating Votes on Plan and For Filing Objections to Plan; (D) Approving Manner and Forms of Notice and Other Related Documents; and (E) Granting Related Relief*, entered on September 29, 2017 [Docket No. 667].



115. ~~112.~~ “*Subsequent Distribution Date*” means any date following the Initial Distribution Date on which the Manager, in its reasonable discretion, elects to make a distribution to Holders of Allowed Claims or Allowed Interests pursuant to the Plan.

116. ~~113.~~ “*Third Party Opt-Out Election*” means (a) with respect to Holders of Claims or Interests that are entitled to vote on the Plan, the item set forth in the Ballots, required to be completed by the Voting Deadline, pursuant to which such Holders may opt out of the releases set forth in Article VIII.E of the Plan, and (b) with respect to Holders of Claims or Interests that are not entitled to vote on the Plan, the item set forth in a separate notice, required to be completed by the Voting Deadline, pursuant to which such Holders may opt out of the releases set forth in Article VIII.E of the Plan.

117. ~~114.~~ “*Transaction Documents*” means all documents relating to the Sale Transaction including, but not limited to, any transition services agreement and/or any reverse transition services agreement entered into pursuant to section 8.15 of the Purchase Agreement.

118. ~~115.~~ “*Unexpired Lease*” means a lease of nonresidential real property to which a Debtor is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

119. ~~116.~~ “*Unimpaired*” means, with respect to a Claim or an Interest, or a Class of Claims or Interests, “unimpaired” within the meaning of section 1124 of the Bankruptcy Code.

120. ~~117.~~ “*United States*” means the United States of America and its departments and agencies.

121. ~~118.~~ “*U.S. Trustee*” means the Office of the United States Trustee, Region 3, serving the federal judicial district established for the District of Delaware.

122. ~~119.~~ “*U.S. Trustee Fees*” means fees arising under 28 U.S.C. § 1930(a)(6) and, to the extent applicable, accrued interest thereon arising under 31 U.S.C. § 3717.

123. ~~120.~~ “*Wind Down Reserve*” means the reserve to be established, maintained, and funded in Cash by Post-Effective Date CMTSU LLC in an amount equal to the Wind Down Reserve Amount pursuant to Article IV.H hereof.

124. ~~121.~~ “*Wind Down Reserve Amount*” means (i) on the Effective Date, an amount determined by the Debtors, and (ii) at any time after the Effective Date, an amount determined by the Manager, which, in each case, shall be sufficient to pay all actual and estimated fees and expenses relating to the implementation of the Plan and wind down and dissolution of the Debtors and Post-Effective Date Debtors pursuant to the Plan.

125. ~~122.~~ “*Zayo*” means Zayo Group, LLC.

126. ~~123.~~ “*Zayo Settlement Termination Date*” means December 31, 2017.

127. ~~124.~~ “*Zayo Stipulation*” means that stipulation entered into by the Debtors and Zayo filed approved by the Bankruptcy Court [Docket No. 563]

*B. Rules of Interpretation*

For purposes herein: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (b) unless otherwise specified, any reference in the Plan to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (c) unless otherwise specified, any reference in the Plan to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit, as it may thereafter be amended, modified, or supplemented from time to time; (d) unless otherwise specified, all references in the Plan to “Articles” are references to Articles hereof or hereto; (e) unless otherwise stated, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) unless otherwise specified, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (h) any term used in capitalized form in the Plan that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable; (i) references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court’s CM/ECF system; (j) references to “directors” and/or “officers” shall also include “members” and/or “managers,” as applicable, and vice versa, as such terms are defined under the applicable state incorporation and/or limited liability company laws and vice versa; and (k) any immaterial effectuating provisions may be interpreted by the Debtors or the Post-Effective Date Debtors in such a manner that is consistent with the overall purpose and intent of the Plan all without further notice to or action, Order, or approval of the Bankruptcy Court or any other Entity.

*C. Computation of Time*

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed in the Plan.

*D. Governing Law*

Except to the extent the Bankruptcy Code or Bankruptcy Rules apply, and subject to the provisions of any contract, lease, instrument, release, or other agreement or document entered into expressly in connection herewith, the rights and obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of Delaware, without giving effect to conflict of laws principles.

*E. Reference to Monetary Figures*

All references in the Plan to monetary figures shall refer to currency of the United States, unless otherwise expressly provided in the Plan.



*F. Controlling Document*

In the event of an inconsistency between the Plan and the Disclosure Statement, the terms of the Plan shall control in all respects. In the event of an inconsistency between the Plan and the Plan Supplement, the Plan Supplement shall control (unless stated otherwise in such Plan Supplement document or the Confirmation Order). In the event of any inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall control.

**ARTICLE II.**

**ADMINISTRATIVE CLAIMS, PRIORITY TAX CLAIMS, PROFESSIONAL FEE CLAIMS, AND U.S. TRUSTEE STATUTORY FEES**

*A. Administrative Claims*

Subject to the provisions of sections 327, 330(a), and 331 of the Bankruptcy Code, except to the extent that a Holder of an Allowed Administrative Claim and, as applicable, the Debtors or Post-Effective Date CMTSU LLC agree to less favorable treatment, or such Holder has been paid by the Debtors prior to the Effective Date, Post-Effective Date CMTSU LLC shall pay each Holder of an Allowed Administrative Claim the full unpaid amount of such Allowed Administrative Claim in Cash from the Debtors' Estates in full and final satisfaction, settlement, and release of and in exchange for such Holder's Allowed Administrative Claim: (a) if an Administrative Claim is Allowed on or prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter (or, if not then due, when such Allowed Administrative Claim is due or as soon as reasonably practicable thereafter); (b) if an Administrative Claim is Allowed after the Effective Date, on the date such Administrative Claim is Allowed or as soon as reasonably practicable thereafter (or, if not then due, when such Allowed Administrative Claim is due or as soon as reasonably practicable thereafter); (c) at such time and upon such terms as may be agreed upon by such Holder and the Debtors or the Post-Effective Date Debtors, as applicable; or (d) at such time and upon such terms as set forth in an Order of the Bankruptcy Court; provided, however, that any Administrative Claim that has been assumed by the Purchaser pursuant to the Purchase Agreement shall not be an obligation of the Debtors or the Post-Effective Date Debtors. "Allowed Administrative Claim" shall not for any purpose under the Plan include interest attributable to or otherwise accrued during any period on or after the Petition Date.

ADMINISTRATIVE CLAIMS ARE NOT CLASSIFIED AND ARE TREATED AS REQUIRED BY THE BANKRUPTCY CODE. THE HOLDERS OF SUCH CLAIMS ARE NOT ENTITLED TO VOTE ON THE PLAN.

1. Administrative Claims Bar Date

Holders of Administrative Claims incurred but unpaid prior to the Effective Date must File and serve such Claims on the Post-Effective Date Debtors within thirty (30) days after the Effective Date or such claims shall be forever barred against the Debtors or their Estates. Objections to the requests for payment of such Administrative Claims must be Filed and served

on the Post-Effective Date Debtors and the requesting party on or before the Administrative Claims Objection Bar Date.

2. Administrative and Priority Claims Reserve

On the Effective Date or as soon as practicable thereafter, the Debtors or Post-Effective Date CMTSU LLC, as applicable, shall fund the Administrative and Priority Claims Reserve in Cash as described in Article IV.G hereof. Any amounts remaining in the Administrative and Priority Claims Reserve after payment of all Allowed Priority Claims and the U.S. Trustee Fees shall be used by Post-Effective Date CMTSU LLC to make distributions in accordance with the Plan.

B. *Priority Tax Claims*

Except to the extent that a Holder of an Allowed Priority Tax Claim and, as applicable, the Debtors or the Post-Effective Date Debtors agree to a less favorable treatment, or such Holder has been paid by the Debtors prior to the Effective Date, in full and final satisfaction, settlement, and release of and in exchange for such Holder's Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall receive payment in Cash in accordance with section 1129(a)(9)(C) of the Bankruptcy Code from Post-Effective Date CMTSU LLC on the Effective Date or as soon as reasonably practicable thereafter. All Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business as such obligations become due. Any Claims asserted by a Governmental Unit on account of any penalties and assessments shall not be Priority Tax Claims. On the Effective Date, any Liens securing any Allowed Priority Tax Claims shall be deemed released, terminated, and extinguished, in each case without further notice to or Order of the Bankruptcy Court, act, or action under applicable law, regulation, Order or rule, or the vote, consent, authorization, or approval of any Person or Governmental Unit.

PRIORITY TAX CLAIMS ARE NOT CLASSIFIED AND ARE TREATED AS REQUIRED BY THE BANKRUPTCY CODE. THE HOLDERS OF SUCH CLAIMS ARE NOT ENTITLED TO VOTE ON THE PLAN.

C. *Professional Fee Claims*

1. Final Fee Applications

All final requests for payment of Professional Fee Claims shall be Filed and served on the Post-Effective Date Debtors no later than the first Business Day that is forty-five (45) days after the Effective Date. After notice provided in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court Orders, the Allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court.

2. Professional Fee Claims

The amount of Allowed Professional Fee Claims owing to the Professionals shall be paid in Cash by Post-Effective Date CMTSU LLC to such Professionals, without interest or other

earnings therefrom, as soon as reasonably practicable after such Claims are Allowed by an Order of the Bankruptcy Court, which Order is not subject to a stay.

PROFESSIONAL FEE CLAIMS ARE NOT CLASSIFIED AND ARE TREATED AS REQUIRED BY THE BANKRUPTCY CODE. THE HOLDERS OF SUCH CLAIMS ARE NOT ENTITLED TO VOTE ON THE PLAN.

*D. U.S. Trustee Statutory Fees*

All U.S. Trustee Fees that are due prior to the Effective Date shall be paid in full by the Debtors or Post-Effective Date CMTSU LLC, as applicable, on the Effective Date or as soon as reasonably practicable thereafter. In accordance with Article IV.M hereof, from and after the Effective Date, Post-Effective Date CMTSU LLC shall pay all U.S. Trustee Fees in Cash for each quarter (including any fraction thereof) from the Administrative and Priority Claims Reserve and, as applicable, to the extent that such fees are based on the disbursements made by the Post-Effective Date Debtors, until the Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first.

**ARTICLE III.**

**CLASSIFICATION, TREATMENT, AND VOTING OF CLAIMS AND INTERESTS**

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Priority Tax Claims, and Professional Fee Claims have not been classified and thus are excluded from the Classes of Claims and Interests set forth in this Article III.

*A. Summary of Classifications*

All Claims and Interests, other than Administrative Claims, Priority Tax Claims, and Professional Fee Claims, are classified in the Classes set forth in this Article III for all purposes, including voting, Confirmation, and distribution under the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or Interest is also classified in a particular Class for the purpose of receiving distributions under the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date.

**1. Class Identification**

The classification of Claims against and Interests in the Debtors pursuant to the Plan is as set forth below. To the extent that there are no Holders of Claims or Interests in a particular Class or Classes, such Claims or Interests shall be treated as set forth in Article III.B hereof.

Class	Claims and Interests	Status	Voting Rights
1	Other Priority Claims	Unimpaired	Not Entitled to Vote (Conclusively Presumed to Accept)
2	Secured Claims	Unimpaired	Not Entitled to Vote (Conclusively Presumed to Accept)
3	General Unsecured Claims	Impaired	Entitled to Vote
4	Interests in CMTSU Liquidation, Inc.	Impaired	Not Solicited <sup>2</sup>
5	Interests in CMTSU Liquidation 2, Inc.	Impaired	Not Entitled to Vote (Deemed to Reject)
6	Interests in CMTSU Liquidation 3, LLC	Unimpaired	Not Entitled to Vote (Conclusively Presumed to Accept)

*B. Treatment of Classes of Claims and Interests*

Except to the extent that the Debtors or Post-Effective Date CMTSU LLC, as applicable, and a Holder of an Allowed Claim or Allowed Interest, as applicable, agree to a less favorable treatment, such Holder shall receive under the Plan the treatment described below in full and final satisfaction, settlement, and release of and in exchange for such Holder's Allowed Claim or Allowed Interest.

1. Class 1—Other Priority Claims

- (a) *Classification:* Class 1 consists of all Other Priority Claims against the Debtors.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Claim in Class 1 agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, and release of and in exchange for each Allowed Claim in Class 1, each such Holder shall receive on the Effective Date or as soon as reasonably practicable thereafter, to the extent not already paid by the Debtors prior to the Effective Date, Cash in an amount equal to such Allowed Class 1 Claim.
- (c) *Voting:* Class 1 is Unimpaired. Holders of Allowed Class 1 Claims are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Holders of Allowed Class 1 Claims are not entitled to vote to accept or reject the Plan with respect to Class 1 Claims.

<sup>2</sup> Although the votes of Holders of Interests in CMTSU Liquidation, Inc. in Class 4 are not being solicited, each such Holder is entitled to opt out of the "Third Party Release" provision in Article VIII.E of the Plan by timely returning an Opt-Out Form (as defined in the Solicitation Procedures Order) to Prime Clerk.

2. Class 2—Secured Claims

- (a) *Classification:* Class 2 consists of all Secured Claims against the Debtors.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Claim in Class 2 agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, and release of and in exchange for each Allowed Claim in Class 2, each such Holder shall receive, on the Effective Date or as soon as reasonably practicable thereafter, as the Debtors or Post-Effective Date CMTSU LLC, as applicable, determines:
  - (i) payment in full in Cash of such Holder's Allowed Class 2 Claim;
  - (ii) the collateral securing such Holder's Allowed Class 2 Claim; or
  - (iii) such other treatment rendering such Holder's Allowed Class 2 Claim Unimpaired.
- (c) *Voting:* Class 2 is Unimpaired. Holders of Allowed Class 2 Claims are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code. Holders of Allowed Class 2 Claims are not entitled to vote to accept or reject the Plan with respect to Class 2 Claims.

