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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	:	
In re	:	
AGENT PROVOCATEUR, INC., <i>et al.</i> , ¹	:	Chapter 11
	:	Case No. 17-10987 (MEW)
	:	Jointly Administered
Debtors.	:	
-----X	:	

**DISCLOSURE STATEMENT FOR THE CHAPTER 11 PLAN OF LIQUIDATION OF
AGENT PROVOCATEUR, INC. AND AGENT PROVOCATEUR, LLC**

¹ The Debtors in these two chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Agent Provocateur, Inc. (9441) and Agent Provocateur, LLC (0862).

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DISCLAIMER

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT (THE "**DISCLOSURE STATEMENT**") IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES OF THE PLAN OF LIQUIDATION OF AGENT PROVOCATEUR, INC. AND AGENT PROVOCATEUR, LLC (THE "**PLAN**"). THE INFORMATION MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT, REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES OF THE PLAN.

ALL CREDITORS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN AND THE EXHIBITS THERETO. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN SHALL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF.

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

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

**DISCLOSURE STATEMENT FOR THE CHAPTER 11 PLAN OF LIQUIDATION
OF AGENT PROVOCATEUR, INC. AND AGENT PROVOCATEUR, LLC**

INTRODUCTION

On April 11, 2017 (the "**Petition Date**"), Agent Provocateur, Inc. and Agent Provocateur, LLC (collectively, the "**Debtors**") filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the "**Bankruptcy Code**"). The Debtors, as debtors and debtors in possession, hereby submit this disclosure statement, (the "**Disclosure Statement**") pursuant to Section 1125 of the Bankruptcy Code, for use in the solicitation of votes on their Chapter 11 Plan of Liquidation filed on February 12, 2018 (the "**Plan**"). As further described herein, substantially all of the Debtors' assets have been sold and the Debtors are no longer operating; however, the Debtors have continued to wind-down their Estates and manage their affairs as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

A copy of the Plan is attached as Appendix A to this Disclosure Statement. All capitalized terms used in this Disclosure Statement but not otherwise defined herein have the meanings ascribed to such terms in the Plan. In addition, all references in this Disclosure Statement to monetary figures refer to United States currency, unless otherwise expressly provided.

This Disclosure Statement sets forth certain information regarding the Debtors' prepetition operating and financial history, its reasons for seeking protection under Chapter 11, and significant events that have occurred during the Chapter 11 cases. This Disclosure Statement also describes certain terms and provisions of the Plan, certain effects of confirmation of the Plan, certain risk factors associated with the Plan, and the manner in which Distributions will be made under the Plan. In addition, this Disclosure Statement describes the confirmation process and the voting procedures that holders of Claims entitled to vote under the Plan must follow for their votes to be counted.

By order dated _____, the Bankruptcy Court has approved this Disclosure Statement as containing "adequate information," as defined in Section 1125 of the Bankruptcy Code, to enable a hypothetical, reasonable investor typical of holders of Claims against, or Interests in, the Debtors to make an informed judgment as to whether to accept or reject the Plan. Pursuant to such order, the Bankruptcy Court has authorized use of the Disclosure Statement in connection with the solicitation of votes with respect to the Plan. APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT, HOWEVER, CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR MERITS OF THE PLAN. No solicitation of votes may be made except pursuant to this Disclosure Statement and Section 1125 of the Bankruptcy Code. In voting on the Plan, holders of Claims entitled to vote should not rely on any information relating to the Debtors and their business, other than that contained in this Disclosure Statement, the Plan, and all exhibits hereto and thereto. Pursuant to the provisions of the Bankruptcy Code, only holders of claims or interests that are (i) "impaired" by the Plan and (ii) entitled to receive a distribution under the Plan are entitled to vote on the Plan. In the Debtors' case, only the Claims in Classes 3, 4 and 5 are impaired by and may receive a distribution under the Plan, and only the holders of Claims in such Classes are entitled to vote to accept or reject the Plan. Claims in Classes 1 and 2 are

unimpaired by the Plan, and the holders thereof are conclusively presumed to have accepted the Plan. Interests in Class 6, the holders of which receive nothing under the Plan, are deemed to have rejected the Plan and are not entitled to vote.

FOR A DESCRIPTION OF THE PLAN AND VARIOUS RISKS AND OTHER FACTORS PERTAINING TO THE PLAN, PLEASE SEE ARTICLE III OF THIS DISCLOSURE STATEMENT, ENTITLED "SUMMARY OF THE PLAN," AND ARTICLE V OF THIS DISCLOSURE STATEMENT, ENTITLED "CERTAIN RISK AND OTHER FACTORS TO BE CONSIDERED."

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN DOCUMENTS RELATING TO THE PLAN, CERTAIN EVENTS THAT HAVE OCCURRED IN THE CHAPTER 11 CASES, AND CERTAIN FINANCIAL INFORMATION. ALTHOUGH THE DEBTORS BELIEVE THAT THE SUMMARIES OF THE PLAN AND RELATED DOCUMENT SUMMARIES ARE FAIR AND ACCURATE AS OF THE DATE HEREOF, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTORS' MANAGEMENT, EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE DEBTORS DO NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

NOTHING CONTAINED HEREIN SHALL BE DEEMED TO CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY, OR BE DEEMED CONCLUSIVE ADVICE ON THE TAX OR OTHER LEGAL EFFECTS OF THE LIQUIDATION AS TO HOLDERS OF ALLOWED CLAIMS OR INTERESTS. YOU SHOULD CONSULT YOUR PERSONAL COUNSEL OR TAX ADVISOR ON ANY QUESTIONS OR CONCERNS RESPECTING TAX, SECURITIES, OR OTHER LEGAL CONSEQUENCES OF THE PLAN.

THE DEBTORS BELIEVE THAT THE PLAN WILL ENABLE THE DEBTORS TO COMPLETE AN ORDERLY LIQUIDATION AND ACCOMPLISH THE OBJECTIVES OF CHAPTER 11. THE DEBTORS FURTHER BELIEVE THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF THE DEBTORS AND THE HOLDERS OF ALL ALLOWED CLAIMS, INCLUDING ALLOWED CLAIMS IN CLASSES 3, 4 AND 5. THE DEBTORS URGE SUCH HOLDERS TO VOTE TO ACCEPT THE PLAN. THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS (THE "**COMMITTEE**") SUPPORTS APPROVAL OF THE PLAN. A LETTER FROM THE COMMITTEE URGING HOLDERS OF CLAIMS IN CLASSES 3 AND 4 TO VOTE TO ACCEPT THE PLAN HAS BEEN DISTRIBUTED WITH THIS DISCLOSURE STATEMENT.

ARTICLE I.

BACKGROUND

A. Overview of the Debtors' Prepetition Business Operations. The Debtors, Agent Provocateur, Inc. and Agent Provocateur, LLC, are, respectively, direct and indirect U.S. subsidiaries of Agent Provocateur Ltd. (now known as Pearl Group Ltd. (in Administration)), a corporation organized under the laws of the United Kingdom (the "**UK Parent**"), which formerly owned and operated an international chain of retail stores selling high end women's lingerie and related apparel and accessories. In the United States, Agent Provocateur, Inc. owned and operated twenty-eight (28) stores in New York, California, Massachusetts, Georgia, New Jersey, Illinois, Texas, Hawaii and Florida. Agent Provocateur, LLC operated three (3) stores in Nevada. Although separate legal entities, Agent Provocateur, Inc. and Agent Provocateur, LLC were operated under the control of common management, and were both dependent upon their UK Parent for essential corporate services required in the on-going operation of their business.

B. Capital Structure of the Debtors

1. Prepetition Equity. On the Petition Date, the Debtors' UK Parent owned one hundred percent (100%) of the equity interests in Agent Provocateur, Inc., which in turn owned one hundred percent (100%) of the equity interests in Agent Provocateur, LLC.

C. Material Prepetition Debt Obligations

1. Prepetition Secured Debt. As of the Petition Date, the Debtors had no secured debt

2. Prepetition Unsecured Debt. As set forth in their Schedules of Assets and Liabilities (the "**Schedules**"), filed with the Bankruptcy Court on May 20, 2017, the Debtors' books and records reflect consolidated unsecured debt owed by them as of the Petition Date in the approximate aggregate amount of \$13.7 million. Those amounts include approximately \$8.5 million of purported unsecured debt owed to their UK Parent; approximately \$690,000 owing to the U.S. Customs and Border Protection Agency; obligations to various landlords on account of unpaid rent; and amounts owed to service providers and vendors.²

As detailed in Article II, Section H of this Disclosure Statement, the Debtors and the Committee believe that there are strong grounds for recharacterizing the unsecured claims of the UK Parent as equity interests and/or equitably subordinating the UK Parent's claim to those of other unsecured creditors. The UK Parent has agreed to subordinate its approximate \$8.5 million claim to all other Claims in these cases

Additionally, during the pendency of these Cases, the Debtors completed a sale of a substantial portion of their assets to Agent Provocateur International (US) LLC (the "**Buyer**") pursuant to Section 363 of the Bankruptcy Code. That sale included the assumption and

² Of the consolidated pre-petition unsecured indebtedness of \$13.7 million, Agent Provocateur, Inc.'s books reflect total unsecured debt of approximately \$12.3 million, and Agent Provocateur, LLC's books reflect total unsecured debt of approximately \$1.4 million.

assignment of a number of the Debtors' leases to the Buyer. As a result, many of the pre-petition claims against the Debtors for unpaid rent were cured, and rejection damage claims against the Debtors' estates were reduced. *See* Article II, Section F of this Disclosure Statement.