3. Class 3—General Unsecured Claims

- (a) *Classification:* Class 3 consists of all General Unsecured Claims against the Debtors.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Claim in Class 3 agrees to a less favorable treatment of its Allowed Claim, in full and final satisfaction, settlement, and release of and in exchange for each Allowed Claim in Class 3, each such Holder shall receive its Pro Rata share of Cash in the General Unsecured Claims Reserve; provided, however, that each Holder of an Allowed Class 3 Claim may make the Class 3 Cash-Out Election on such Holder's Class 3 Ballot or upon allowance of such Class 3 Claim; provided, further, that a Holder of a Class 3 Claim shall not be permitted to exercise the Class 3 Cash-Out Election unless such Holder votes to accept the Plan. "Allowed General Unsecured Claim" shall not, except to the limited extent provided in Article III.C hereof, include interest attributable to or otherwise accrued during any period on or after the Petition Date.
- (c) *Voting:* Class 3 is Impaired. Therefore, Holders of Class 3 Claims are entitled to vote to accept or reject the Plan with respect to Class 3 Claims.

4. Class 4—Interests in CMTSU Liquidation, Inc.

- (a) *Classification:* Class 4 consists of all Interests in CMTSU Liquidation, Inc.
- (b) *Treatment:* Except to the extent that a Holder of an Allowed Interest in Class 4 agrees to a less favorable treatment of its Allowed Interest, in full and final satisfaction, settlement, and release of and in exchange for each Allowed Interest in Class 4, each such Holder shall be entitled to retain such Interests, which shall entitle such Holder to receive its Pro Rata share of Cash, if any, from the Remaining Funds.
- (c) *Voting:* Class 4 is Impaired. However, the votes of Holders of Class 4 Interests are not being solicited with respect to Class 4 Interests.

5. Class 5—Interests in CMTSU Liquidation 2, Inc.

- (a) *Classification:* Class 5 consists of all Interests in CMTSU Liquidation 2, Inc.
- (b) *Treatment:* On the Effective Date, all Interests in CMTSU Liquidation 2, Inc. shall be deemed cancelled, terminated, extinguished, and void.
- (c) *Voting:* Class 5 is Impaired. Holders of Interests in Class 5 are deemed to have rejected the Plan with respect to Class 5 Interests pursuant to section 1126(g) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan with respect to Class 5 Interests.

6. Class 6—Interests in CMTSU Liquidation 3, LLC

- (a) *Classification:* Class 6 consists of all Interests in CMTSU Liquidation 3, LLC.
- (b) *Treatment:* On the Effective Date, all Interests in CMTSU Liquidation 3, LLC shall be Reinstated.
- (c) *Voting:* Class 6 is Unimpaired. Holders of Interests in Class 6 are deemed to have accepted the Plan with respect to Class 6 Interests pursuant to section 1126(f) of the Bankruptcy Code and, therefore, are not entitled to vote to accept or reject the Plan with respect to Class 6 Interests.

C. *Interest on Allowed Claims*

Unless otherwise specifically provided for in the Plan (including this Article III.C), by applicable law (including, without limitation, section 506(b) of the Bankruptcy Code), or agreed to by, as applicable, the Debtors or the Post-Effective Date Debtors, interest shall not accrue or be paid on any Claim or Interest, and no Holder of any Claim or Interest shall be entitled to interest accruing on and after the Petition Date on account of any Claim or Interest.

Notwithstanding the preceding sentence, in the event that the Cash in the General Unsecured Claims Reserve exceeds the sum of all Allowed General Unsecured Claims, excluding any amounts of such Claims attributable to interest accruing on such Allowed Claims on or after the Petition Date, such excess Cash shall be distributed on a Pro Rata basis to the Holders of Allowed General Unsecured Claims on account of any portion of their respective Allowed Claims attributable to interest accruing on or after the Petition Date through the Effective Date, until such interest is paid in full. All such interest shall accrue at the Federal Judgment Rate, and no other postpetition interest shall be paid in respect of any Allowed General Unsecured Claims. Without limiting the foregoing, interest shall not accrue or be paid on any Claim or Interest after the Effective Date, and except as otherwise provided in this Plan, Holders of Allowed Claims and Allowed Interests shall not be entitled to interest, dividends, or accruals on the distributions regardless of whether such distributions are delivered on or at any time after the Effective Date.

*D. Special Provision Governing Unimpaired Claims*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtors, the Post-Effective Date Debtors, or the Debtors' Estates with respect to any Unimpaired Claims, including all rights with respect to legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

*E. Elimination of Vacant Classes*

Any Class of Claims or Interests that does not have a Holder of an Allowed Claim or Allowed Interest or a Claim or Interest temporarily Allowed by the Bankruptcy Court as of the date of the Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

*F. Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code*

The Debtors shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Interests. The Debtors reserve the right to modify the Plan in accordance with Article X hereof to the extent that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by modifying the treatment applicable to a Class of Interests to render such Class of Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules.

*G. Limited Substantive Consolidation*

For purposes of voting, Confirmation, and distributions under the Plan, the Chapter 11 Cases shall be deemed to be one consolidated case as of the Effective Date. All property of each of the Debtors' Estates shall be deemed to be property of a consolidated Entity consisting of all of the Debtors' Estates. Each Claim against any of the Debtors will be deemed to be a Claim against a consolidated Entity consisting of all of the Debtors, and any proof of Claim Filed against one or more of the Debtors will be deemed to have been Filed against the consolidated Entity. All guarantees by one of the Debtors in favor of any of the other Debtors will be eliminated, and all guarantees executed by any of the Debtors in favor of a creditor will be deemed to be a single obligation. Any and all Claims among or between Debtor entities shall be

waived and not entitled to any distribution under the Plan. Substantive consolidation shall have no effect on valid, enforceable and unavoidable Liens except for Liens that secure a Claim that is eliminated by virtue of substantive consolidation and Liens against collateral that cease to exist by virtue of substantive consolidation. Substantive consolidation shall not (a) create a Claim in a Class different from the Class in which a Claim would have been placed in the absence of substantive consolidation; (b) change the priority or nature of a Claim in a manner different from the priority or nature of such Claim in the absence of substantive consolidation; (c) affect each Debtors' separate corporate existence or independent ownership of property for any purposes other than for the limited purpose of making distributions under the Plan; or (d) affect any Causes of Action of each of the Debtors.

#### **ARTICLE IV.**

#### **MEANS FOR IMPLEMENTATION OF THE PLAN**

##### *A. Distributions on Account of Allowed Claims and Allowed Interests*

Except as otherwise provided in the Plan, on the Effective Date or as soon as practicable thereafter (or if a Claim or Interest is not an Allowed Claim or Allowed Interest on the Effective Date, on the date that such Claim becomes an Allowed Claim or Allowed Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Administrative Claim, Allowed Priority Tax Claim, Allowed Professional Fee Claim, Allowed Secured Claim, Allowed Other Priority Claim, Allowed General Unsecured Claim, and Allowed Interest shall receive distributions under the Plan in full in Cash to the extent not already paid prior to the Effective Date.

##### *B. Sources of Consideration for Plan Distributions*

The Plan provides for the distribution of all Cash held by or for the benefit of the Debtors on and after the Effective Date. In addition to Cash on hand, the Debtors' property consists primarily of: (a) the Debtors' rights under the Purchase Agreement and other Transaction Documents, in each case in accordance with the terms of the Purchase Agreement and any other Transaction Document, as applicable; (b) the Debtors' rights with respect to any Executory Contracts or Unexpired Leases identified on the Contract Assumption Schedule; (c) the Debtors' rights with respect to the Insurance Policies, including the D&O Policies; and (d) the Debtors' rights with respect to the Post-Effective Date Debtors' Causes of Action and any proceeds generated therefrom.

##### *C. Post-Effective Date Debtors*

###### *1. Vesting and Transfer of Assets*

On the Effective Date, pursuant to section 1141 of the Bankruptcy Code, all property of the Estates, and any property acquired by the Debtors during the Chapter 11 Cases, shall vest in the respective Debtors, free and clear of all Claims, Liens, charges, or other encumbrances and Interests except as provided in the Plan and the Confirmation Order. On the Effective Date, each of the Debtors will assign, convey, and transfer to Post-Effective Date CMTSU LLC, all of their respective right, title, and interest in and to the Post-Effective Date Debtors' Assets (other than,



for the avoidance of doubt, the Interests in Post-Effective Date CMTSU LLC, which shall remain with Post-Effective Date CMTSU Inc.). No Person (other than Post-Effective Date CMTSU LLC) will have any interest, legal, beneficial, reversionary, or otherwise, in the Post-Effective Date Debtors' Assets upon their assignment, conveyance and transfer to Post-Effective Date CMTSU LLC (other than as provided in this Plan). Value equal to any proceeds or consideration that is obtained by Post-Effective Date CMTSU Inc. through the application or use of the Debtors' tax attributes shall be transferred to Post-Effective Date CMTSU LLC and distributed in accordance with the Plan. Notwithstanding the foregoing, the Debtors reserve the right to create a new corporate entity to serve as the vehicle through which the Post-Effective Date Debtors will conduct the wind down of their business and affairs in which case all of the Post-Effective Date Debtors' Assets shall be transferred to such entity as described herein and all references to Post-Effective Date CMTSU LLC in the Plan shall instead be deemed to apply to such newly created entity. Such assignment, conveyance, and transfer to Post-Effective Date CMTSU LLC, and any subsequent assignment, conveyance or transfer of all or any portion of the Post-Effective Date Debtors' Assets, will be exempt from any stamp, transfer, deed, sales, use or other similar tax and will be free and clear of any liens, claims and encumbrances. Without limiting the foregoing, the Confirmation Order shall specifically authorize and order each respective clerk, recorder or other governmental official charged with accepting, filing or recording any instrument of conveyance or transfer to file or record any such document without imposition or collection of any such tax or charge.

## 2. General

From and after the Effective Date, the Post-Effective Date Debtors shall continue in existence for purposes of: (a) winding down the Debtors' businesses and affairs as expeditiously and efficaciously as reasonably possible; (b) resolving and making distributions on all Allowed Claims and Allowed Interests; (c) administering the Post-Effective Date Debtors' Assets; (d) filing appropriate tax returns for the Debtors and the Post-Effective Date Debtors, as necessary; (e) dissolving the Debtors and the Post-Effective Date Debtors in accordance with the Plan; (f) administering the Plan in an efficacious manner, with no objective to continue or engage in the conduct of a trade or business; (g) filing the final monthly report (for the month in which the Effective Date occurs) and any subsequent quarterly reports required under the U.S. Trustee guidelines, and paying all U.S. Trustee Fees from the Effective Date through the date of a final decree closing the Chapter 11 Cases; and (h) maintaining the D&O Policies and transferring or terminating any other insurance policies, as deemed necessary by the Post-Effective Date Debtors in accordance with the terms of the Plan.

In connection with the Post-Effective Date Debtors' Assets, any attorney-client privilege, work-product privilege, joint interest privilege or other privilege or immunity attaching to any documents or communications (in any form, including, without limitation, written, electronic or oral) shall be transferred and shall vest in Post-Effective Date CMTSU LLC. Post-Effective Date CMTSU LLC's receipt of such privileges associated with the Post-Effective Date Debtors' Assets shall not operate as a waiver of other privileges possessed or retained by the Debtors. For the avoidance of doubt, the privileges and immunities that shall be transferred and vest in Post-Effective Date CMTSU LLC shall include all privileges and immunities that existed prior to the entry of the Sale Order as related (in any manner) to Causes of Action and objections to any Claims or Interests.

### 3. Post-Effective Date CMTSU LLC

On the Effective Date, the limited liability company agreement of Post-Effective Date CMTSU LLC shall be amended and restated in form of the Amended and Restated Post-Effective Date CMTSU LLC Agreement, which shall provide, among other things that, except as set forth herein: (a) for the limited purpose of implementing the Plan, administering and distributing the Post-Effective Date Debtors' Assets, and winding down the business and affairs of the Debtors and the Post-Effective Date Debtors, all management and governance responsibility of Post-Effective Date CMTSU LLC shall rest solely with the Manager; (b) the Manager shall not have any interest in Post-Effective Date CMTSU LLC; (c) it is the intention of the parties that Post-Effective Date CMTSU LLC shall continue to be treated as a disregarded entity for U.S. federal income tax purposes; and (d) the Manager shall only be replaced for cause as set forth in Article IV.D hereof.

### 4. Post-Effective Date CMTSU Inc.

On the Effective Date, the certificate of incorporation and bylaws of CMTSU Liquidation, Inc. shall be amended and restated in the form of the Amended and Restated Post-Effective Date CMTSU Inc. Certificate of Incorporation and the Amended and Restated Post-Effective Date CMTSU Inc. Bylaws. Post-Effective Date CMTSU Inc. shall remain in existence until such time as the wind down of the Debtors and the Post-Effective Date Debtors is complete, at which point the Sole Officer and Director shall have the authority to dissolve Post-Effective Date CMTSU Inc. under applicable law and without the necessity of a shareholder vote. On and after the Effective Date, the Sole Officer and Director shall be appointed as the sole officer and director of Post-Effective Date CMTSU Inc., without further Order of the Bankruptcy Court. The Sole Officer and Director shall be vested with the authority granted to him or her pursuant to the Amended and Restated Post-Effective Date CMTSU Inc. Certificate of Incorporation and the Amended and Restated Post-Effective Date CMTSU Inc. Bylaws.