Excluding the pre-petition unsecured claims of the UK Parent, which under the terms of the Plan will be subordinated to all other Claims in these cases, proofs of claim filed by creditors prior to the applicable claims bar date total approximately \$4,870,000. Of that amount, proofs of claim seeking priority treatment under Section 507 of the Bankruptcy Code total approximately \$1,198,000.³

D. Summary of Assets. The Debtors' Schedules detail the assets owned by each Debtor as of the Petition Date. Such assets included cash on hand, bank accounts, office furnishings, fixtures, equipment, leasehold improvements, and deposits. The Schedules provide asset values on a net book basis, which are not necessarily reflective of actual values. The net book value of the Debtors' assets as reflected on the Schedules was \$6,438,424.00.⁴ The bulk of that value related to store fixtures and leasehold improvements, the actual value of which was substantially less than the recorded book value.

E. Historical Financial Information and Events Leading to Commencement of the Chapter 11 Cases. For the fiscal year ending March 31, 2016, the Debtors had, on an unaudited basis, gross revenue of approximately \$22.1 million. From April 1, 2016 through the Petition Date, the Debtors had, on an unaudited basis, gross revenue of approximately \$20.8 million.

In March 2017, the Debtors' UK Parent entered administration under the insolvency laws of the United Kingdom (the "**UK Administration**"). Immediately following the commencement of the UK Administration, the administrator completed a sale of the UK Parent's business and operating assets to a newly formed company, Agent Provocateur Limited, a wholly owned subsidiary of Four Marketing Limited ("**Four Marketing**"). Four Marketing is the parent of Agent Provocateur International (US) LLC, the Buyer of certain of the Debtors' assets in these cases. *See* Article II, Section F of this Disclosure Statement

The sale of the UK Parent's business to Four Marketing in March 2017 included all right, title and interest in the UK Parent's assets, including inventory, wherever located, and all intellectual property relating to the Agent Provocateur brand. Prior to the sale, the UK Parent had been the Debtors' sole source of inventory through a consignment arrangement under which the UK Parent retained title to inventory delivered to the Debtors until the point of sale to the ultimate customer. As a consequence of the sale of the UK Parent's business to Four Marketing, the Debtors were without a source of new inventory to replenish their shelves, other than Four Marketing, and had no right to use the Agent Provocateur brand in connection with future operations. Moreover, Four Marketing claimed ownership in all of the existing inventory in the Debtors' stores

³ Excluding proofs of claim filed by the UK Parent, proofs of claim filed against Agent Provocateur, Inc. total \$4,813,147.46, of which \$1,113,676.34 is claimed to be entitled to priority and \$36,329.22 is claimed to be secured. Excluding proofs of claim filed by the UK Parent, proofs of claim against Agent Provocateur, LLC total \$57,484.53, of which \$48,281.25 is claimed to be entitled to priority.

⁴ The net book value of the assets of Agent Provocateur, Inc. as reflected on the Schedules was \$6,092,914. The net book value of the assets of Agent Provocateur, LLC as reflected on the Schedules was \$345,510.13.

Accordingly, without a license to use intellectual property or authority to sell existing inventory, and with no continuing supply of new inventory, the Debtors were left with no further ability to maintain viable operations on a going forward basis, and they were on the verge of a complete and immediate shutdown. As they were about to shut down and file petitions under Chapter 7 of the Bankruptcy Code, Four Marketing expressed an interest in purchasing a number of stores from the Debtors. During these discussions, Four Marketing temporarily acquiesced in the Debtors' continued sale of product under the Agent Provocateur name.

As a result of their discussions, Four Marketing made a proposal to purchase a number of stores and to fund the Debtors' ongoing operations in chapter 11, if necessary, in order to enable the Debtors to consummate the sale. Believing the proposed sale was in the best interests of the Debtors' creditors and employees, the Debtors filed their bankruptcy cases with the intent to pursue an expedited sale process in order to complete the transaction. That sale was ultimately consummated through Agent Provocateur International (US) LLC, a subsidiary of Four Marketing. *See*, Article II, Section F of this Disclosure Statement.

ARTICLE II.

THE CHAPTER 11 CASE

A. Continuation of Business; Stay of Litigation. The Debtors filed their petitions for relief under Chapter 11 of the Bankruptcy Code on April 11, 2017. Following the Petition Date, the Debtors continued to operate as debtors-in-possession subject to the supervision of the Bankruptcy Court and in accordance with the Bankruptcy Code. Pursuant to the provisions of the Bankruptcy Code, the Debtors were authorized to operate their business and manage their affairs in the ordinary course, with transactions outside the ordinary course of business requiring Bankruptcy Court approval.

B. First Day Orders. On the first day of the Chapter 11 Cases, the Debtors filed several applications and motions seeking certain relief pursuant to so-called "first day orders." First day orders are intended to facilitate the transition from a debtor's prepetition to its postpetition business operations by approving certain ordinary course business practices that may not be specifically authorized under the Bankruptcy Code or as to which the Bankruptcy Code requires prior approval by the Bankruptcy Court. The first day orders obtained in these Chapter 11 Cases were typical of orders entered in other Chapter 11 cases. Such orders authorized, among other things:

(a) the maintenance of the Debtors' bank accounts and operation of their cash management systems substantially as such systems existed prior to the Petition Date;

(b) payment of employees' accrued prepetition wages, benefits, expense reimbursements, and continuation of employee health and benefit plans postpetition; and

(c) payment of certain pre-petition sales and withholding taxes.

C. Retention of Professionals. The Debtors are represented in the Chapter 11 Cases by the law firm of Thompson Hine LLP. The Debtors also have retained (i) Applied Business Strategy LLC as financial advisor and consultant; (ii) Burges Salmon LLP as special counsel to provide

advice with respect to UK insolvency issues; (iii) Jones Lang LaSalle Michigan, LLC as a valuation consultant to perform a market rental rate study; and (iv) the accounting firm of CohnReznick LLP to prepare certain tax returns and to assist the Debtors in reviewing the claims of various governmental entities.

D. Appointment of the Official Committee of Unsecured Creditors. The United States Trustee appointed an Official Committee of Unsecured Creditors on May 4, 2017 comprised of Simon Property Group Inc., GGP Limited Partnership, and China National Consumer Electronics Import and Export Corp.. The Committee retained the law firm of Fox Rothschild LLP as its attorneys. The expenses of members of the Committee and the fees and expenses of the professionals serving on behalf of the Committee are required to be paid by the Debtors' Estates, subject to approval by the Bankruptcy Court.

E. Closure of Stores and Rejection of Leases. Shortly after the Petition Date, the Debtors closed eighteen (18) stores that Four Marketing indicated it had no interest in acquiring. The Debtors also filed a motion, which the Court approved, to reject the leases of the store locations that were being closed. These steps were taken to conserve cash and to limit the Debtors' post-petition rent obligations

F. Sale of the Debtors' Remaining Stores as a Going-Concern. By virtue of Four Marketing's purchase of the business of the Debtors' UK Parent, Four Marketing owned all of the intellectual property used by the Debtors in their business and the Debtors were totally reliant upon Four Marketing for marketing, distribution, and corporate services. As a consequence, the Debtors determined, after analyzing the potential recovery from an orderly liquidation of all of their assets, that a sale to Four Marketing of the stores in which it had an interest would maximize value and be in the best interests of the Debtors and their creditors. Accordingly, the Debtors filed a motion for, and were granted, authority to sell to Four Marketing substantially all of their remaining assets as a going concern pursuant to Section 363 of the Bankruptcy Code (the "**Sale**"). The Bankruptcy Court conducted a hearing on the proposed Sale on June 13, 2017 and on June 28, 2017 entered an order approving the Sale. The Sale was promptly closed on June 29, 2017.