### 5. Dissolution of CMTSU Liquidation 2, Inc.

On the Effective Date, CMTSU Liquidation 2, Inc. shall be deemed to have dissolved as of the Effective Date.

### *D. Management of the Post-Effective Date Debtors*

Subject to the limitations of this Plan, including the other provisions of this section, the powers of the Manager shall include any and all powers and authority to implement the Plan and to administer and distribute the Post-Effective Date Debtors' Assets and wind down the business and affairs of the Debtors and the Post-Effective Date Debtors, including: (a) liquidating, receiving, holding, and investing, supervising, and protecting the Post-Effective Date Debtors' Assets; (b) commencing, asserting, litigating, and prosecuting any and all Causes of Action; (c) taking all steps to execute all instruments and documents necessary to effectuate the distributions to be made under the Plan from the Post-Effective Date Debtors' Assets; (d) objecting to, resolving and/or making distributions to Holders of Allowed Claims and Allowed Interests from the Post-Effective Date Debtors' Assets as contemplated under the Plan; (e) establishing and maintaining bank accounts in the name of Post-Effective Date CMTSU LLC,

including the Administrative and Priority Claims Reserve, the Wind Down Reserve, and the General Unsecured Claims Reserve; (f) employing, retaining, terminating, or replacing professionals to represent it with respect to its responsibilities or otherwise effectuating the Plan to the extent necessary; (g) paying all reasonable fees, expenses, debts, charges, and liabilities of the Post-Effective Date Debtors; (h) maintaining, transferring, or terminating the Insurance Policies; (i) administering and paying taxes of the Post-Effective Date Debtors, including filing tax returns and, to the extent applicable, using the Debtors' tax attributes; (j) representing the interests of the Post-Effective Date Debtors or the Estates before any taxing authority in all matters, including any action, suit, proceeding or audit; and (k) exercising such other powers as may be vested in it pursuant to Order of the Bankruptcy Court or pursuant to the Plan, or as it reasonably deems to be necessary and proper to carry out the provisions of the Plan.

Until such time as Holders of Class 3 Claims are paid in full in accordance with the Plan, the Oversight Committee may, as determined by it in good faith, and subject to the approval of the Bankruptcy Court on notice to the Manager and the Post-Effective Date Debtors, remove the Manager for cause (including any of the following forms of misconduct, whether during Manager's employment by any of the Debtors either before or after the Petition Date): violation of any term of his employment agreement with the Debtors; commission of any felony or of any misdemeanor involving dishonesty or moral turpitude; theft or misuse of the Debtors' property or time; use of alcohol on the Debtors' premises or appearing on such premises while intoxicated; illegal use of any controlled substance; illegal gambling; discriminatory or harassing behavior, whether or not illegal under federal, state or local law; willful misconduct; or falsifying any document or making any false or misleading statement relating to the Manager's employment by any of the Debtors. If the Manager is removed, the Oversight Committee, in its sole discretion, shall select a replacement Manager who shall serve on an "at will" basis, in the Oversight Committee's sole discretion and on terms and conditions acceptable to both parties.

The Manager may resign at any time upon thirty (30) days' written notice delivered to the Bankruptcy Court, the Oversight Committee, and the Post-Effective Date Debtors. Any successor Manager shall serve on an "at will" basis, in the Oversight Committee's sole discretion and on terms and conditions acceptable to it, and, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of its predecessor, and all responsibilities of the predecessor Manager relating to Post-Effective Date CMTSU LLC shall be terminated.

Except as otherwise ordered by the Bankruptcy Court, the fees and expenses incurred by the Manager and the Sole Officer and Director on or after the Effective Date (including taxes) and any reasonable fee and expense reimbursement claims (including attorneys' and advisors' fees and expenses) made by the Manager or the Sole Officer and Director shall be paid in Cash from the Post-Effective Date Debtors' Assets without any further notice to or action, Order, or approval of the Bankruptcy Court. The Manager shall be authorized to engage counsel and advisors, including, for the avoidance of doubt, Alvarez & Marsal North America, LLC. The initial Manager and Sole Officer and Director shall be retained on terms consistent with his prepetition engagement. The form of engagement letter between the Post-Effective Date Debtors and the Manager shall be included in the Plan Supplement.

In executing his duties and responsibilities under the Plan, the Manager and the Sole Officer and Director may rely, and shall be protected from liability in acting upon: (a) any books, records, documents, instruments or papers maintained by the Debtors or the Post-Effective Date Debtors in the ordinary course of business; (b) any instrument, paper, pleading, notice, Order, or other document on file with the Bankruptcy Court that the Manager or the Sole Officer and Director, as applicable, believes to be genuine and signed or presented by the proper party or parties; (c) the advice of counsel; (d) the Plan; or (e) any direction or approval by the Oversight Committee. Neither the Manager nor the Sole Officer and Director shall be required to give any bond or surety or other security for the performance of its respective duties unless otherwise ordered by the Bankruptcy Court. Additionally, in the event that the Manager or the Sole Officer and Director is so otherwise ordered, all costs and expenses of the Manager or the Sole Officer and Director in procuring any such bond or surety shall be paid for with Cash derived from the Post-Effective Date Debtors' Assets.

*E. Creation of the Oversight Committee*

On the Effective Date, the Oversight Committee shall be formed. The Oversight Committee initially shall be comprised of ~~three (3) individuals consisting of: (a) a designee appointed by the Debtors that shall be a creditor; (b) a designee appointed by the Committee; and (c) a designee appointed to represent the Holders of Class 4 Interests~~ the five (5) individuals identified in the Plan Supplement. In the event that an Oversight Committee Member resigns, remaining Oversight Committee Members may, in their discretion, select a replacement Oversight Committee Member. After all Class 3 Claims have been paid in full in accordance with Article III.B hereof, representatives of the Holders of Class 4 Interests shall select three (3) individuals to serve on the Oversight Committee, and all Oversight Committee Members then serving on the Oversight Committee shall be discharged and shall have no further obligations under the Plan.

The Oversight Committee's authority, duties, and responsibilities shall be: (a) meeting with the Manager on a periodic basis (as the Oversight Committee and the Manager agree, or as may be requested by the Oversight Committee in its reasonable discretion) regarding the execution of the Manager's duties under the Plan and the status of the same; (b) consulting with the Manager regarding all matters covered by the Plan including (i) the pursuit of Causes of Action against third parties; (ii) objecting to and/or resolving Claims; and (iii) such other matters affecting administration of the Estates as may be agreed upon by the Oversight Committee and the Manager; and (c) the matters addressed below.

The Oversight Committee shall be authorized to engage counsel and advisors for the Oversight Committee. Subject to review and approval of the Oversight Committee, Post-Effective Date CMTSU LLC shall pay in the ordinary course all reasonable fees and expenses of professionals and advisors retained on its behalf or on behalf of the Oversight Committee, and such fees and expenses shall not be subject to the review and approval of the Bankruptcy Court. The Oversight Committee Members may be entitled to compensation as may be agreed to by the Manager and the Oversight Committee.

The Manager may, in his discretion, seek the consent of the Oversight Committee regarding any matter at issue and shall not take any of the actions set forth below without the

prior consent (such consent not to be unreasonably withheld) or authorization of the Oversight Committee or Order of the Court: (a) allowance of any disputed, unliquidated or contingent Claim over \$500,000; (b) engaging, terminating or altering the engagement of any professionals or advisors representing or otherwise acting on behalf of the Post-Effective Date Debtors; (c) making a disbursement to any individual, Entity, or professional or advisor representing or otherwise acting on behalf of Post-Effective Date CMTSU LLC or the Oversight Committee in excess of \$100,000; (d) modifying or seeking authority from the Bankruptcy Court to amend, modify or change the Plan, any document in the Plan Supplement, or the Confirmation Order; (e) releasing any Claim or Cause of Action (including Claims and Causes of Action assertable under Chapter 5 of the Bankruptcy Code); (f) pursuing Causes of Action against any party, including commencing litigation on behalf of Post-Effective Date CMTSU LLC; (g) increasing any item of remuneration that Manager or the Sole Officer and Director may receive for work on behalf of the Post-Effective Date Debtors; (h) objecting to Claims or Interests; or (i) establishing or funding the Administrative and Priority Claims Reserve, the Wind Down Reserve, or the General Unsecured Claims Reserve, or adding or disbursing any funds therefrom. With respect to any of the actions set forth above, the Manager shall take such action if the Oversight Committee, by a vote of 75% of the Oversight Committee Members voting, directs that such action shall be taken (a "Direction"); provided, however, that the Manager shall not be required to take any Direction that the Manager reasonably believes to be in violation of law or the Amended and Restated Post-Effective CMTSU LLC Agreement, or is not in the best interests of the Debtors' Estates, in which case the Manager shall move before the Bankruptcy Court within ten (10) business days on notice to the Oversight Committee for relief from such Direction, and shall thereafter proceed in accordance with any Order of the Bankruptcy Court as may be entered with respect to such Direction.

With respect to the allowance of any disputed, unliquidated or contingent Claim over \$~~31~~ million, the Manager shall: (a) obtain written consent or authorization of the Oversight Committee and ~~approval of the Bankruptcy Court, after notice and a hearing (with notice)~~ provide notice of the material terms of the proposed allowance to all parties requesting notice of pleadings in these Chapter 11 Cases ~~plus the Holders of the twenty (20) largest Class 3 Claims)~~ requiring that objections to such allowance be filed within seven (7) days of notice thereof. If no objections are timely received, the Bankruptcy Court may enter an Order allowing such Claim without further notice or opportunity to be heard.

The Oversight Committee shall dissolve upon the later of (a) the date that all distributions are made in accordance with Article III.B hereof and (b) the closing of the Chapter 11 Cases and entry of a final decree.

*F. Standard of Care for Manager, Sole Officer and Director, and Oversight Committee*

The Manager and the Sole Officer and Director, in performance of his duties, will exercise sound discretion and independent judgment while exerting his best efforts to perform his duties in a professional manner. The Manager and the Sole Officer and Director shall not be liable to the Debtors, Post-Effective Date CMTSU LLC, and any Holder of a Claim or Interest, except as determined by a Final Order of a court of competent jurisdiction not subject to appeal that the Manager and the Sole Officer and Director was grossly negligent, willfully disregarded his duties and responsibilities under the Plan, acted for his benefit to the derogation of the rights

of Post-Effective Date CMTSU LLC or has otherwise engaged in either willful misconduct or the abandonment of his duties.

The Oversight Committee Members shall perform their respective duties with reasonable diligence and care. Neither the Oversight Committee nor the Oversight Committee Members or their successors or assigns, affiliates, directors, officers, employees, agents, shareholders, attorneys or other professionals shall be liable to the Debtors, Post-Effective Date CMTSU LLC, or any Holder of a Claim or Interest, except as determined by a Final Order of a court of competent jurisdiction not subject to appeal that any such Oversight Committee Member willfully disregarded his duties and responsibilities under the Plan or has otherwise engaged in willful misconduct in the performance of his duties under the Plan.

*G. Creation of Administrative and Priority Claims Reserve*

On the Effective Date or as soon as reasonably practicable thereafter, Post-Effective Date CMTSU LLC shall establish and thereafter maintain the Administrative and Priority Claims Reserve in an authorized depository in the United States. Funds in the Administrative and Priority Claims Reserve shall be used by Post-Effective Date CMTSU LLC only for the payment of U.S. Trustee Fees and Allowed Priority Claims to the extent that such Allowed Claims have not been paid in full on or prior to the Effective Date. Any amounts remaining in the Administrative and Priority Claims Reserve, after payment in full of all Allowed Priority Claims and the U.S. Trustee Fees, or reserving for any Disputed Priority Claims sufficient to permit payment in full of such Priority Claims, may be released from the reserve, transferred to the General Unsecured Claims Reserve, and used for other distributions by Post-Effective Date CMTSU LLC pursuant to the Plan.

*H. Creation of Wind Down Reserve*

On the Effective Date or as soon as reasonably practicable thereafter, Post-Effective Date CMTSU LLC shall establish and thereafter maintain the Wind Down Reserve with the Wind Down Reserve Amount in an authorized depository in the United States. Post-Effective Date CMTSU LLC may replenish the Wind Down Reserve at any time in the sole discretion of the Manager in consultation with the Oversight Committee. Funds in the Wind Down Reserve shall be used by Post-Effective Date CMTSU LLC only for the payment of fees and expenses relating to the implementation of the Plan and wind down and dissolution of the Debtors and Post-Effective Date Debtors pursuant to the Plan. Any amounts remaining in the Wind Down Reserve after payment of all fees and expenses relating to the implementation of the Plan and wind down and dissolution of the Debtors may be released from the reserve, transferred to the General Unsecured Claims Reserve, and used for distributions by Post-Effective Date CMTSU LLC pursuant to the Plan.

*I. Creation of General Unsecured Claims Reserve*

On the Effective Date or as soon as reasonably practicable thereafter, Post-Effective Date CMTSU LLC shall establish and thereafter maintain the General Unsecured Claims Reserve in an authorized depository in the United States. Funds in the General Unsecured Claims Reserve shall be used by Post-Effective Date CMTSU LLC only for payment of Allowed Class 3 Claims.

Any amounts remaining in the General Unsecured Claims Reserve (including any amounts transferred from the Administrative and Priority Claims Reserve or the Wind Down Reserve) after payment of all Allowed Class 3 Claims and reserving for Disputed Class 3 Claims that may become Allowed, each in full in Cash pursuant to the Plan, including any interest payable pursuant to Article III.C hereof, shall constitute Remaining Funds.

*J. Zayo Settlement*

In full and final satisfaction of any and all Claims, including, for the avoidance of doubt, the Claims identified in the Proofs of Claim filed by Zayo (Claim Nos. 345, 453, and 631), any other Claims or Administrative Claims reserved in the Zayo Stipulation, and any rights that Zayo asserts, has or may have against the Debtors and their Estates, Zayo shall be granted an Allowed Class 3 Claim against CMTSU Liquidation, Inc. ~~(f/k/a Ciber, Inc.)~~ in the amount of \$27,750,000. Zayo shall be deemed to have made the Class 3 Cash-Out Election without the need to return a Ballot exercising such election. The Debtors and their Estates agree to waive any Avoidance Actions that could be asserted against Zayo.

The settlement reflected in this Article IV.J shall only be effective if: (i) the Effective Date occurs on or before the Zayo Settlement Termination Date, and (ii) Zayo receives its distribution on account of its Allowed Class 3 Claim on or before the Zayo Settlement Termination Date. Should the Effective Date or Zayo's distribution on account of its Allowed Class 3 Claim occur after the Zayo Settlement Termination Date, the settlement reflected in this Article IV.J shall no longer be effective and the parties' rights are reserved, unless Zayo provides express written consent waiving these conditions.

*K. D&O Policies*

Notwithstanding anything to the contrary contained herein or in the Confirmation Order, Confirmation of the Plan and the assignment of the D&O Policies to the Post-Effective Date Debtors in connection with the Plan shall not impair or otherwise modify (i) any obligations arising under the D&O Policies or (ii) any Board Member's or officer's rights to receive any benefits or coverage under such D&O Policies subject to the terms thereof. In addition, after the Effective Date, the Post-Effective Debtors shall not terminate or otherwise reduce coverage under any D&O Policy, and all Board Members and officers of the Debtors covered by such policy shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such Board Members and/or officers remain in such positions after the Effective Date, all subject to the terms of the D&O Policies.

*L. Sale Order; Purchase Agreement*

Notwithstanding anything in the Plan or the Confirmation Order to the contrary, nothing in the Plan or the Confirmation Order shall, or shall be deemed to, amend, modify, or waive any term or condition of the Sale Order, the Purchase Agreement, or any other Transaction Document or limit, alter, or impair any of the rights or remedies of the Purchaser under any of the foregoing.

*M. Wind Down*

On the Effective Date, the persons acting as Board Members, managers, and officers of the Debtors shall be deemed to have resigned and relieved of all duties under the Debtors' organizational documents.

On and after the Effective Date, the Post-Effective Date Debtors shall be authorized to implement the Plan and any applicable Orders of the Bankruptcy Court. As soon as reasonably practicable after the Effective Date, the Post-Effective Date Debtors shall take such other actions as the Post-Effective Date Debtors may determine to be necessary or desirable to carry out the purposes of the Plan. From the Effective Date through the date of the filing of a final decree closing the Chapter 11 Cases, the Post-Effective Date Debtors shall file the final monthly report (for the month in which the Effective Date occurs) and any subsequent quarterly reports required under the U.S. Trustee guidelines.

The Post-Effective Date Debtors shall have the power and authority to take any action necessary to implement the Plan and wind down and dissolve the Debtors and Post-Effective Date Debtors. Any expenses and costs incurred by the Post-Effective Date Debtors in connection with the wind down and dissolution activities described in the preceding sentence shall be paid solely from the Post-Effective Date Debtors' Assets. In addition, the Post-Effective Date Debtors shall execute and file for the Debtors a certificate of dissolution or equivalent document, together with all other necessary corporate and company documents, to effect the dissolution of the Debtors under applicable law. Upon such filings, the Debtors and the Post-Effective Date Debtors: (a) for all purposes shall be deemed to have withdrawn their business operations from any state or territory in which they were previously conducting, or were registered or licensed to conduct, their business operations, and shall not be required to file any document, pay any sum, or take any other action in order to effectuate such withdrawal; (b) shall be deemed to have terminated the requisite corporate formation documents relating to each such Debtor and Post-Effective Date Debtor; and (c) shall not be liable in any manner to any taxing authority for franchise, business, license, or similar taxes accruing on or after the Effective Date.

*N. Cancellation of Securities and Agreements*

On the Effective Date, except as otherwise specifically provided for in the Plan: (a) the obligations of the Debtors under any certificate, share, note, bond, indenture, purchase right, or other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest, equity, or portfolio interest in the Debtors or any warrants, options, or other securities exercisable or exchangeable for, or convertible into, debt, equity, ownership, or profits interests in the Debtors giving rise to any Claim or Interest shall be cancelled as to the Debtors; and (b) the obligations of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificates or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, indenture, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors shall be fully released, settled, and compromised; provided, that, notwithstanding Confirmation or the occurrence of the Effective Date, any such agreement that governs the rights of the Holder of a Claim or Interest shall continue in effect solely for purposes of allowing such Holders to receive distributions under the



Plan as provided herein; provided, further, that notwithstanding anything to the contrary herein, any right of the Debtors to, or any benefit to the Debtors with respect to, any escrowed funds, letters of credit, financial assurances, trust accounts, or other accounts shall not be cancelled, released, settled, or compromised.

*O. Corporate Action*

On the Effective Date, the certificate of incorporation and bylaws of Post-Effective Date CMTSU Inc. shall be amended and restated in the form of the Amended and Restated Post-Effective Date CMTSU Inc. Certificate of Incorporation and the Amended and Restated Post-Effective Date CMTSU Inc. Bylaws. The Amended and Restated Post-Effective Date CMTSU Inc. Certificate of Incorporation will prohibit the issuance of nonvoting equity securities to the extent required by section 1123(a) of the Bankruptcy Code without any further actions by the stockholders or directors of the Debtors or the Post-Effective Date Debtors. After the Effective Date, the Amended and Restated Post-Effective Date CMTSU Inc. may amend and restate its Amended and Restated Post-Effective Date CMTSU Inc. Certificate of Incorporation as provided therein or by applicable law.

Upon the Effective Date, by virtue of the solicitation of votes in favor of the Plan and entry of the Confirmation Order, all actions contemplated by the Plan (including any action to be undertaken by the Post-Effective Date Debtors) shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by Holders of Claims or Interests, the Debtors, or any other Entity or Person. All matters provided for in the Plan involving the corporate structure of the Debtors, and any corporate action required by the Debtors in connection therewith, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Debtors or the Debtors' Estates.

The Manager and Sole Officer and Director shall be authorized to execute, deliver, File, or record such contracts, instruments, and other agreements or documents, and take such other actions as it may deem necessary or appropriate in its reasonable discretion to implement the provisions of this Article IV.

The authorizations and approvals contemplated by this Article IV shall be effective notwithstanding any requirements under applicable nonbankruptcy law.

*P. Effectuating Documents; Further Transactions*

Prior to the Effective Date, the Debtors, and, on and after the Effective Date, the Post-Effective Date Debtors, are authorized to and may issue, execute, deliver, file, or record such contracts, securities, instruments, releases, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

*Q. Exemption from Certain Taxes and Fees*

To the maximum extent provided by section 1146(a) of the Bankruptcy Code, any post-Confirmation transfer from any Entity pursuant to, in contemplation of, or in connection

with the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors; or (b) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instruments of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, or other similar tax or governmental assessment, in each case to the extent permitted by applicable bankruptcy law, and the appropriate state or local government officials or agents shall forego collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

*R. Causes of Action*

On the Effective Date, all interests in and to the Causes of Action shall be transferred from the Post-Effective Date Debtors to Post-Effective Date CMTSU LLC. The Manager, in the exercise of its business judgment and acting in accordance with the Plan, will determine whether to pursue such Causes of Action in accordance with the best interests of the Holders of Claims and Interests entitled to distributions under this Plan, and shall have all requisite authorization, approval and standing (without further action by the Debtors, Post-Effective Date Debtors or the Bankruptcy Court) to prosecute any of the Causes of Action in the name of, on behalf of, in the stead of, or as assignee of the Debtors, the Post-Effective Date Debtors, and/or the Debtors' respective Estates.

Any recovery of Cash on such Causes of Action shall be distributed pursuant to the Plan. A nonexclusive schedule of the Post-Effective Date Debtors' Retained Causes of Action is contained in the Plan Supplement. In accordance with and subject to any applicable law, the Debtors' inclusion or failure to include any Cause of Action in the Plan Supplement shall not be deemed an admission, denial or waiver of any Cause of Action that any Debtor or Estate may hold against any Entity. Post-Effective Date CMTSU LLC shall have the ability to settle any and all Post-Effective Date Debtors' Causes of Action without further Order of the Bankruptcy Court.

*S. Post-Effective Date Fees and Expenses*

Except as otherwise specifically provided in the Plan, from and after the Effective Date, Post-Effective Date CMTSU LLC shall, in the ordinary course of business and without any further notice or application to or action, Order, or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional, or other fees and expenses related to implementation of the Plan and Consummation incurred on or after the Effective Date by the Post-Effective Date Debtors.

Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331, 363, and 1103 of the Bankruptcy Code, the Local Bankruptcy Rules, or the Professional Fee Order in seeking retention or compensation for services rendered after such date shall terminate, and the Post-Effective Date Debtors may employ and pay any Professional in the

ordinary course of business without any further notice to or action, Order, or approval of the Bankruptcy Court.

*T. Closing the Chapter 11 Cases*

When all Disputed Claims and Interests have become Allowed or disallowed, the Post-Effective Date Debtors have dissolved in accordance with Article IV.M hereof and all remaining Post-Effective Date Debtors' Assets have been distributed in accordance with the Plan, and the business and affairs of the Debtors have been otherwise wound down, the Post-Effective Date Debtors shall seek authority from the Bankruptcy Court to close the Chapter 11 Cases in accordance with the Bankruptcy Code and the Bankruptcy Rules.

**ARTICLE V.**

**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

*A. Assumption, Assumption and Assignment, and Rejection of Executory Contracts and Unexpired Leases*

On the Effective Date, except as otherwise provided herein, each Executory Contract and Unexpired Lease not previously rejected, assumed, or assumed and assigned shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code, unless such Executory Contract or Unexpired Lease: (a) is specifically described in the Plan as to be assumed in connection with Confirmation of the Plan, or is specifically scheduled to be assumed or assumed and assigned pursuant to the Plan and the Contract Assumption Schedule; (b) is subject to a pending motion to assume or assume and assign such Unexpired Lease or Executory Contract as of the Effective Date; (c) is to be, or has been, assumed or assumed and assigned to the Purchaser or another third party, as applicable, in connection with the Sale Transaction; (d) is a contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan or with the Purchaser; or (e) is one of the Insurance Policies. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumptions, assignments, and rejections, including the assumption of the Executory Contracts or Unexpired Leases as provided in the Contract Assumption Schedule, pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

*B. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases*

Any Cure Obligations under each Executory Contract and Unexpired Lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the Cure Obligation in Cash on the Effective Date or as soon as reasonably practicable thereafter, subject to the limitations described below, by the Debtors or Post-Effective Date CMTSU LLC, as applicable, as an Allowed Administrative Claim, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (a) the amount of the Cure Obligation; (b) the ability of the Debtors' Estates or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed; or (c) any other matter pertaining to assumption, the Cure

Obligations shall be satisfied following the later to occur of the Effective Date or entry of a Final Order or Orders resolving the dispute and approving the assumption; provided, that prior to the Effective Date, the Debtors, and on and after the Effective Date, the Post-Effective Date Debtors, may settle any dispute regarding the amount of any Cure Obligation without any further notice to any party or any action, Order, or approval of the Bankruptcy Court.

The Debtors shall cause notice of the proposed assumption and proposed Cure Obligations (solely to the extent such Cure Obligations were not already established in connection with the Sale Transaction and Sale Order) to be sent to applicable counterparties. Any objection by such counterparty shall be Filed and served within fourteen (14) days after service of the Contract Assumption Schedule. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or Cure Obligation shall be deemed to have assented to such assumption or Cure Obligation. For the avoidance of doubt, in accordance with the Bid Procedures Order and the Sale Order, the Cure Obligations relating to the Assigned Contracts shall be binding on the parties thereto for all purposes in the Chapter 11 Cases and otherwise, and shall constitute a final determination of the total Cure Obligations required to be paid in connection with the assumption and assignment of such Executory Contracts and Unexpired Leases.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan, or otherwise, shall result in the full release and satisfaction of any Claims or defaults, subject to satisfaction of the Cure Obligations, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the effective date of assumption and/or assignment. **Anything in the Schedules and any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed or assumed and assigned shall be deemed disallowed and expunged, without further notice to or action, Order, or approval of the Bankruptcy Court or any other Entity.**

*C. Claims Based on Rejection of Executory Contracts and Unexpired Leases*

Unless otherwise provided by an Order of the Bankruptcy Court, any Proofs of Claim based on the rejection of the Debtors' Executory Contracts or Unexpired Leases pursuant to the Plan or otherwise, must be Filed with the Claims and Noticing Agent and served on the Debtors or, after the Effective Date, the Post-Effective Date Debtors, no later than thirty (30) days after the earlier of the Confirmation Date or the effective date of the rejection of the applicable Executory Contract or Unexpired Lease. In addition, any objection to the rejection of an Executory Contract or Unexpired Lease must be Filed with the Bankruptcy Court and served on the Debtors or, after the Effective Date, the Post-Effective Date Debtors, no later than fourteen (14) days after service of the Debtors' proposed rejection of such Executory Contract or Unexpired Lease or the Confirmation Order if deemed rejected under the Plan.