Although the Debtors possessed little leverage in the sale negotiations, given that Four Marketing was the only entity with any motivation to acquire the Debtors' assets (consisting essentially of rights under leases and store fixtures), the Debtors nonetheless were able to negotiate (i) an arrangement with Four Marketing that enabled the Debtors to sell existing inventory in their stores as of the Petition Date that had been supplied by their UK Parent, and retain 100% of the sale proceeds for use in on-going operations and eventual payment of creditor claims, and (ii) an Asset Purchase Agreement that produced a net purchase price (after deduction for the cost of the post-petition supply of inventory and certain corporate services charges) of \$580,063.⁵ This sum, together with the proceeds generated from the Debtors' sale of the existing inventory up to the closing of the Sale, enabled the Debtors to accumulate a cash balance immediately following the closing of approximately \$1,858,000.

⁵ The corporate service charges related to services provided by Four Marketing post-petition for marketing, distribution, human resources, accounting, payroll and information technology. Four Marketing had initially demanded \$40,000 per week for such services. Following negotiation, Four Marketing agreed to accept \$10,000 per week.

In addition to the cash generated from both the Sale and the Debtors' operations prior to closing, Four Marketing agreed to satisfy cure costs in the amount of \$697,988 associated with the assumption of the leases of the eleven stores included in the Sale. Moreover, the Sale preserved the jobs of a number of the Debtors' employees.

As of the closing date of the Sale, leases for eleven (11) stores operated by the Debtors post-petition were assumed and assigned to Four Marketing's wholly owned subsidiary, Agent Provocateur International (US) LLC (the "**Buyer**"). The Debtors' business operations ceased as of the closing date, June 29, 2017. The Debtors have retained two former employees, Amanda Brooks and Wilson Cheng, to assist with completing the administration of the Debtors' chapter 11 cases

G. Settlements of Wage Claims Asserted by Former Employees. Shortly before the Debtors filed for bankruptcy, Trinet Group, Inc. ("**Trinet**"), the company with whom they contracted to handle payroll and administer employee benefits, informed the Debtors that it was immediately terminating its agreements with the Debtors. The Debtors were extremely reliant on Trinet, which handled the Debtors' bi-monthly payroll, administered benefits for the Debtors' employees, and collected and paid certain withholding taxes. As a result of Trinet's abrupt decision to terminate its contracts with the Debtors, the Debtors were required to handle payroll and employee benefit issues themselves until a replacement provider could be retained. The Debtors were unprepared to handle such a burden, and as a consequence, errors occurred

Certain former employees asserted that the Debtors owed wages and other benefits for which they had not received timely payment. The Debtors and their professionals investigated these claims, and as of the date of the filing of this Disclosure Statement they have resolved most of them. Pursuant to an order entered by the Bankruptcy Court on September 11, 2017, the Debtors are authorized to settle these claims provided that the total aggregate amount of all such settlements does not exceed \$25,000.

H. Subordination of the Parent Claims. The Debtors' UK Parent has filed a proof of claim against Agent Provocateur, Inc. in the amount of \$7,317,554.43, and against Agent Provocateur, LLC in the amount of \$1,202,936.01, on account of monies advanced to the Debtors, and goods and services provided to the Debtors, by the UK Parent. The Debtors have advised the Administrators of the UK Parent that they believe the UK Parent's Claims are subject to equitable subordination under Section 510(c) of the Bankruptcy Code, and/or recharacterization as equity, based upon the relationship between the UK Parent and the Debtors, and the manner in which operations were conducted. Following discussions with the UK Parent's Administrators, the UK Parent has agreed to subordinate all of its Claims, and those of its affiliates, to all other Claims in the Debtors' Chapter 11 cases, and will not receive any distribution on any such claims unless and until all other Allowed Claims are paid in full.

I. Avoidance Actions. The Debtors are in the process of analyzing whether they have any potential claims to avoid preferential transfers or fraudulent conveyances. Pursuant to Section 547(b) of the Bankruptcy Code, a debtor-in-possession may avoid any transfer of property (i) made while the debtor was insolvent, (ii) to or for the benefit of a creditor, (iii) for or on account of an antecedent debt, (iv) made within ninety (90) days prior to the commencement of bankruptcy, or within one year prior to bankruptcy if made to an "insider," and (v) which transfer enabled the creditor to receive more than it would have received if the transfer had not been

made, and the debtor had been liquidated under the provisions of chapter 7 of the Bankruptcy Code. Pursuant to Section 548 of the Bankruptcy Code, a debtor-in-possession may also avoid certain transfers made within two (2) years prior to the commencement of bankruptcy if such transfers are determined to have been fraudulent within the meaning of Section 548. Pursuant to Section 544 of the Bankruptcy Code, a debtor-in-possession also may avail itself of applicable state law to avoid transfers determined to have been fraudulent under such law.

The Debtors have identified several transfers to creditors which they believe may be avoidable as preferences under Section 547 of the Bankruptcy Code (the "**Preference Claims**") and have requested more information from those creditors in order to determine whether valid preference claims exist. Nothing contained in the Plan or this Disclosure Statement shall constitute a waiver or release of any Litigation Rights, including without limitation the Preference Claims or any other potential avoidance actions against any creditor under sections 544, 547 and/or 548 of the Bankruptcy Code. See, Article III, Section C(4) of this Disclosure Statement.

J. Claims Allowance Process. In Chapter 11, claims against a debtor are recognized either as a result of being listed in the debtor's schedules of liabilities or through assertion by the creditor in a timely filed proof of claim. Once recognized, the claims are either allowed or disallowed. If allowed, the Claims in this case will receive the treatment specified in the Plan. If disallowed, the creditor will have no right to obtain any recovery on, or to otherwise enforce, the Claim against the Debtors.

(a) Schedules and Statements. On May 20, 2017, the Debtors filed their Schedules and their Statements of Financial Affairs (the "**Statements of Financial Affairs**"). The Schedules set forth the Claims of known Creditors against the Debtors, as of the Petition Date, based upon the Debtors' books and records. The Debtors reserve the right to further amend their Schedules and Statements of Financial Affairs as appropriate.

(b) Claims Bar Dates. By order dated July 26, 2017 (the "**Bar Date Order**"), the Bankruptcy Court established (i) September 13, 2017, as the last date for filing Proofs of Claim asserting prepetition Claims against the Debtors, other than Claims of Governmental Units, and (ii) October 9, 2017 as the last date for Governmental Units to file Proofs of Claim asserting prepetition Claims against the Debtors.

With respect to Administrative Claims under 11 U.S.C. § 503(b) that were incurred or that accrued prior to June 5, 2018 (other than claims for fees and expenses of professionals retained by the Debtors or the Committee), the Plan proposes that the last day for filing such Claims will be July 5, 2018. With respect to Administrative Claims under 11 U.S.C. §503(b) that were incurred or that accrued on or after June 5, 2018 (other than claims for fees and expenses of professionals retained by the Debtors or the Committee), the Plan proposes that the last day for filing such Claims be set at thirty (30) days after the Effective Date of the Plan. See Section 11.2 of the Plan.

(c) Claims Objection Process. If the Debtors or the Creditor Trustee do not object to a Proof of Claim by the Claims Objection Deadline established in the Plan, the Claim asserted therein will be deemed Allowed and will be so treated pursuant to the Plan. As appropriate, the Debtors (prior to the Effective Date of the Plan), or the Creditor Trustee (on or after the Effective

Date of the Plan), may seek to negotiate and settle disputes regarding the allowance of Proofs of Claims as an alternative to filing objections to the Proofs of Claim

ARTICLE III.

SUMMARY OF THE PLAN

The Plan provides for the classification and treatment of Claims against and Interests in the Debtors. The Plan designates five (5) Classes of Claims and one (1) Class of Interests. These Classes take into account the differing nature and priority under the Bankruptcy Code of the various Claims and Interests. The Debtors believe that the Plan presents the best means currently available for their orderly liquidation and distribution of the resulting proceeds to the holders of Allowed Claims.

A. General Structure of the Plan. The following is an overview of certain material terms of the Plan:

1. Pursuant to a Creditor Trust Agreement (and as described therein in greater particularity), the Debtors will establish a "**Creditor Trust**" for the purpose of (i) administering and liquidating the Creditor Trust Assets, (ii) resolving all Disputed Claims to the extent not previously resolved by the Debtors, and (iii) making all Distributions provided for under the Plan in respect of Allowed Claims in Classes 3 and 4, and all other Claims that become Allowed Claims subsequent to the Effective Date. The Creditor Trust will be funded with the Creditor Trust Assets, which will consist of all Cash, and all of the non-cash assets and rights of the Debtors, as of the Effective Date. Until such time as all Allowed Claims in Class 3 (General Unsecured Claims Against Agent Provocateur, LLC) are paid in full, the Creditor Trustee shall segregate in separate accounts the Cash belonging to each of the Debtors' Estates. Upon payment in full of all Allowed Claims in Class 3, the remaining Cash belonging to Agent Provocateur, LLC shall be available, together with all other Cash included in the Creditor Trust Assets, for distribution to the holders of Allowed Claims in accordance with the terms of the Plan and the Creditor Trust Agreement.