**Any Holders of Claims arising from the rejection of an Executory Contract or Unexpired Lease for which Proofs of Claims were not timely Filed as set forth in the paragraph above shall not (1) be treated as a creditor with respect to such Claim; (2) be permitted to vote to accept or reject the Plan on account of any Claim arising from such**

rejection; or (3) participate in any distribution in the Chapter 11 Cases on account of such Claim, and any Claims arising from the rejection of an Executory Contract or Unexpired Lease not Filed with the Bankruptcy Court within such time will be automatically disallowed, forever barred from assertion, and shall not be enforceable against the Debtors, the Post-Effective Date Debtors, the Debtors' Estates, or the property of any of the foregoing without the need for any objection by the Debtors or the Post-Effective Date Debtors, or further notice to, or action, Order, or approval of the Bankruptcy Court or any other Entity, and any Claim arising out of the rejection of the Executory Contract or Unexpired Lease shall be deemed fully compromised, settled, and released, notwithstanding anything in the Schedules or a Proof of Claim to the contrary. All Allowed Claims arising from the rejection of the Debtors' prepetition Executory Contracts or prepetition Unexpired Leases shall be classified as General Unsecured Claims in Class 3 against the Debtors, except as otherwise provided by Order of the Bankruptcy Court.

*D. Purchase Agreement; Assigned Contracts*

The Debtors' assumption or rejection of any Executory Contract or Unexpired Lease pursuant to the Plan shall be subject in all respects to the Purchaser's rights and obligations, including any Cure Obligations assumed by the Purchaser in accordance with the Purchase Agreement, with respect to any such Executory Contracts or Unexpired Leases that constitute Assigned Contracts.

*E. Modifications, Amendments, Supplements, Restatements, or Other Agreements*

Unless otherwise provided in the Plan, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and all Executory Contracts and Unexpired Leases related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors or on behalf of the Debtors' Estates during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

*F. Insurance Policies*

Notwithstanding anything to the contrary in the Disclosure Statement, the Plan, the Plan Supplement, the Confirmation Order, any bar date notice or claim objection, and any other document related to any of the foregoing or any other order of the Bankruptcy Court (including, without limitation, any other provision that purports to be preemptory or supervening, grants an injunction or release, confers Bankruptcy Court jurisdiction, or requires a party to opt out of any releases) (a) pursuant to sections 365 and 1123 of the Bankruptcy Code, the Insurance Policies shall be assumed by the Debtors and assigned to the Post-Effective Date Debtors on the Effective

Date unless any such Insurance Policy previously was rejected by the Debtors or the Debtors' Estates pursuant to an Order of the Bankruptcy Court or is the subject of a motion to reject pending on the Effective Date; (b) coverage for defense and indemnity under any Insurance Policies, including the D&O Policies, shall remain available to all individuals within the definition of "Insured" in any such Insurance Policies, including the D&O Policies, as if the Chapter 11 Cases had not been filed; (c) nothing shall affect any party's rights, arguments, or defenses under any of the Insurance Policies, and all obligations and liabilities of the Debtors thereunder, whether arising before or after the Effective Date, shall survive, shall be or become obligations of the Post-Effective Date Debtors, and shall not be amended, modified, waived, released, discharged or impaired, and the Debtors' insurers shall not be required to file a Proof of Claim, Administrative Claim or Claim related to a Cure Obligation with respect thereto; provided, however, that the assignment of the Insurance Policies shall be effective as of the Effective Date and not alter, modify, amend, affect, impair or prejudice any rights, obligations or defenses of any insurers, the Debtors (or, after the Effective Date, the Post-Effective Date Debtors) or any other individual or entity, as applicable, under any Insurance Policy.

#### *G. Indemnification Claims*

Indemnification Claims that have been or may be asserted by the Settling Board Members shall be treated as follows: (a) each Settling Board Member shall be granted an Allowed General Unsecured Claim against CMTSU Liquidation, Inc. ~~(f/k/a Ciber, Inc.)~~ consisting of (i) \$475,097.60 for prepetition fees, costs or expenses incurred by the Settling Board Members relating to the SEC Inquiry, (ii) fees, costs or expenses incurred by the Settling Board Members between the Petition Date and the Effective Date relating to ~~any~~ the Chapter 11 Cases and any other action (including any Cause of Action), proceeding, or demand, whether formal or informal, other than the SEC Inquiry, to the extent such fees, costs or expenses are subject to advancement or indemnification under the Indemnification Provisions pursuant to their terms, ~~and~~ (iii) 70% of the fees, costs or expenses incurred by the Settling Board Members between the Petition Date and the Effective Date relating to the SEC Inquiry, and (iv) post-Effective Date fees, costs or expenses incurred by the Settling Board Members relating to the SEC Inquiry, the Chapter 11 Cases, or any other action (including any Cause of Action), proceeding, or demand, whether formal or informal, to the extent such fees, costs or expenses are subject to advancement or indemnification under the Indemnification Provisions pursuant to their terms; and (b) each Settling Board Member shall be granted an Allowed Administrative Claim against CMTSU Liquidation, Inc. ~~(f/k/a Ciber, Inc.)~~ for 30% of all fees, costs or expenses incurred by the Settling Board Members between the Petition Date and the Effective Date relating to the SEC Inquiry; provided, however, that the ~~amount that~~ Post-Effective Date Indemnification Claims shall be reserved for in the General Unsecured Claims Reserve ~~on account of any General Unsecured Claims Allowed in an amount and~~ pursuant to ~~this Article V.G shall be set forth in the Plan Supplement; provided, further, that the amount of the Claims Allowed pursuant to this Article V.G shall be allocated among the Board Members in their discretion~~ the terms described in the Plan Supplement and the Confirmation Order, with distributions upon such Post-Effective Date Indemnification Claims being funded from such reserved amounts once they become Allowed; provided, further, that for purposes of voting and distributions, the Settling Board Members shall be treated as having one consolidated Allowed Claim in the aggregate amounts set forth above with respect to the Claims Allowed pursuant to this Article V.G; ~~provided, further, that if the Board Members~~

The Settling Board Members shall provide the Committee and the Debtors, prior to the Effective Date, and the Post-Effective Date Debtors and Oversight Committee, on and after the Effective Date, with summary invoices showing: (x) timekeepers, (y) hourly rates, and (z) number of hours spent by each timekeeper, together with a short summary of principal tasks covered by the invoice. The Debtors and the Committee, prior to the Effective Date, and Post-Effective Date Debtors with the consent of the Oversight Committee, on and after the Effective Date, shall have until 4:00 p.m. (prevailing Eastern time) on the fourth (4<sup>th</sup>) Business Day following service of the summary invoices to review and approve the Settling Board Members' invoices. If no objection to the summary invoices is timely received by the Debtors or Committee, prior to the Effective Date, or the Post-Effective Date Debtors, on and after the Effective Date, the Settling Board Members' invoices shall be deemed Allowed in the categories and priorities set forth in this Article V.G. In the event of a timely objection to the summary invoices described herein, the Bankruptcy Court shall retain jurisdiction to resolve any such dispute. The Debtors or the Post-Effective Date Debtors, as applicable, shall track the status of the Settling Board Members' invoices and any outstanding balances.

The Settling Board Members shall timely advise the Debtors or the Post-Effective Date Debtors, as applicable, of any payments made by any insurance company and against which of the Settling Board Members' invoices the payments should be applied. Any funds received from any insurance company with respect to Indemnification Claims shall be retained by the Settling Board Members and, on an invoice-by-invoice basis to the extent reasonably practicable, reduce the Allowed Indemnification Claims of each receiving Settling Board Member set forth in this Article V.G in the following order: (i) *first*, any unpaid amount of the Allowed General Unsecured Claim with respect to the fees, costs or expenses for which the insurance company payment is made, (ii) *second*, any unpaid amount of the Allowed Administrative Claim with respect to the fees, costs or expenses for which the insurance company payment is made, and (iii) *third*, any unpaid amount of the Allowed General Unsecured Claims set forth in Article V.G.a, in each case on a dollar-for-dollar basis. In the event any funds received from any insurance company are available for distribution to sub-paragraph (iii) in the immediately preceding sentence, such funds shall be applied to the Allowed General Unsecured Claims of the Settling Board Members, proportionately as to the Settling Board Members based on the dollar amount of such claims as asserted among the Settling Board Members. If the Settling Board Members (singularly or collectively) receive more than payment in full on account of all of their Allowed Claims, ~~the Board Members shall~~ in the aggregate, and such payment is otherwise infeasible and without reservation by any party, then each of the receiving Settling Board Members shall, notwithstanding the otherwise infeasible nature of such payment, return to Post-Effective Date CMTSU LLC any Cash they received from the Debtors or Post-Effective Date CMTSU LLC in excess of the full amount of such Allowed Claims, subject to the rights, if any, of any insurance company with respect to such Cash.

All rights of the Board Members and the Debtors or Post-Effective Date Debtors with respect to the Indemnification Agreements are reserved. For the avoidance of doubt, the foregoing reservation shall not have any effect on the allowance of any Indemnification Claims related to the SEC Inquiry or any pre-Effective Date Indemnification Claims unrelated to the SEC Inquiry that are allowed under the Plan.

This Article V.G shall govern the application of insurance proceeds and the effect such proceeds have on the Indemnification Claims Allowed herein, and shall specifically control in the event of any conflict with any other provision in this Plan, including but not limited to Article V.I.E.2-3.

*H. Reservation of Rights*

Neither the exclusion nor inclusion of any contract or lease in the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that the Debtors' Estates have any liability thereunder. In the event of a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtors or the Post-Effective Date Debtors, as applicable, shall have ninety (90) days following entry of a Final Order resolving such dispute to alter the treatment of such contract or lease as otherwise provided in the Plan.

## ARTICLE VI.

### PROVISIONS GOVERNING DISTRIBUTIONS

*A. Calculation of Amounts to Be Distributed*

Each Holder of an Allowed Claim or Allowed Interest against the Debtors shall receive the full amount of the distributions that the Plan provides for Allowed Claims or Allowed Interests in the applicable Class from the Debtors or Post-Effective Date CMTSU LLC. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, in which case such payment shall be deemed to have occurred when due. If and to the extent that there are Disputed Claims or Interests, distributions on account of any such Disputed Claims or Interests shall be made pursuant to the provisions set forth in Article III.B hereof. Notwithstanding anything to the contrary in the Plan, no Holder of an Allowed Claim or Allowed Interest shall, on account of such Allowed Claim or Allowed Interest, receive a distribution in excess of the Allowed amount of such Claim or Interest plus any interest accruing on such Claim or Interest that is actually payable in accordance with the Plan.

*B. Disbursing Agent*

Under the Plan, the Disbursing Agent shall be Post-Effective Date CMTSU LLC. The Disbursing Agent shall make all distributions under the Plan.

*C. Delivery of Distributions and Undeliverable or Unclaimed Distributions*

1. Record Date for Distribution

On each Distribution Record Date, and solely with respect to those Claims receiving a distribution on each Distribution Record Date, the Claims Register shall be closed and the



Disbursing Agent shall be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on each Distribution Record Date.

## 2. Delivery of Distributions in General

### (a) Payments and Distributions on Disputed Claims or Interests

Distributions made after the Effective Date to Holders of Disputed Claims or Interests that are not Allowed Claims or Allowed Interests as of the Effective Date but which later become Allowed Claims or Allowed Interests shall be deemed to have been made by the Disbursing Agent on the Effective Date, unless the Disbursing Agent and the Holder of such Claim or Interest agree otherwise.

### (b) Special Rules for Distributions to Holders of Disputed Claims or Interests

Notwithstanding any provision otherwise in the Plan and except as may be agreed to by the Disbursing Agent, on the one hand, and the Holder of a Disputed Claim or Interest, on the other hand, no partial payments and no partial distributions shall be made with respect to any Disputed Claim or Interest, other than with respect to Professional Fee Claims, until all Disputed Claims or Interests held by the Holder of such Disputed Claim or Interest have become Allowed Claims or Allowed Interests or have otherwise been resolved by settlement or Final Order.

### (c) Distributions

On and after the Effective Date, the Disbursing Agent shall make the distributions required to be made on account of Allowed Claims and Allowed Interests under the Plan.

Prior to making any distributions on Allowed Class 3 Claims, the Disbursing Agent shall set aside appropriate reserves of Cash in the General Unsecured Claims Reserve in order to satisfy Disputed Class 3 Claims in accordance with the Plan to the extent such Claims become Allowed Claims. Any amounts set aside to pay or reserve for Disputed Claims shall include the amounts needed to fund the ongoing costs and expenses of such reserve, including, without limitation, taxes in respect of Disputed Claims, if any.

Any distribution that is not made on the Initial Distribution Date or on any other date specified in the Plan because the Claim or Interest that would have been entitled to receive that distribution is not an Allowed Claim or Allowed Interest on such date shall be held by the Disbursing Agent and distributed on the next Subsequent Distribution Date that occurs after such Claim or Interest is Allowed.