2. Holders of Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Class 1 Claims (Other Priority Claims) and Allowed Class 2 Claims (Secured Claims), if any, will be paid in full as required by the Bankruptcy Code, unless otherwise agreed by the holders of such Claims

3. Each holder of an Allowed Class 3 Claim (General Unsecured Claims Against Agent Provocateur, LLC) will receive, from Available Cash belonging to Agent Provocateur, LLC, payment in full, in Cash, of the Allowed amount of its Claim; provided, however, if there is not sufficient Available Cash in the Estate of Agent Provocateur, LLC to satisfy all Allowed Claims in Class 3 in full, each holder of an Allowed Claim in Class 3 will receive, in full satisfaction of its Claim, its Pro Rata share of the amount of Available Cash in the Estate of Agent Provocateur, LLC in accordance with the terms of the Creditor Trust Agreement.

4. Each holder of an Allowed Class 4 Claim (General Unsecured Claims Against Agent Provocateur, Inc.), on each Distribution Date, will receive its Pro Rata share of the Available Cash in accordance with the terms of the Creditor Trust Agreement. For purposes of

determining the amount of Available Cash for distribution to the holders of Allowed Claims in Class 4, the Creditor Trustee shall segregate in separate accounts Cash belonging to each of the Debtors' Estates until all Allowed Claims in Class 3 (General Unsecured Claims against Agent Provocateur, LLC) have been paid in full from Available Cash belonging to Agent Provocateur, LLC. Upon payment in full of all Allowed Claims in Class 3, the remaining Available Cash belonging to Agent Provocateur, LLC shall be transferred to an account for the benefit of the creditors of Agent Provocateur, Inc. and shall be included in the calculation of Available Cash for distribution to the holders of Allowed Claims against Agent Provocateur, Inc. For the avoidance of doubt, Cash available for payment of Claims against Agent Provocateur, Inc. shall first be used to pay Allowed Administrative Claims, Other Priority Claims, Priority Tax Claims and Secured Claims, against Agent Provocateur, Inc. and the balance shall then be distributed Pro Rata to the holders of Allowed Claims in Class 4.

5. The holders of Allowed Class 5 Claims (Parent and Affiliate Claims) shall not receive any distribution on account of such Claims, unless and until all of the other Allowed Claims are paid in full.

6. All Class 6 Interests will be cancelled pursuant to Sections 3.4 and 5.3 of the Plan, and the holders thereof shall not receive or retain any property under the Plan on account of such Interests.

B. Summary of Treatment of Claims and Interests under the Plan. The table below summarizes the classification and treatment of the prepetition Claims and Interests under the Plan

For certain Classes of Claims, the actual amounts of Allowed Claims could materially exceed or could be materially less than the estimated amounts shown in the table that follows. The Debtors are in the process of reviewing and analyzing all Proofs of Claim filed in the Chapter 11 Cases, and some claims may be disputed by the Debtors or the Creditor Trustee. Estimated Claim amounts for each Class set forth below are based upon the Debtors' review of their books and records and of certain Proofs of Claim, and include estimates of a number of Claims that are contingent, disputed, and/or unliquidated

For certain Classes of Claims, estimated percentage recoveries are also set forth below. Estimated percentage recoveries have been calculated based upon certain assumptions, such as the value of assets available to satisfy Allowed Claims in a Class and the amount of Allowed Claims in each Class. **The actual percentage recoveries for each Class could vary significantly from the estimates set forth below.**

Class Description	Treatment under Plan
Administrative Claims Estimated Allowed Claims: Approximately \$755,000.00	An Administrative Claim is a Claim for payment of an administrative expense of a kind specified in Section 503(b) of the Bankruptcy Code and entitled to priority pursuant to Section 507(a)(2) of the Bankruptcy Code, including, but not limited to: (i) the actual, necessary costs and expenses incurred after the Petition Date of preserving the Estates and

Class Description	Treatment under Plan
	<p>operating the business of the Debtors, including wages, salaries, bonuses, or commissions for services rendered after the commencement of the Chapter 11 Cases, (ii) Professional Fee Claims, and (iii) all fees and charges assessed against the Estate under 28 U.S.C. §§1930</p> <p>Under the Plan, the Creditor Trustee shall pay, on the Distribution Date, all Administrative Claims that have been allowed as of the Effective Date, in Cash in full, or as otherwise agreed by the claimants. The Creditor Trustee shall pay each Administrative Claim that is allowed, or otherwise becomes due subsequent to the Effective Date, in Cash in full within ten (10) business days after the last day of the month in which the Claim is allowed or otherwise becomes due.</p> <p>Administrative Claims are not classified and are being treated as required by the Bankruptcy Code. The holders of such Claims are not entitled to vote on the Plan.</p> <p>Estimated Percentage Recovery: 100%</p>
<p>Priority Tax Claims Estimated Allowed Claims: Approximately \$304,000.00</p>	<p>Priority Tax Claims are Claims of Governmental Units for taxes that are entitled to priority pursuant to Section 507(a)(8) of the Bankruptcy Code.</p> <p>Under the Plan, the Creditor Trustee shall pay, on the Distribution Date, all Priority Tax Claims that have been allowed as of the Effective Date, in Cash in full, or as otherwise agreed by the claimants. The Creditor Trustee shall pay each Priority Tax Claim that is allowed, or otherwise becomes due subsequent to the Effective Date, in Cash in full within ten (10) business days after the last day of the month in which the Claim is allowed or otherwise becomes due.</p> <p>Priority Tax Claims are not classified and are being treated as required by the Bankruptcy Code. The holders of such Claims are not entitled to vote on the Plan.</p> <p>Estimated Percentage Recovery: 100%</p>
<p>Class 1, Other Priority Claims Estimated Allowed Claims:</p>	<p>Class 1 consists of all Other Priority Claims against the Debtors, which are Claims entitled to priority pursuant to Section 507(a) of the Bankruptcy Code,</p>

Class Description	Treatment under Plan
Approximately \$38,000.00	<p>other than a Priority Tax Claim or an Administrative Claim. Other Priority Claims include, without limitation, Claims for unpaid wages, salaries, or commissions earned by individuals within 180 days prior to the Petition Date, but only to the extent of \$12,850 for each such individual.</p> <p>Under the Plan, the Creditor Trustee shall pay, on the Distribution Date, all Other Priority Claims that have been allowed as of the Effective Date, in Cash in full, or as otherwise agreed by the claimants. The Creditor Trustee shall pay each Other Priority Claim that is allowed, or otherwise becomes due subsequent to the Effective Date, in Cash in full within ten (10) business days after the last day of the month in which the Claim is allowed or otherwise becomes due.</p> <p>Other Priority Claims are Unimpaired. The holders of such Claims are, therefore, not entitled to vote on the Plan.</p> <p>Estimated Percentage Recovery: 100%</p>
<p>Class 2, Secured Claims</p> <p>Estimated Allowed Claims:</p> <p>Approximately \$0.00</p>	<p>Class 2 consists of Secured Claims, if any, against the Debtors.</p> <p>Under the Plan, the Creditor Trustee (i) shall pay, on the Distribution Date, all Secured Claims, if any, that have been Allowed as of the Effective Date, in Cash in full, or as otherwise agreed by the Creditor Trustee and the claimants, or (ii) with respect to Claims that are determined to be Allowed Secured Claims pursuant to Section 506(a) (1) of the Bankruptcy Code by reason of a right of setoff, shall exercise such right of setoff in full, satisfaction of such Claim.</p> <p>Secured Claims are Unimpaired.</p> <p>The holders of such Claims are, therefore, not entitled to vote on the Plan. The Debtors do not believe there are any creditors holding Secured Claims.</p> <p>Estimated Percentage Recovery: 100%</p>
<p>Class 3, General Unsecured Claims</p> <p>Against Agent Provocateur, LLC</p> <p>Estimated Allowed Claims:</p>	<p>Class 3 consists of General Unsecured Claims against Agent Provocateur, LLC.</p> <p>The Plan provides that on each Distribution Date,</p>

Class Description	Treatment under Plan
Approximately \$20,000.00	<p>each holder of an Allowed General Unsecured Claim in Class 3 will receive payment in full, in Cash, of the Allowed amount of its Claim; provided, however, if there is not sufficient Cash in the Estate of Agent Provocateur, LLC on the Effective Date to satisfy all Allowed Claims in Class 3 in full, each holder of an Allowed Claim in Class 3 will receive in full satisfaction of its Claim, its Pro Rata share of the amount of Cash in the Estate of Agent Provocateur, LLC on the Effective Date in accordance with the terms of the Creditor Trust Agreement.</p> <p>General Unsecured Claims in Class 3 are Impaired. The holders of such Claims are, therefore, entitled to vote on the Plan.</p> <p>Estimated Percentage Recovery: 100%</p>
<p>Class 4, General Unsecured Claims Against Agent Provocateur, Inc. Estimated Allowed Claims: Approximately \$5,000,000.00</p>	<p>Class 4 consists of General Unsecured Claims against Agent Provocateur, Inc.</p> <p>The Plan provides that on each Distribution Date, each holder of an Allowed General Unsecured Claim in Class 4 will receive its Pro Rata share of the Available Cash in accordance with the terms of the Creditor Trust Agreement. For purposes of determining the amount of Available Cash for distribution to the holders of Allowed Claims in Class 4, the Creditor Trustee shall segregate in separate accounts Cash belonging to each of the Debtors' Estates until all Allowed Claims in Class 3 (General Unsecured Claims against Agent Provocateur, LLC) have been paid in full from Cash belonging to Agent Provocateur, LLC. Upon payment in full of all Allowed Claims in Class 3, the remaining Cash belonging to Agent Provocateur, LLC shall be transferred to an account for the benefit of the creditors of Agent Provocateur, Inc. and included in the calculation of Available Cash for distribution to the holders of Allowed Claims in Class 4.</p> <p>General Unsecured Claims in Class 4 are Impaired. The holders of such claims are, therefore, entitled to vote on the Plan.</p> <p>Estimated Percentage Recovery: 2.9%</p>

Class Description	Treatment under Plan
<p>Class 5, Parent and Affiliate Claims Estimated Allowed Claims: Approximately \$8,520,490.44</p>	<p>Class 5 consists of all Parent and Affiliate Claims asserted by the UK Parent and Affiliates against the Debtors, including the UK Parent's Claims against Agent Provocateur, Inc. in the amount of \$7,317,554.43 and against Agent Provocateur, LLC in the amount of \$1,202,936.01.</p> <p>The Plan provides that all Allowed Parent and Affiliate Claims shall be subordinated to all other Allowed Claims in the Debtors' Chapter 11 Cases, including without limitation Allowed Claims in Classes 3 and 4.</p> <p>The holders of the Allowed Parent and Affiliate Claims will not receive any distribution under the Plan on account of such Claims unless and until all other Allowed Claims are paid in full.</p> <p>The Parent and Affiliate Claims are Impaired. The holders of such Claims are, therefore, entitled to vote on the Plan.</p> <p>Estimated Percentage Recovery: 0%</p>
<p>Class 6, Interests</p>	<p>Class 6 consists of Interests which are, collectively, all equity interests in the Debtors, including, without limitation, membership units, warrants, any conversion rights, rights of first refusal, or other rights, contractual or otherwise, to acquire or receive any membership units in the Debtors, and any contracts, commitments, or agreements pursuant to which a party was or could have been entitled to receive membership units, or other ownership interests in the Debtors, as of the Petition Date.</p> <p>Interests are Impaired and will receive no distribution under the Plan. The holders of such Interests are, therefore, deemed to have rejected the Plan and are not entitled to vote on the Plan.</p> <p>Estimated Percentage Recovery: 0%</p>

**THE DEBTORS BELIEVE THAT THE PLAN PROVIDES THE BEST RECOVERIES
POSSIBLE FOR HOLDERS OF CLAIMS AGAINST THE DEBTORS AND THUS
STRONGLY RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN**

C. Means of Implementing the Plan

1. **Post-Confirmation Management-Creditor Trust.** The Plan provides for the formation of a Creditor Trust pursuant to the Creditor Trust Agreement, substantially in the form attached to the Plan as Exhibit A, as a grantor trust and a liquidating trust in accordance with applicable law, effective as of the Effective Date. The Committee will appoint the Creditor Trustee, subject to approval of the Bankruptcy Court. Distributions from the Creditor Trust Assets shall be made by the Creditor Trustee as set forth in the Plan and the Creditor Trust Agreement.

2. **Formation of the Creditor Trust.** On the Effective Date, the Debtors shall transfer and convey all right, title, and interest in the Creditor Trust Assets to the Creditor Trust, and all Creditor Trust Assets shall automatically and irrevocably vest in the Creditor Trust without further action on the part of the Debtors or the Creditor Trustee, and with no reversionary interest in the Debtors.

3. **Rights and Powers of the Creditor Trustee.** The Creditor Trustee shall have all the rights and powers set forth in the Creditor Trust Agreement, including, without limitation, the right to (i) effect all actions and execute all agreements, instruments, and other documents necessary to implement the provisions of the Plan and the Creditor Trust Agreement; (ii) liquidate all assets held by the Creditor Trust; (iii) exercise all Litigation Rights; (iv) make distributions in respect of Allowed Claims in Classes 3 and 4, and all other Claims that become Allowed Claims subsequent to the Effective Date in accordance with the Plan; (v) address any Disputed Claims and establish any reserves therefor, and any other reserves as may be required; and (vi) employ and compensate Professionals and other agents, provided, however, that any such compensation shall be made only out of the Creditor Trust Assets. The Creditor Trust Assets shall be used to satisfy the fees and expenses incurred by the Creditor Trustee, the Debtors and their respective Professionals, in carrying out their duties under the Plan and the Creditor Trust Agreement. Except for determinations of the Allowed amount of any Disputed Claims, the Creditor Trustee shall not be required to obtain further approval of the Bankruptcy Court in exercising such rights and powers.

4. **Preservation of Rights of Action.** On the Effective Date, all Litigation Rights (as defined in Section 1.41 of the Plan) against any Person shall be conveyed to, and vested in, the Creditor Trust. The Creditor Trustee shall retain, and may in his sole discretion, enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all such Litigation Rights, with all proceeds therefrom to become Creditor Trust Assets and distributed in accordance with the Plan. The Creditor Trustee may pursue such retained Litigation Rights as appropriate, in accordance with applicable law and the best interests of the Creditor Trust beneficiaries and consistent with the terms of the Plan. The Creditor Trustee shall investigate and may choose to pursue chapter 5 causes of action (which are included in the Litigation Rights), including avoidance actions under Sections 544, 547 and 548 of the Bankruptcy Code. Potential defendants to such avoidance actions include all persons and entities who have not been released from liability pursuant to prior order of the Bankruptcy Court, and who (i) received transfers of

money or property of the Debtors that may be avoidable under Section 547(b) of the Bankruptcy Code, or (ii) received transfers of money or property of the Debtors that may be avoidable under Sections 544 or 548 of the Bankruptcy Code, including those parties listed in Section 3 of the Debtors' respective Statements of Financial Affairs, which were filed with the Bankruptcy Court on May 20, 2017 (docket nos. 103 and 104, respectively).

D. Other Provisions of the Plan

1. **Reservation of Rights Regarding Claims.** Except as otherwise explicitly provided in the Plan, nothing in the Plan shall affect the Debtors' or the Creditor Trusts' rights and defenses, both legal and equitable, with respect to any Claims, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment.

2. **Allowed Claims, Distribution Rights and Objections to Claims.** All distributions to holders of Administrative Claims, Secured Claims, Other Priority Claims, and Priority Tax Claims that are Allowed Claims as of the Effective Date shall be made by the Creditor Trustee on the Distribution Date in accordance with Section 7.1 of the Plan

Except as otherwise provided in the Plan or as ordered by the Bankruptcy Court, all distributions to holders of Allowed Claims in Classes 3 and 4 and all other Claims that become Allowed Claims subsequent to the Effective Date shall be made by the Creditor Trustee on the applicable Distribution Date, or as soon as practicable thereafter. The Creditor Trustee shall have the right, in his/her discretion, to accelerate any such Distribution Date occurring after the Effective Date if the facts and circumstances so warrant.

3. **Reserves for Disputed Claims; Distributions on Account Thereof.** On and after the Effective Date, the Creditor Trustee shall hold in the Distribution Reserve an aggregate amount of Cash sufficient to pay to each holder of a Disputed Claim the amount that such holder would have been entitled to receive under the Plan if the full amount of the Disputed Claim had been Allowed as of the Effective Date. With regard to unliquidated Claims, the Creditor Trustee will hold in the Distribution Reserve an aggregate amount of Cash sufficient to pay to each holder of an unliquidated Claim the amount that such holder would have been entitled to receive under the Plan if the amount reasonably estimated by the Creditor Trustee as the maximum reasonable allowable amount of such Claim had been Allowed as of the Effective Date. In making such reserves, the Creditor Trustee may rely on the Debtors' estimates and neither the Debtors nor the Creditor Trustee will have any liability therefor. In making such estimates, neither the Debtors nor the Creditor Trustee will have any liability therefor. If, following the Effective Date, all or any portion of a Disputed Claim becomes an Allowed Claim, the Creditor Trustee shall distribute from the Distribution Reserve to the holder of such Allowed Claim, on the next applicable Distribution Date, the amount of Cash which the holder of the Allowed Claim is entitled to receive in accordance with the terms of the Plan. At such time as all or a portion of a Disputed Claim is disallowed pursuant to a Final Order, the amount that would have been distributed on account of the disallowed portion of the Disputed Claim shall be released from the Distribution Reserve and become part of the Available Cash to be distributed in accordance with the terms of the Creditor Trust Agreement.