## 3. Minimum; De Minimis Distributions

No Cash payment of less than \$10.00 in the aggregate, in the reasonable discretion of the Disbursing Agent, shall be made to a Holder of an Allowed Claim or Allowed Interest on account of such Allowed Claim or Allowed Interest. If a Holder of an Allowed Claim or Allowed Interest would be entitled to receive less than \$10.00 in the aggregate as of the time of a particular distribution, but would be entitled to receive more than \$10.00 in combination with later distributions, the Disbursing Agent shall combine such distributions with later distributions

to such Holder of an Allowed Claim or Allowed Interest so that such Holder may eventually be entitled to a distribution of at least \$10.00 in value. To the extent that the aggregate of such distributions never exceeds \$10.00, such funds shall remain with and vest in Post-Effective Date CMTSU LLC for distribution to other Holders of Allowed Claims or Allowed Interests.

4. Undeliverable Distributions and Unclaimed Property

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then current address of such Holder, at which time such distribution shall be made to such Holder without interest; provided, however, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six (6) months from the date the initial distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to Post-Effective Date CMTSU LLC automatically and without need for a further Order by the Bankruptcy Court for distribution in accordance with the Plan, and the Claim or Interest of any Holder to such property or interest in property shall be released, settled, compromised, and forever barred.

5. Manner of Payment Pursuant to the Plan

Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Debtors or Post-Effective Date CMTSU LLC by check or by wire transfer.

*D. Compliance with Tax Requirements/Allocations*

In connection with the Plan, to the extent applicable, the Debtors and the Post-Effective Date Debtors, as applicable, shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions (including distributions made from any reserve for Disputed Claims) pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Debtors and the Post-Effective Date Debtors shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms they believe are reasonable and appropriate. Amounts properly withheld from distributions to a Holder and paid over to any Governmental Unit will be treated as amounts distributed to the Holder. The Debtors or the Post-Effective Date Debtors, as applicable, may request that any Holder of an Allowed Claim or Allowed Interest provide it with all forms and information required to comply with all tax withholding and reporting requirements imposed on it by any Governmental Unit (the “Required Tax Documents”). Notwithstanding any other provision of the Plan, Holders that receive a distribution pursuant to the Plan are responsible for the payment and satisfaction of all tax obligations, including income, withholding, and other tax obligations imposed with respect to the distribution. In the event that a Holder fails to return Required Tax Documents within six (6) months after a written request by the Post-Effective Date Debtors, such Holder, its Allowed Claim or Allowed Interest, and all distributions on account of such Holder’s Allowed Claim or

Allowed Interest shall be treated as undeliverable distributions and unclaimed property in accordance with Article VI.C hereof. The Post-Effective Date Debtors shall be responsible for paying only taxes chargeable to them and shall not be responsible for paying the tax obligations of each other.

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest. It is uncertain whether this allocation will be respected by the tax authorities of a Governmental Unit, which may instead take the position that payments should be allocated first to interest or should be pro-rated between principal and interest. If the tax authorities prevail in this assertion, Holders may be required to recognize ordinary interest income even though they have an overall loss (and possibly a capital loss, the deductibility of which may be limited) with respect to their Claims. Each Holder is urged to consult its own tax advisor regarding the amount of its Claim allocable to accrued but unpaid interest and the character of any loss with respect to accrued but unpaid interest that the Holder previously included in income.

*E. Claims Paid or Payable by Third Parties*

1. Claims Paid by Third Parties; Recourse to Collateral

The Debtors or the Post-Effective Date Debtors, as applicable, shall be authorized to reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be Filed and without any further notice to or action, Order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not the Debtors or the Post-Effective Date Debtors, as applicable, including on account of recourse to collateral held by third parties that secure such Claim. To the extent a Holder of a Claim receives a distribution on account of such Claim and also receives payment from a party that is not the Debtors or the Post-Effective Date Debtors on account of such Claim, such Holder shall, within fourteen (14) days of receipt thereof, repay or return the distribution to the Debtors or the Post-Effective Date Debtors, as applicable, to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the total amount of such Claim as of the date of any such distribution under the Plan. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the Debtors or the Post-Effective Date Debtors, as applicable, annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the 14-day grace period specified above until the amount is repaid.

2. Claims Payable by Insurance, Third Parties; Recourse to Collateral

Subject to Article V.G hereof, no distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to the Insurance Policies, surety agreements, other non-Debtor payment agreements, or collateral held by a third party, until the Holder of such Allowed Claim has exhausted all remedies with respect to such Insurance Policy, surety agreement, other non-Debtor payment agreement, or collateral, as applicable. To the extent that one or more of the Debtors' insurers, sureties, or non-Debtor payors pays or satisfies in full or in

part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), or such collateral or proceeds from such collateral is used to satisfy such Claim, then, subject to Article V.G hereof, immediately upon such payment, the applicable portion of such Claim shall be expunged without a Claim objection having to be Filed and without any further notice to or action, Order, or approval of the Bankruptcy Court.

3. Applicability of Insurance Policies

Notwithstanding anything to the contrary in the Plan or the Confirmation Order, Confirmation and Consummation of the Plan shall not limit or affect the rights of any third-party beneficiary or other covered party of any of the Insurance Policies with respect to such policies, including, without limitation, the D&O Policies.

**ARTICLE VII.**

**PROCEDURES FOR RESOLVING CONTINGENT,  
UNLIQUIDATED, AND DISPUTED CLAIMS AND INTERESTS**

A. *Resolution of Disputed Claims and Interests*

1. Allowance of Claims and Interests

Prior to the Effective Date, the Debtors, and, on and after the Effective Date, Post-Effective Date CMTSU LLC, shall have and shall retain any and all rights and defenses that the Debtors had with respect to any Claim or Interest, except with respect to any Claim or Interest deemed Allowed as of the Effective Date. Except as expressly provided in the Plan or in any Order entered in the Chapter 11 Cases prior to the Effective Date (including the Confirmation Order), no Claim or Interest shall become an Allowed Claim or Allowed Interest unless and until such Claim or Interest is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including the Confirmation Order, in the Chapter 11 Cases allowing such Claim or Interest.

2. Prosecution of Objections to Claims and Interests

Prior to the Effective Date, the Debtors, and on or after the Effective Date, Post-Effective Date CMTSU LLC shall have the authority and all requisite standing to File objections to Claims and Interests, and the exclusive authority and standing to settle, compromise, withdraw, or litigate to judgment objections on behalf of the Debtors' Estates to any and all such Claims and Interests, regardless of whether such Claims and Interests are in a Class or otherwise. From and after the Effective Date, Post-Effective Date CMTSU LLC shall have the sole authority to administer and adjust the Claims Register with respect to Claims and Interests to reflect any such settlements or compromises. No further notice to or action, Order, or approval of the Bankruptcy Court with respect to such settlements or compromises entered into between any of the Post-Effective Date Debtors and the Holder of any Claim or Interest shall be required.

### 3. Claims Estimation

On and after the Effective Date, Post-Effective Date CMTSU LLC may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law, in each case regardless of whether the Debtors or the Post-Effective Date Debtors has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to the maximum extent permitted by law as determined by the Bankruptcy Court to estimate any such Disputed Claim, contingent Claim, or unliquidated Claim, including during the litigation concerning any objection to any Claim or during the pendency of any appeal relating to any such objection.

In the event that the Bankruptcy Court estimates any Disputed Claim, contingent Claim, or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim for all purposes under the Plan, including for purposes of distributions, and the Post-Effective Date Debtors may elect to pursue additional objections to the ultimate distribution on such Claim. If the estimated amount constitutes a maximum limitation on such Claim, the Post-Effective Debtors may elect to pursue any supplemental proceedings to object to any ultimate distribution on account of such Claim. Notwithstanding section 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim that has been estimated pursuant to section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such Holder has Filed a motion requesting the right to seek such reconsideration on or before twenty-one (21) days after the date on which such Claim is estimated. All of the aforementioned Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

### 4. Expungement or Adjustment to Claims and Interests Without Objection

Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, may be marked as satisfied, adjusted or expunged (as applicable) on the Claims Register by the Claims and Noticing Agent at the direction of Post-Effective Date CMTSU LLC without an objection having to be Filed and without any further notice to or action, Order or approval of the Bankruptcy Court; provided, that Post-Effective Date CMTSU LLC shall provide thirty (30) days' notice of any of the foregoing modifications to the Claims Register to the Holder of any affected Claim or Interest during which period the Holder may object thereto.

### 5. Deadline to File Objections to Claims or Interests

Any objections to Claims or Interests shall be Filed no later than the Claims Objection Bar Date.

### *B. Disallowance of Claims*

To the maximum extent provided by section 502(d) of the Bankruptcy Code, all Claims of any Entity from which property is recoverable by the Post-Effective Date Debtors under

sections 542, 543, 550, or 553 of the Bankruptcy Code or that the Post-Effective Date Debtors allege is a transferee of a transfer that is avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if (a) the Entity, on the one hand, and Post-Effective Date CMTSU LLC on the other hand, agree or it has been determined by Final Order that such Entity or transferee is liable to turnover any property or monies under any of the aforementioned sections of the Bankruptcy Code; and (b) such Entity or transferee has failed to turnover such property by the date set forth in such agreement or Final Order.

*C. Amendments to Claims*

After the Confirmation Date, a Claim may not be filed or amended without the authorization of the Bankruptcy Court and any such new or amended Claim Filed shall be deemed disallowed and expunged without any further notice to or action, Order, or approval of the Bankruptcy Court; provided, that such Holder may amend the Claim Filed solely to decrease, but not to increase, the amount, number, or priority of such Claim, unless otherwise provided by the Bankruptcy Court.

## **ARTICLE VIII.**

### **SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS**

*A. Compromise and Settlement of Claims, Interests, and Controversies*

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

The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the compromises and settlements embodied in the Plan and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtors, their Estates, Holders of Claims and Interests, and other parties in interest, and are fair, equitable, and within the range of reasonableness. The Plan and the Confirmation Order shall have res judicata, collateral estoppel, and estoppel (judicial, equitable, or otherwise) effect with respect to all matters provided for, or resolved pursuant to, the Plan and/or the Confirmation Order, including, without limitation, the release, injunction, exculpation, and compromise provisions contained in the Plan and/or the Confirmation Order. The provisions of the Plan, including, without limitation, its release, injunction, exculpation, and compromise provisions, are mutually dependent and non-severable.

*B. Release of Liens*

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made to Holders of Claims and Interests pursuant to Article III.B hereof, including, for the avoidance of doubt, the satisfaction in full of the portion of a Secured

Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, and compromised and all rights, titles, and interests of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall revert or otherwise transfer to the Debtors or the Post-Effective Date Debtors, as applicable, and their successors and assigns.

*C. Subordinated Claims*

The allowance, classification, and treatment of all Allowed Claims and Allowed Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, except to the extent that any Claim or Interest has been Allowed pursuant to this Plan or prior Order of the Bankruptcy Court, the Debtors reserve the right for the Debtors or the Post-Effective Date Debtors, as applicable, to re-classify, upon approval by the Bankruptcy Court following notice and a hearing, any Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

*D. Debtors' Release*

ON THE EFFECTIVE DATE OF THE PLAN AND TO THE FULLEST EXTENT AUTHORIZED BY APPLICABLE LAW, THE RELEASED PARTIES AND THEIR RESPECTIVE PROPERTY SHALL BE EXPRESSLY, UNCONDITIONALLY, GENERALLY AND INDIVIDUALLY AND COLLECTIVELY RELEASED, ACQUITTED AND DISCHARGED BY THE DEBTORS ON BEHALF OF THEMSELVES, THEIR RESPECTIVE ESTATES, AND THE POST-EFFECTIVE DATE DEBTORS (SUCH THAT THE POST-EFFECTIVE DATE DEBTORS SHALL NOT HOLD ANY CLAIMS OR CAUSES OF ACTION RELEASED PURSUANT TO THIS ARTICLE VIII.D), FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY EACH OF THE RELEASED PARTIES, FROM ANY AND ALL ACTIONS, CLAIMS, DEBTS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, CAUSES OF ACTION, REMEDIES AND LIABILITIES WHATSOEVER, INCLUDING ANY DERIVATIVE CLAIMS ASSERTED ON BEHALF OF THE DEBTORS, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, MATURED OR UNMATURED, EXISTING OR HEREINAFTER ARISING, IN LAW, EQUITY, CONTRACT, TORT OR OTHERWISE, BY STATUTE, VIOLATIONS OF FEDERAL OR STATE SECURITIES LAWS OR OTHERWISE, BASED IN WHOLE OR IN PART UPON ANY ACT OR OMISSION, TRANSACTION, OR OTHER OCCURRENCE OR CIRCUMSTANCES EXISTING OR TAKING PLACE PRIOR TO OR ON THE EFFECTIVE DATE ARISING FROM OR RELATED IN ANY WAY TO THE DEBTORS, ANY OF THE DEBTORS' PRESENT OR FORMER ASSETS, THE RELEASED PARTIES' INTERESTS IN OR MANAGEMENT OF THE DEBTORS, THE PLAN, THE DISCLOSURE STATEMENT, THE SALE TRANSACTION, THE BIDDING AND SALE PROCESS FOR THE DEBTORS' ASSETS, THE PURCHASE AGREEMENT, THESE CHAPTER 11 CASES, OR ANY RESTRUCTURING OF CLAIMS OR INTERESTS UNDERTAKEN PRIOR TO THE EFFECTIVE DATE, INCLUDING THOSE THAT THE DEBTORS OR THE

POST-EFFECTIVE DATE DEBTORS WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT OR THAT ANY HOLDER OF A CLAIM AGAINST OR INTEREST IN THE DEBTORS OR ANY OTHER ENTITY COULD HAVE BEEN LEGALLY ENTITLED TO ASSERT DERIVATIVELY OR ON BEHALF OF THE DEBTORS OR THEIR ESTATES, EXCEPT FOR ANY CLAIMS AND CAUSES OF ACTION FOR ACTUAL FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; PROVIDED, HOWEVER, THAT THE FOREGOING "DEBTORS' RELEASE" SHALL NOT OPERATE TO WAIVE OR RELEASE ANY CLAIMS OR CAUSES OF ACTION OF THE DEBTORS OR THEIR CHAPTER 11 ESTATES (A) AGAINST A RELEASED PARTY ARISING UNDER ANY CONTRACTUAL OBLIGATION OWED TO THE DEBTORS THAT IS ENTERED INTO OR ASSUMED PURSUANT TO THE PLAN, (B) TO AVOID THE INDEMNIFICATION AGREEMENTS, OR (C) RELATED TO THE CONSULTING AGREEMENT.