4. **Objection Procedures; Authority to Prosecute Objections.** All objections to Claims must be filed and served on the holders of such Claims by the Claims Objection

Deadline. *See* Section 1.14 of the Plan. If an objection has not been filed to a Proof of Claim or a scheduled Claim by the Claims Objection Deadline, the Claim to which the Proof of Claim or scheduled Claim relates will be treated as an Allowed Claim if such Claim has not been previously allowed. After the Effective Date, only the Creditor Trustee shall have the authority to file objections to Claims and to settle, compromise, withdraw, or litigate to judgment objections to Claims

5. **Estimation of Contingent or Unliquidated Claims.** From and after the Effective Date of the Plan, the Creditor Trustee may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether any party has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event the Bankruptcy Court so estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Creditor Trustee may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned Claims objection, estimation, and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanisms.

6. **Intercompany Claims.** All Intercompany Claims held by either Debtor against the other Debtor will be disallowed and released on the Effective Date of the Plan.

E. Disposition of Executory Contracts and Unexpired Leases; Contracts and Leases Deemed Rejected. The Debtors believe that all executory contracts and leases have either been rejected or assumed and assigned to the Buyer. Nevertheless, to ensure that all executory contracts and unexpired leases are dealt with, the Plan provides for the deemed rejection of all executory contracts or unexpired leases that have not been previously assumed and assigned to the Buyer or rejected by the Debtors. Specifically, each of the Debtors will be deemed to have rejected, as of the Effective Date, each executory contract and unexpired lease to which it is a party unless such contract or lease: (i) was previously assumed and assigned to the Buyer or rejected by the Debtors, or (ii) previously expired or terminated pursuant to its own terms. The Confirmation Order shall constitute an order of the Bankruptcy Court under Section 365(a) of the Bankruptcy Code approving the contract and lease rejections described above, as of the Effective Date. Additional provisions with respect to executory contracts and unexpired leases, including Claims for rejection damages, are set forth in Article VI of the Plan.

F. Cancellation of Interests. All Interests of any kind, including without limitation, any agreements to acquire the same, shall be cancelled as of the Effective Date and the holders thereof shall not receive or retain any property under the Plan on account of such Interests.

G. Confirmation and/or Consummation

1. **Requirements for Confirmation of the Plan.** Before the Plan can be confirmed, the Bankruptcy Court must determine at the Hearing on confirmation of the Plan (the

"**Confirmation Hearing**") that the following requirements for confirmation, set forth in Section 1129 of the Bankruptcy Code, have been satisfied:

- (a) The Plan complies with the applicable provisions of the Bankruptcy Code.
- (b) The Debtors have complied with the applicable provisions of the Bankruptcy Code.
- (c) The Plan has been proposed in good faith and not by any means forbidden by law.
- (d) Any payment made or promised by the Debtors for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable
- (e) With respect to each Impaired Class of Claims or Interests, each holder of a Claim or Interest in such Class either has accepted the Plan or will receive or retain under the Plan, on account of the Claims or Interests held by such holder, property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain if the Debtors were liquidated on such date under Chapter 7 of the Bankruptcy Code. See Article VII, Section B.
- (f) If a Class of Claims is Impaired under the Plan, at least one Class of Impaired Claims has accepted the Plan, determined without including any acceptance of the Plan by insiders holding Claims in such Class.

The Debtors believe that, upon receipt of the votes required to confirm the Plan, (i) the Plan will satisfy all the statutory requirements of Chapter 11 of the Bankruptcy Code, (ii) the Debtors have complied or will have complied with all of the requirements of Chapter 11 and (iii) the Plan will be determined to have been proposed in good faith.

2. **Conditions to Consummation of the Plan.** The conditions that must be satisfied on or prior to the Effective Date, which is the Business Day upon which all conditions to the consummation of the Plan have been satisfied or waived, and is the date on which the Plan becomes effective, are that: (i) the Confirmation Order will have been entered and will, among other things, provide that the Debtors and Creditor Trustee, respectively, to the extent provided in the Plan, are authorized and directed to take all actions necessary or appropriate to enter into, implement, and consummate the contracts, instruments, and other agreements or documents created in connection with the Plan; (ii) the Confirmation Order will not then be stayed, vacated, or reversed; and (iii) all material actions, documents, and agreements necessary to implement the Plan will have been effected or executed.

H. Exculpation and Injunction

1. **Exculpation and Limitation of Liability.** Pursuant to Section 11.12 of the Plan, the Debtors, the Committee, and their respective present or former members, officers, directors, employees, advisors, attorneys, professionals, and agents, shall not have or incur any liability to any holder of a Claim or an Interest, or any other party in interest, or any of their respective agents, employees, representatives, advisors, attorneys, or affiliates, or any of their successor or

assigns, for any act or omission in connection with, relating to, or arising out of, the filing or administration of the Chapter 11 Cases, the Sale, the formulation, negotiation, or implementation of the Plan, the solicitation of acceptances of the Plan to the extent provided by Section 1125(e) of the Bankruptcy Code, the pursuit of Confirmation of the Plan, the Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for acts or omissions which are the result of fraud, gross negligence, criminal conduct or ultra vires acts, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code, and in all respects shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

Notwithstanding any other provision of the Plan, no holder of a Claim or an Interest, no other party in interest, none of their respective agents, employees, representatives, advisors, attorneys, or affiliates, and none of their respective successors or assigns shall have any right of action against the Debtors, the Committee, or any of their respective present or former members, officers, directors, employees, advisors, attorneys, professionals and agents, for any act or omission in connection with, relating to, or arising out of, the filing or administration of the Chapter 11 Cases, the Sale, the formulation, negotiation, or implementation of the Plan, solicitation of acceptances of the Plan to the extent provided by Section 1125(e) of the Bankruptcy Code, the pursuit of Confirmation of the Plan, the Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for acts or omissions which are the result of fraud, gross negligence, criminal conduct or ultra vires acts, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code. Nothing in the Plan shall abrogate the applicability of any professional disciplinary rules.

2. **Injunction.** Except as otherwise provided in the Plan or in the Confirmation Order, as of the Effective Date, all Persons that have held, currently hold, may hold, or allege that they hold, a Claim against the Debtors or other debt or liability of the Debtors are permanently enjoined from taking any of the following actions against the Creditor Trust or its property on account of any such Claims, debts, or liabilities (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors or the Creditor Trust; or (v) commencing or continuing any action, in each such case in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan. Section 11.11 of the Plan also contains similar injunctive provisions prohibiting the assertion of Claims covered by the exculpation provisions in Section 11.12 of the Plan.

I. **Retention of Jurisdiction.** Under Sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, and except as otherwise ordered by the Bankruptcy Court, the Plan provides that the Bankruptcy Court will retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law. A non-exclusive list of specific matters over which the Bankruptcy Court retains jurisdiction is set forth in Section 10.1 of the Plan.

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Cases, including the matters set forth in Section 10.1 of the Plan, the provisions of Article X of the Plan will have no effect upon and will not control, prohibit, or limit the exercise of jurisdiction by any other court having jurisdiction with respect to such matter.

J. Post-Confirmation Professional and Creditor Trustee Fees and Expenses. The Creditor Trustee shall be authorized to pay fees and expenses of the Creditor Trustee and the Creditor Trustee's professionals incurred after the Effective Date without the need to file any fee applications or obtain Court approvals.

K. The Committee and its Professionals. As of the Effective Date, the Committee shall dissolve, and its members shall be released and discharged from all further authority, duties, responsibilities, and obligations relating to and arising from the Debtors' Chapter 11 Cases. The retention and employment of the professionals retained by the Committee shall terminate as of the Effective Date.

L. The Debtors and their Professionals. On the Debtors' Dissolution Date (as defined in the Plan), the Debtors shall be deemed to have been liquidated and dissolved in accordance with Section 5.2 of the Plan. The Debtors' Professionals shall be released and discharged from all further authority, duties, responsibilities, and obligations relating to and arising from the Debtors' Chapter 11 Cases. The employment of the Professionals retained by the Debtors shall terminate as of the Effective Date.