NOTHING IN THE PLAN SHALL RELEASE ANY CLAIMS ASSERTED BY THE SETTLING BOARD MEMBERS THAT DO NOT CONSTITUTE INDEMNIFICATION CLAIMS; PROVIDED, HOWEVER, THAT THE DEBTORS AND THE POST-EFFECTIVE DATE DEBTORS SHALL RETAIN THE RIGHT TO ASSERT ANY CLAIMS OR CAUSES OF ACTION SOLELY AS DEFENSES (INCLUDING WITHOUT LIMITATION, DEFENSIVE SETOFF) WITH RESPECT TO CLAIMS ASSERTED BY THE SETTLING BOARD MEMBERS THAT DO NOT CONSTITUTE INDEMNIFICATION CLAIMS.

ENTRY OF THE CONFIRMATION ORDER SHALL CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL, PURSUANT TO BANKRUPTCY RULE 9019, OF THE DEBTORS' RELEASE, WHICH INCLUDES BY REFERENCE EACH OF THE RELATED PROVISIONS AND DEFINITIONS CONTAINED IN THE PLAN, AND, FURTHER, SHALL CONSTITUTE THE BANKRUPTCY COURT'S FINDING THAT THE DEBTORS' RELEASE IS: (1) IN EXCHANGE FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY THE RELEASED PARTIES; (2) A GOOD-FAITH SETTLEMENT AND COMPROMISE OF THE CLAIMS RELEASED BY THE DEBTORS' RELEASE; (3) IN THE BEST INTERESTS OF THE DEBTORS' ESTATES AND ALL HOLDERS OF CLAIMS AND INTERESTS; (4) FAIR, EQUITABLE, AND REASONABLE; (5) GIVEN AND MADE AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING; AND (6) A BAR AGAINST ANY OF THE DEBTORS' ESTATES OR THE POST-EFFECTIVE DATE DEBTORS ASSERTING ANY CLAIM OR CAUSE OF ACTION RELEASED PURSUANT TO THE DEBTORS' RELEASE.

*E. Third Party Release*

ON THE EFFECTIVE DATE OF THE PLAN AND TO THE FULLEST EXTENT AUTHORIZED BY APPLICABLE LAW, THE RELEASING PARTIES SHALL BE DEEMED TO HAVE EXPRESSLY, UNCONDITIONALLY, GENERALLY, AND INDIVIDUALLY AND COLLECTIVELY, RELEASED AND ACQUITTED THE RELEASED PARTIES AND THEIR RESPECTIVE PROPERTY (INCLUDING THE RELEASED PARTIES' PREDECESSORS, SUCCESSORS AND ASSIGNS, SUBSIDIARIES, AFFILIATES, MANAGED ACCOUNTS OR FUNDS, CURRENT AND FORMER OFFICERS, DIRECTORS, PRINCIPALS, MEMBERS, PARTNERS (GENERAL AND LIMITED), EMPLOYEES, AGENTS, ADVISORY BOARD MEMBERS, FINANCIAL ADVISORS,



ATTORNEYS, ACCOUNTANTS, INVESTMENT BANKERS, CONSULTANTS, REPRESENTATIVES, MANAGEMENT COMPANIES, FUND ADVISORS, AND OTHER PROFESSIONALS, EACH IN THEIR CAPACITIES AS SUCH) FROM ANY AND ALL ACTIONS, CLAIMS, INTERESTS, OBLIGATIONS, RIGHTS, SUITS, DAMAGES, CAUSES OF ACTION, REMEDIES, AND LIABILITIES WHATSOEVER, INCLUDING ANY DERIVATIVE CLAIMS ASSERTED ON BEHALF OF THE DEBTORS, WHETHER KNOWN OR UNKNOWN, FORESEEN OR UNFORESEEN, MATURED OR UNMATURED, EXISTING OR HEREAFTER ARISING, IN LAW, EQUITY, CONTRACT, TORT OR OTHERWISE, THAT SUCH RELEASING PARTIES (WHETHER INDIVIDUALLY OR COLLECTIVELY) EVER HAD, NOW HAVE OR HEREAFTER CAN, SHALL OR MAY HAVE, BASED ON OR RELATING TO, OR IN ANY MANNER ARISING FROM OR RELATED IN ANY WAY TO THE DEBTORS, ANY OF THE DEBTORS' PRESENT OR FORMER ASSETS, THE RELEASED PARTIES' INTERESTS IN OR MANAGEMENT OF THE DEBTORS, THE BUSINESS OR CONTRACTUAL ARRANGEMENTS BETWEEN THE DEBTORS AND ANY RELEASED PARTY, THE PLAN, THE DISCLOSURE STATEMENT, THE SALE TRANSACTION, THE BIDDING AND SALE PROCESS FOR THE DEBTORS' ASSETS, THE PURCHASE AGREEMENT, THESE CHAPTER 11 CASES, OR ANY RESTRUCTURING OF CLAIMS OR INTERESTS UNDERTAKEN PRIOR TO THE EFFECTIVE DATE, INCLUDING THOSE THAT THE DEBTORS OR THE POST-EFFECTIVE DATE DEBTORS WOULD HAVE BEEN LEGALLY ENTITLED TO ASSERT OR THAT ANY HOLDER OF A CLAIM AGAINST OR INTEREST IN THE DEBTORS OR ANY OTHER ENTITY COULD HAVE BEEN LEGALLY ENTITLED TO ASSERT DERIVATIVELY OR ON BEHALF OF THE DEBTORS OR THEIR ESTATES, EXCEPT FOR (I) ANY CLAIMS AND CAUSES OF ACTION FOR ACTUAL FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND (II) THE RIGHT TO RECEIVE DISTRIBUTIONS FROM THE DEBTORS OR THE POST-EFFECTIVE DATE DEBTORS ON ACCOUNT OF AN ALLOWED CLAIM OR ALLOWED INTEREST AGAINST THE DEBTORS PURSUANT TO THE PLAN.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN NO EVENT SHALL AN ENTITY THAT MAKES THE THIRD PARTY OPT-OUT ELECTION IN ACCORDANCE WITH THE SOLICITATION PROCEDURES ORDER BE A RELEASING PARTY. FOR THE AVOIDANCE OF DOUBT, AMONG OTHERS, ANY HOLDER OF A CLAIM OR INTEREST THAT DOES NOT MAKE THE THIRD PARTY OPT-OUT ELECTION IS A RELEASING PARTY.

ENTRY OF THE CONFIRMATION ORDER SHALL CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL, PURSUANT TO BANKRUPTCY RULE 9019, OF THE THIRD PARTY RELEASE, WHICH INCLUDES BY REFERENCE EACH OF THE RELATED PROVISIONS AND DEFINITIONS CONTAINED IN THE PLAN, AND, FURTHER, SHALL CONSTITUTE THE BANKRUPTCY COURT'S FINDING THAT THE THIRD PARTY RELEASE IS: (1) IN EXCHANGE FOR THE GOOD AND VALUABLE CONSIDERATION PROVIDED BY THE RELEASED PARTIES; (2) A GOOD-FAITH SETTLEMENT AND COMPROMISE OF THE CLAIMS RELEASED BY THE THIRD PARTY RELEASE; (3) IN THE BEST INTERESTS OF THE DEBTORS AND ALL HOLDERS OF CLAIMS AND INTERESTS; (4) FAIR, EQUITABLE, AND REASONABLE; (5) GIVEN AND MADE AFTER DUE NOTICE AND OPPORTUNITY FOR HEARING; AND

(6) A BAR TO ANY OF THE RELEASING PARTIES ASSERTING ANY CLAIM RELEASED PURSUANT TO THE THIRD PARTY RELEASE, INCLUDING ANY CLAIMS FOR INDEMNITY OR CONTRIBUTION RELATING TO SUCH RELEASED CLAIMS.

FOR THE AVOIDANCE OF DOUBT, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE DISCLOSURE STATEMENT, PLAN OR CONFIRMATION ORDER, NO PROVISION SHALL (I) PRECLUDE THE U.S. SECURITIES AND EXCHANGE COMMISSION FROM ENFORCING ITS POLICE OR REGULATORY POWERS AND (II)(X) RELEASE ANY NONDEBTOR FROM LIABILITY IN CONNECTION WITH ANY LEGAL ACTION OR CLAIM BROUGHT BY THE U.S. SECURITIES AND EXCHANGE COMMISSION OR (Y) ENJOIN, LIMIT, IMPAIR, OR DELAY THE U.S. SECURITIES AND EXCHANGE COMMISSION FROM BRINGING OR CONTINUING ANY ACTION AGAINST ANY NONDEBTOR IN ANY FORUM.

*F. Exculpation*

The Exculpated Parties shall neither have nor incur any liability to any Entity for any prepetition or postpetition act taken or omitted to be taken in connection with the Chapter 11 Cases, or related to formulating, negotiating, soliciting, preparing, disseminating, confirming, or implementing the Plan or consummating the Plan, the Disclosure Statement, or any contract, instrument, release, or other agreement or document created or entered into in connection with the Plan or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the liquidation of the Debtors, including the bidding and sale process for the Debtors' assets. Without limiting the foregoing "Exculpation" provided under this Article VIII.F, the rights of any Holder of a Claim or Interest to enforce rights arising under the Plan shall be preserved, including the right to compel payment of distributions in accordance with the Plan; provided, that the foregoing "Exculpation" shall have no effect on the liability of any Entity solely to the extent resulting from any such act or omission that is determined in a Final Order to have constituted gross negligence or willful misconduct; provided, further, that each Exculpated Party shall be entitled to assert any affirmative defenses, including reliance upon the advice of counsel, concerning his, her, or its duties pursuant to, or in connection with, the Plan or any other related document, instrument, or agreement.

*G. Injunction*

EXCEPT AS OTHERWISE PROVIDED IN THE PLAN OR THE CONFIRMATION ORDER, ALL ENTITIES WHO HAVE HELD, HOLD, OR MAY HOLD CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES THAT: (1) ARE SUBJECT TO COMPROMISE AND SETTLEMENT PURSUANT TO THE TERMS OF THE PLAN; (2) HAVE BEEN RELEASED PURSUANT TO ARTICLE VIII.D HEREOF; (3) HAVE BEEN RELEASED PURSUANT TO ARTICLE VIII.E HEREOF; (4) ARE SUBJECT TO EXCULPATION PURSUANT TO ARTICLE VIII.F HEREOF; OR (5) ARE OTHERWISE STAYED OR TERMINATED PURSUANT TO THE TERMS OF THE PLAN, ARE PERMANENTLY ENJOINED AND PRECLUDED, FROM AND AFTER THE EFFECTIVE DATE, FROM: (A) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND, INCLUDING ON ACCOUNT OF ANY CLAIMS, INTERESTS, CAUSES OF ACTIONS, OR LIABILITIES THAT HAVE BEEN

COMPROMISED OR SETTLED AGAINST THE DEBTORS OR THE POST-EFFECTIVE DATE DEBTORS OR ANY ENTITY SO RELEASED OR EXCULPATED (OR THE PROPERTY OR ESTATES OF ANY ENTITY, DIRECTLY OR INDIRECTLY, SO RELEASED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY RELEASED, SETTLED, COMPROMISED, OR EXCULPATED CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES; (B) ENFORCING, ATTACHING, COLLECTING, OR RECOVERING BY ANY MANNER OR MEANS ANY JUDGMENT, AWARD, DECREE, OR ORDER AGAINST THE DEBTORS OR THE POST-EFFECTIVE DATE DEBTORS, OR ANY ENTITY SO RELEASED OR EXCULPATED (OR THE PROPERTY OR ESTATES OF THE DEBTORS OR ANY ENTITY SO RELEASED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH RELEASED, SETTLED, COMPROMISED, OR EXCULPATED CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES; (C) CREATING, PERFECTING, OR ENFORCING ANY LIEN, CLAIM, OR ENCUMBRANCE OF ANY KIND AGAINST THE DEBTORS, THE POST-EFFECTIVE DATE DEBTORS OR ANY ENTITY SO RELEASED OR EXCULPATED (OR THE PROPERTY OR ESTATE OF THE DEBTORS OR ANY ENTITY SO RELEASED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH RELEASED, SETTLED, COMPROMISED, OR EXCULPATED CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES; (D) ASSERTING ANY RIGHT OF SETOFF OR SUBROGATION OF ANY KIND AGAINST ANY OBLIGATION DUE FROM THE DEBTORS, THE POST-EFFECTIVE DATE DEBTORS OR ANY ENTITY SO RELEASED OR EXCULPATED (OR THE PROPERTY OR ESTATE OF THE DEBTORS OR ANY ENTITY SO RELEASED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH RELEASED, SETTLED, COMPROMISED, OR EXCULPATED CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES UNLESS SUCH ENTITY HAS TIMELY ASSERTED SUCH SETOFF OR SUBROGATION RIGHT PRIOR TO CONFIRMATION IN A DOCUMENT FILED WITH THE BANKRUPTCY COURT EXPLICITLY PRESERVING SUCH SETOFF OR SUBROGATION; AND (E) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND AGAINST THE DEBTORS, THE POST-EFFECTIVE DATE DEBTORS OR ANY ENTITY SO RELEASED OR EXCULPATED (OR THE PROPERTY OR ESTATE OF THE DEBTORS OR ANY ENTITY SO RELEASED OR EXCULPATED) ON ACCOUNT OF OR IN CONNECTION WITH OR WITH RESPECT TO ANY SUCH RELEASED, SETTLED, COMPROMISED, OR EXCULPATED CLAIMS, INTERESTS, CAUSES OF ACTION, OR LIABILITIES RELEASED, SETTLED, OR COMPROMISED PURSUANT TO THE PLAN; PROVIDED, THAT NOTHING CONTAINED IN THE PLAN SHALL PRECLUDE AN ENTITY FROM OBTAINING BENEFITS DIRECTLY AND EXPRESSLY PROVIDED TO SUCH ENTITY PURSUANT TO THE TERMS OF THE PLAN OR THE SALE ORDER; PROVIDED, FURTHER, THAT NOTHING CONTAINED IN THE PLAN SHALL BE CONSTRUED TO PREVENT ANY ENTITY FROM DEFENDING AGAINST CLAIMS OBJECTIONS OR COLLECTION ACTIONS WHETHER BY ASSERTING A RIGHT OF SETOFF OR OTHERWISE TO THE EXTENT PERMITTED BY LAW.

*H. Waiver of Statutory Limitations on Releases*

EACH RELEASING PARTY IN EACH OF THE RELEASES CONTAINED IN THE PLAN (INCLUDING UNDER THIS ARTICLE VIII) EXPRESSLY ACKNOWLEDGES THAT ALTHOUGH ORDINARILY A GENERAL RELEASE MAY NOT EXTEND TO CLAIMS WHICH THE RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR, WHICH IF KNOWN BY IT MAY HAVE MATERIALLY AFFECTED ITS SETTLEMENT WITH THE PARTY RELEASED, IT HAS CAREFULLY CONSIDERED AND TAKEN INTO ACCOUNT IN DETERMINING TO ENTER INTO THE ABOVE RELEASES THE POSSIBLE EXISTENCE OF SUCH UNKNOWN LOSSES OR CLAIMS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH RELEASING PARTY EXPRESSLY WAIVES ANY AND ALL RIGHTS CONFERRED UPON IT BY ANY STATUTE OR RULE OF LAW WHICH PROVIDES THAT A RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CLAIMANT DOES NOT KNOW OR SUSPECT TO EXIST IN ITS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY IT MAY HAVE MATERIALLY AFFECTED ITS SETTLEMENT WITH THE RELEASED PARTY. THE RELEASES CONTAINED IN THIS ARTICLE VIII ARE EFFECTIVE REGARDLESS OF WHETHER THOSE RELEASED MATTERS ARE PRESENTLY KNOWN, UNKNOWN, SUSPECTED OR UNSUSPECTED, FORESEEN OR UNFORESEEN.

*I. Setoffs*

Except as otherwise provided in the Plan, prior to the Effective Date, the Debtors, and on and after the Effective Date, the Post-Effective Date Debtors, pursuant to the Bankruptcy Code (including sections 553 and 558 of the Bankruptcy Code), applicable nonbankruptcy law, or as may be agreed to by the Holder of a Claim, may set off against any Allowed Claim on account of any Proof of Claim or other pleading Filed with respect thereto prior to the Confirmation Hearing and the distributions to be made pursuant to the Plan on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that the Debtors' Estates may hold against the Holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); provided, that neither the failure to effect such a setoff nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by the Debtors or the Post-Effective Date Debtors, as applicable, of any such claims, rights, and Causes of Action that the Debtors' Estates may possess against such Holder. In no event shall any Holder of Claims be entitled to set off any Claim against any claim, right, or Cause of Action of the Debtors' Estates unless such Holder has timely Filed a Proof of Claim (including any Proof of Claim timely Filed by the Governmental Bar Date) with the Bankruptcy Court expressly preserving such setoff; provided, that nothing in the Plan shall prejudice or be deemed to have prejudiced the Debtors' or the Post-Effective Date Debtors' right to assert that any Holder's setoff rights were required to have been asserted by motion or pleading filed with the Bankruptcy Court prior to the Effective Date, or any such Holder's right to assert that there was no such requirement.

## **ARTICLE IX.**

### **CONDITIONS PRECEDENT TO THE EFFECTIVE DATE OF THE PLAN**

#### *A. Conditions Precedent to the Effective Date of the Plan*

The Plan shall not become effective unless and until each of the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.B hereof:

1. the Bankruptcy Court shall have approved by Final Order a disclosure statement with respect to this Plan;
2. the Bankruptcy Court shall have entered the Confirmation Order in form and substance materially consistent with the Plan; and
3. the Confirmation Order shall be effective and shall not be subject to any stay, whether or not such Confirmation Order shall have become a Final Order.

#### *B. Waiver of Conditions*

The conditions precedent to the Effective Date of the Plan set forth in Article IX.A may be waived by the Debtors, in consultation with the Committee, in their reasonable discretion without notice, leave or Order of the Bankruptcy Court or any formal action other than proceeding to confirm or consummate the Plan. The Debtors shall promptly file a notice with the Bankruptcy Court to reflect such a waiver, including identifying the specific condition(s) subject to such waiver.

#### *C. Effect of Non-Occurrence of the Effective Date*

If the Effective Date does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (a) constitute a waiver or release of any claims by or Claims against or Interests in the Debtors; (b) prejudice in any manner the rights of the Debtors, the Debtors' Estates, any Holders, or any other Entity; or (c) constitute an admission, acknowledgment, offer, or undertaking by the Debtors, the Debtors' Estates, any Holders, or any other Entity in any respect.

## **ARTICLE X.**

### **MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN**

#### *A. Modification and Amendments*

Subject to the limitations contained in the Plan, the Debtors reserve the right to modify the Plan as to material terms and seek Confirmation consistent with the Bankruptcy Code and, as appropriate, not resolicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtors expressly reserve their rights to alter, amend, or modify materially the Plan with respect to the Debtors, one or more times,

after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article X.A hereof. Notwithstanding anything herein to the contrary, no provision involving the Board Members or any specific creditor may be modified without the prior written consent of each Board Member or such specific creditor, which consent may be granted or withheld in the Board Members' or the specific creditor's respective sole discretion.

*B. Effect of Confirmation on Modifications*

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan occurring after the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

*C. Revocation or Withdrawal of the Plan*

The Debtors reserve the right to revoke or withdraw the Plan prior to the Effective Date. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (a) the Plan shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (c) nothing contained in the Plan shall: (i) constitute a waiver or release of any Claims or Interests; (ii) prejudice in any manner the rights of the Debtors, the Debtors' Estates, or any other Entity; or (iii) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors, the Debtors' Estates, or any other Entity.

## ARTICLE XI.

### RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over the Chapter 11 Cases and all matters arising out of, or related to, the Chapter 11 Cases and the Plan, including jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Interests;
2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

3. resolve any matters related to: (a) the assumption and assignment or rejection of any Executory Contract or Unexpired Lease to which a Debtor is a party or with respect to which a Debtor may be liable in any manner and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Claims related to the rejection of an Executory Contract or Unexpired Lease, Cure Obligations pursuant to section 365 of the Bankruptcy Code, or any other matter related to such Executory Contract or Unexpired Lease; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; (c) the Debtors or the Post-Effective Date Debtors amending, modifying, or supplementing, after the Effective Date, pursuant to Article X.A hereof, any Executory Contracts or Unexpired Leases set forth on the Contract Assumption Schedule; and (d) any dispute regarding whether a contract or lease is or was executory or expired;

4. ensure that distributions to Holders of Allowed Claims and Allowed Interests are accomplished pursuant to the provisions of the Plan;

5. adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving the Debtors that may be pending on the Effective Date;

6. enter and implement such Orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan or the Disclosure Statement;

7. enter and enforce any Order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

8. resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

9. issue injunctions, enter and implement other Orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan;

10. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the settlements, compromises, releases, injunctions, exculpations, and other provisions contained in Article VIII hereof and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

11. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim or Interest for amounts not timely repaid pursuant to Article VI.E.1 hereof;

12. enter and implement such Orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

13. determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;
14. adjudicate any and all disputes arising from or relating to distributions under the Plan or any transactions contemplated therein;
15. consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Order of the Bankruptcy Court, including the Confirmation Order;
16. determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;
17. hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, or the Confirmation Order, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;
18. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
19. enforce all Orders previously entered by the Bankruptcy Court;
20. hear any other matter not inconsistent with the Bankruptcy Code; and
21. enter an Order concluding or closing the Chapter 11 Cases.

## **ARTICLE XII.**

### **MISCELLANEOUS PROVISIONS**

#### *A. Additional Documents*

Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, on or before the Effective Date, the Debtors may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors, all Holders of Claims or Interests receiving distributions pursuant to the Plan, and all other parties in interest shall prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

#### *B. Dissolution of Committee*

On the Effective Date, the Committee shall dissolve and members thereof shall be compromised, settled, and released from all rights and duties from or related to the Chapter 11 Cases, except the Committee will remain intact solely with respect to the preparation, filing, review, objection, and resolution of applications for Professional Fee Claims or Committee Member expense claims. The Debtors and the Post-Effective Date Debtors shall have no



obligation to pay any fees or expenses incurred after the Effective Date by the Committee Members, except for fees and expenses incurred in connection with any objection to applications for Professional Fee Claims and/or Committee Member expense claims.

*C. Reservation of Rights*

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. Neither the Plan, any statement or provision contained in the Plan, nor any action taken or not taken by the Debtors with respect to the Plan, the Disclosure Statement, the Confirmation Order, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of the Debtors with respect to the Holders of Claims or Interests prior to the Effective Date.

*D. Successors and Assigns*

The rights, benefits, and obligations of any Entity named or referred to in the Plan or the Confirmation Order shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign, Affiliate, officer, director, agent, representative, attorney, beneficiary, or guardian, if any, of each Entity.

*E. Service of Documents*

Any pleading, notice, or other document required by the Plan to be served on or delivered to the following parties shall be served via first class mail, overnight delivery, or messenger on:

If to the Debtors or the Post-Effective Date Debtors, to:

CMTSU Liquidation, Inc.  
7900 East Union Avenue  
Suite 1100  
Denver, Colorado 80237  
Attn: Jon Goulding, Chief Restructuring Officer

with copies to:

Morrison & Foerster LLP  
250 West 55th Street  
New York, New York 10019  
Attn: Brett H. Miller, Esq., Dennis L. Jenkins, Esq., Todd M.  
Goren, Esq., and Daniel J. Harris, Esq.

If to the Committee, to:

Perkins Coie LLP  
30 Rockefeller Plaza, 22nd Floor  
New York, New York 10019  
Attn: John D. Penn, Esq., Schuyler G. Carroll, Esq., and Tina N.

Moss, Esq.

*F. Term of Injunctions or Stays*

Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or any Order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect to the maximum extent permitted by law. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

*G. Entire Agreement*

Except as otherwise indicated, the Plan, the Confirmation Order, and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

*H. Nonseverability of Plan Provisions*

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may not be deleted or modified without the consent of the Debtors; and (c) nonseverable and mutually dependent. Notwithstanding anything herein to the contrary, no term or provision of the Plan involving the Board Members or any specific creditor may be altered or severed from the Plan without the prior written consent of each Board Member or each such specific creditor, which consent may be granted or withheld in the Board Members' or the specific creditor's respective sole discretion.

*I. Waiver or Estoppel*

Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, Secured or not subordinated by virtue of an agreement made with the Debtors or its counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court before the Confirmation Date.

Dated: ~~September 28,~~December 8, 2017 Respectfully submitted,

CMTSU LIQUIDATION, INC.  
for itself and its Debtor affiliates

By: /s/ Jon Goulding  
Name: Jon Goulding  
Title: Chief Restructuring Officer

Document comparison by Workshare 9 on Friday, December 08, 2017 3:53:27 PM

Input:	
Document 1 ID	PowerDocs://NEW_YORK/1288977/21
Description	NEW_YORK-#1288977-v21-CIBER_-_Plan_of_Liquidation
Document 2 ID	PowerDocs://NEW_YORK/1288977/25
Description	NEW_YORK-#1288977-v25-CIBER_-_Plan_of_Liquidation
Rendering set	Standard

Legend:	
<u>Insertion</u>	
<del>Deletion</del>	
<del>Moved from</del>	
<u>Moved to</u>	
Style change	
Format change	
<del>Moved deletion</del>	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	206
Deletions	168
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	374