M. Amendment, Alteration and Revocation of the Plan. The Debtors may alter, amend or modify the Plan under Section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date; provided, however, that any material modification will only be made upon the Committee's written consent. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in Section 1101(2) of the Bankruptcy Code, the Debtors or the Creditor Trustee may, under Section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, provided, however, that prior notice of such proceedings will be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

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

The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to file subsequent plans of liquidation. If the Debtors revoke or withdraw

the Plan, or if Confirmation or the Effective Date does not occur, then (i) the Plan will be null and void in all respects, (ii) any settlement or compromise embodied in the Plan, the rejection of executory contracts or leases effected by the Plan, and any document or agreement executed pursuant to the Plan, will be deemed null and void, and (iii) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, will (a) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Interests in, the Debtors or any other Person, (b) prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors, or (c) constitute an admission of any sort by the Debtors or any other Person.

ARTICLE IV.

PLAN VOTING INSTRUCTIONS AND PROCEDURES

A. Notice to Holders of Claims and Interests. Approval by the Bankruptcy Court of this Disclosure Statement means that the Bankruptcy Court has found that this Disclosure Statement contains information of a kind and in sufficient and adequate detail to enable holders of Claims to make an informed judgment whether to accept or reject the Plan. THE BANKRUPTCY COURT'S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE EITHER A GUARANTY OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN OR THEREIN OR AN ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT.

IF THE PLAN IS APPROVED BY THE REQUISITE VOTE OF HOLDERS OF CLAIMS ENTITLED TO VOTE AND IS SUBSEQUENTLY CONFIRMED BY THE BANKRUPTCY COURT, THE PLAN WILL BIND ALL HOLDERS OF CLAIMS AGAINST, AND INTERESTS IN, THE DEBTORS, WHETHER OR NOT THEY WERE ENTITLED TO VOTE OR DID VOTE TO ACCEPT OR REJECT THE PLAN, AND WHETHER OR NOT THEY RECEIVE OR RETAIN ANY DISTRIBUTIONS OR PROPERTY UNDER THE PLAN. THUS ALL HOLDERS OF CLAIMS AGAINST THE DEBTORS ENTITLED TO VOTE ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT CAREFULLY AND IN ITS ENTIRETY BEFORE DECIDING TO VOTE EITHER TO ACCEPT OR REJECT THE PLAN.

THIS DISCLOSURE STATEMENT AND THE PLAN, TOGETHER WITH A LETTER FROM THE COMMITTEE URGING HOLDERS OF ALLOWED CLAIMS IN CLASSES 3 AND 4 TO VOTE TO ACCEPT THE PLAN, ARE THE ONLY DOCUMENTS AUTHORIZED BY THE BANKRUPTCY COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES TO ACCEPT OR REJECT THE PLAN. No solicitation of votes may be made except after distribution of this Disclosure Statement, and no person has been authorized to distribute any information concerning the Debtors other than the information contained herein. No such information should be relied upon in making a determination to vote to accept or reject the Plan.

B. Voting Rights

1. **Who may vote to accept or reject the Plan.** Pursuant to the Bankruptcy Code, only holders of Claims and Interests in classes that are (i) "impaired" by the Plan within the meaning of Section 1124 of the Bankruptcy Code, and (ii) entitled to receive a distribution under

the Plan are entitled to vote on the Plan. In these Chapter 11 Cases, only holders of Claims in Classes 3, 4 and 5 are entitled to vote on the Plan. Claims and Interests in other Classes are either unimpaired and their holders are deemed to have accepted the Plan, or they are receiving no distributions under the Plan and their holders are deemed to have rejected the Plan.

Notwithstanding the foregoing, holders of Claims in the voting Classes are entitled to vote on the Plan only if such Claims are Allowed as of the Voting Record Date set by the Court. A Claim which is unliquidated, contingent, or disputed is not an Allowed Claim, and is thus not entitled to vote, unless and until the amount is estimated or determined, or the dispute is determined, resolved, or adjudicated in the Bankruptcy Court or another court of competent jurisdiction, or pursuant to agreement with the Debtors. However, the Bankruptcy Court may deem a contingent, unliquidated, or disputed Claim to be allowed on a provisional basis, for purposes only of voting on the Plan. **If your Claim is contingent, unliquidated, or disputed, you must file a motion with the Bankruptcy Court pursuant to Bankruptcy Rule 3018 ("Rule 3018 Motion") seeking temporary allowance of your Claim for voting purposes, and it will be your obligation to obtain an order provisionally allowing your Claim. Any such Rule 3018 Motion must be filed with the Bankruptcy Court and served upon the Debtors' counsel by no later than May 11, 2018. Any party timely filing and serving a Rule 3018 Motion will be provided a ballot and be permitted to cast a provisional vote to accept or reject the Plan. If and to the extent that the Debtors and such party are unable to resolve the issues raised by the Rule 3018 Motion prior to the May 22, 2018 Voting Deadline (defined in Section D below) established by the Bankruptcy Court, then at the Confirmation Hearing the Bankruptcy Court will determine whether the provisional ballot should be counted as a vote on the Plan.**

2. **Who is Not Entitled to Vote.** The following five types of Claims and Interests are not entitled to vote:

- (a) Claims that have been disallowed;
- (b) Claims in unimpaired classes;
- (c) Claims entitled to priority pursuant to Bankruptcy Code section 507(a)(2) and (a)(8);
- (d) Claims that are unliquidated, contingent, or disputed, unless temporarily allowed by the Bankruptcy Court solely for voting purposes; and
- (e) Interests that do not receive or retain any property under the Plan

Claims in unimpaired classes are not entitled to vote because such classes are deemed to have accepted the Plan. Claims entitled to priority pursuant to Bankruptcy Code section 507(a)(2) and 507(a)(8) are not entitled to vote because such claims are not placed in classes and they are required to receive certain treatment specified by the Bankruptcy Code. The holders of Interests do not receive or retain any value under the Plan and are not entitled to vote because they are deemed to have rejected the Plan.

EVEN IF YOUR CLAIM IS OF THE TYPE DESCRIBED ABOVE, YOU MAY STILL HAVE A RIGHT TO OBJECT TO THE CONFIRMATION OF THE PLAN.

C. Solicitation Materials. In soliciting votes for the Plan pursuant to this Disclosure Statement, the Debtors, through their attorneys, Thompson Hine LLP, will send to holders of Claims who are entitled to vote copies of (i) the Disclosure Statement and Plan, (ii) the notice of, among other things, (a) the date, time, and place of the hearing to consider confirmation of the Plan and related matters, and (b) the deadline for voting and filing objections to confirmation of the Plan (the "**Confirmation Hearing Notice**"), (iii) one or more ballots (and return envelopes) to be used in voting to accept or to reject the Plan, (iv) a letter from the Committee urging holders of Allowed Claims in Classes 3 and 4 to vote to accept the Plan, and (v) other materials as authorized by the Bankruptcy Court.

If you are the holder of a Claim who is entitled to vote, but you did not receive a ballot, or if your ballot is damaged or illegible, or if you have any questions concerning voting procedures, you may contact the following:

THOMPSON HINE LLP
3900 KEY CENTER
127 PUBLIC SQUARE
CLEVELAND, OH 44114-1291
TELEPHONE: (216) 566-5500
ATTENTION: JIM HENDERSON

D. Voting Procedures, Ballots, and Voting Deadline. After carefully reviewing the Plan, this Disclosure Statement, and the detailed instructions accompanying your ballot, you are asked to indicate your acceptance or rejection of the Plan by voting in favor of or against the Plan on the accompanying ballot. You should complete and sign your original ballot (copies will not be accepted) and return it as instructed in the envelope provided.

Each ballot has been coded to reflect the Class of Claims it represents. Accordingly, in voting to accept or reject the Plan, you must use only the coded ballot or ballots sent to you with this Disclosure Statement.

IN ORDER FOR YOUR VOTE TO BE COUNTED, YOUR BALLOT MUST BE PROPERLY COMPLETED, AS SET FORTH ABOVE AND IN ACCORDANCE WITH THE VOTING INSTRUCTIONS ON THE BALLOT, AND RECEIVED NO LATER THAN 5:00 P.M. (PREVAILING EASTERN TIME) ON MAY 22, 2018 (THE "**VOTING DEADLINE**") BY THE DEBTORS AT THE FOLLOWING ADDRESS:

THOMPSON HINE LLP
3900 KEY CENTER
127 PUBLIC SQUARE
CLEVELAND, OH 44114-1291
TELEPHONE: (216) 566-5500
ATTENTION: JIM HENDERSON

BALLOTS MAY BE SENT BY (i) FIRST CLASS MAIL, POSTAGE PREPAID, (ii) OVERNIGHT COURIER, OR (iii) HAND DELIVERY, BUT IN EACH CASE MUST BE RECEIVED BY THE VOTING DEADLINE. FAXED BALLOTS AND BALLOTS SENT VIA ELECTRONIC TRANSMISSION WILL NOT BE ACCEPTED. BALLOTS THAT ARE RECEIVED BUT NOT SIGNED WILL NOT BE COUNTED. BALLOTS THAT ARE SIGNED BUT DO NOT SPECIFY WHETHER THE HOLDER ACCEPTS OR REJECTS THE PLAN WILL BE COUNTED AS AN ACCEPTANCE. DO NOT RETURN ANY EVIDENCE OF YOUR CLAIM WITH YOUR BALLOT.

If you have any questions about (i) the procedure for voting your Claim, (ii) the packet of materials that you have received, or (iii) the amount of your Claim, or if you wish to obtain, at your own expense an additional copy of the Plan and this Disclosure Statement or any appendices or exhibits to such documents, please contact:

THOMPSON HINE LLP
3900 KEY CENTER
127 PUBLIC SQUARE
CLEVELAND, OH 44114-1291
TELEPHONE: (216) 566-5500
ATTENTION: JIM HENDERSON

THE DEBTORS URGE ALL HOLDERS OF CLAIMS ENTITLED TO VOTE TO EXERCISE THEIR VOTING RIGHT BY COMPLETING THEIR BALLOTS AND RETURNING THEM BY THE VOTING DEADLINE.

E. Confirmation Hearing and Deadline for Objections to Confirmation. Pursuant to Section 1128 of the Bankruptcy Code and Bankruptcy Rule 3017(c), the Bankruptcy Court has scheduled a Confirmation Hearing for June 5, 2018, at 10:00 a.m. (EDT), before the Honorable Michael E. Wiles, United States Bankruptcy Judge, Courtroom No. 617, U.S. Bankruptcy Court, One Bowling Green, New York, NY 10004-1408. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing. Objections to Confirmation of the Plan must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection, and the amount and Class of the Claim or Interest. Any such objection must be filed with the Bankruptcy Court on or before May 29, 2018. Objections to Confirmation of the Plan are governed by Bankruptcy Rule 9014.

ARTICLE V.

CERTAIN RISK AND OTHER FACTORS TO BE CONSIDERED

The holders of Claims in Classes 3, 4 and 5 should read and carefully consider the following factors, as well as the other information set forth in this Disclosure Statement (and the documents delivered together herewith and/or incorporated by reference herein), before deciding whether to vote to accept or reject the Plan. These risk and other factors should not, however, be regarded as constituting the only factors to be considered in connection with the Plan and its implementation.

A. Acceptance by Impaired Classes. Section 1129(a)(10) of the Bankruptcy Code requires as a condition of confirmation of the Plan that at least one impaired class of claims entitled to vote has accepted the Plan, determined without including any acceptance of the Plan by an insider. There are three Impaired Classes of Claims entitled to vote on the Plan – Class 3 (General Unsecured Claims Against Agent Provocateur, LLC), Class 4 (General Unsecured Claims Against Agent Provocateur, Inc.), and Class 5 (Parent and Affiliate Claims). The Parent and Affiliate Claims are held by the Administrators of the UK Parent, which is in administration proceedings under the insolvency laws of the United Kingdom, and arguably may be considered as claims held by an insider. Although the Debtors believe that it is in the best interests of the holders of Claims in each of these classes to accept the Plan, there is no assurance that the Plan will be accepted by each of the foregoing Classes. If the Plan is accepted by the holders of Claims in Class 3 or Class 4, but not both, the Debtors will seek an order from the Bankruptcy Court confirming the Plan pursuant to the “cram-down” provisions of Section 1129(b) of the Bankruptcy Code. The Debtors believe that the Plan would, in that situation, satisfy the requirements for cram-down under Sections 1129(b)(1) and 1129(b)(2)(B)(ii) of the Bankruptcy Code because the Plan does not discriminate unfairly among Classes 3 and 4, and no holder of any Claim or Interest junior to the Claims in such classes will receive or retain any property under the Plan unless and until all Allowed Claims in Classes 3 and 4 are paid in full. If the Plan is accepted by the holders of Claims in Class 5, but not Classes 3 and 4, the Debtors reserve the right to seek confirmation on the basis that the Administrators of the UK Parent are not insiders, and the Committee has reserved the right to object to confirmation on the basis that the UK Parent is an insider. While the Debtors believe, for the foregoing reasons, that the Plan should be confirmed, even if less than all of the Impaired Classes of Claims accept the Plan, there is no assurance that the Bankruptcy Court will reach the same conclusion.

B. Possible Substantive Consolidation of Debtors’ Estates. Although Agent Provocateur, LLC is a wholly owned subsidiary of Agent Provocateur, Inc. and the two Debtors are separate legal entities, the Debtors were operated under the control of common management, and were both dependent upon their UK Parent for essential corporate services required in the on-going operation of their business. Based upon these facts, an argument could be made that the separate Estates of each Debtor should be substantively consolidated, and Claims against each Debtor be deemed to be Claims against the consolidated Estates and treated as such. The Plan does not, however, propose that the Debtors’ separate Estates be substantively consolidated. Excluding (i) two Priority Tax Claims that will be paid in full under either scenario, and (ii) Claims held by the UK Parent and its Affiliates that will be subordinated to all other Allowed Claims against either Debtor, the total amount of Allowed Claims against Agent Provocateur, LLC is estimated to be approximately \$24,000.⁶ There is currently on deposit in Agent Provocateur, LLC’s demand deposit account at Wells Fargo Bank, N.A. cash in the approximate amount of \$215,000 generated from the stores operated by Agent Provocateur, LLC. Given the small amount of allowed Claims against Agent Provocateur, LLC anticipated by the Debtors, and the time and additional legal expense that would be incurred by the Debtors to establish that substantive consolidation is warranted in this case, the Plan does not provide for substantive consolidation but, rather, maintains the separate corporate existence of each Debtor. All Allowed Claims

⁶ Also excluded from the Agent Provocateur, LLC General Unsecured Claim pool is the Claim held by The Shoppes at the Palazzo, LLC. Although that Claim was incorrectly scheduled by the Debtors as a Claim against Agent Provocateur, LLC, the real estate lease from which the Claim arises was with Agent Provocateur, Inc. and The Shoppes at the Palazzo, LLC properly filed its Proof of Claim in the Agent Provocateur, Inc. case.

against Agent Provocateur, LLC will be paid in full. The remaining Cash (approximately \$191,000) generated from Agent Provocateur, LLC's business operations will be available for distribution to the holders of Allowed Claims against Agent Provocateur, Inc.

C. Best Interest Test. Section 1129(a)(7) of the Bankruptcy Code requires that each holder of a Claim or Interest that is impaired by the Plan either accept the Plan, or will receive under the Plan on account of such Claim or Interest not less than the amount such holder would have received if the Debtors were liquidated under chapter 7 of the Bankruptcy Code. As explained in Article VII Section B of this Disclosure Statement, the Debtors believe that the distributions to the holders of Claims in Classes 3 and 4 will equal or exceed the amounts that would be recovered by those holders if the Debtors were liquidated under chapter 7, and that the holders of Claims in Class 5 will not receive less under the Plan than they would receive in a Chapter 7 liquidation of the Debtors. There is, however, no assurance that the Bankruptcy Court will reach the same conclusion

D. Class 5 Recovery. Because Claims in Class 5 are subordinated to payment in full, in Cash, of all other Allowed Claims, it is highly unlikely that the holders of Claims in Class 5 will receive any distributions under the Plan.

E. Recovery Estimations. There can be no assurance that the recovery from assets that have not been liquidated as of the date of this Disclosure Statement will meet or exceed the amounts assumed in arriving at the Estimated Percentage Recovery contained in Article III section B herein. Further, there can be no assurance that the costs of administering the Creditor Trust will not exceed the amount assumed in arriving at the Estimated Percentage Recovery contained in Article III section B.

F. Claims Estimations. There can be no assurance that the estimated Claim amounts set forth in this Disclosure Statement are correct. The actual Allowed amount of Claims likely will differ in some respect from the estimates. The estimated amounts are subject to certain risks, uncertainties, and assumptions. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, the actual Allowed amount of Claims may vary from those estimated herein.

G. Certain Tax Considerations. There are a number of income tax considerations, risks, and uncertainties associated with consummation of the Plan. Interested parties should read carefully the discussions set forth in Article VI regarding certain U.S. income tax consequences of the transactions proposed by the Plan upon holders of Claims who are entitled to vote to accept or reject the Plan. Moreover, interested parties should consult their own tax advisors regarding treatment of Claims under the Plan.

ARTICLE VI.

CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN

A. Certain U.S. Federal Income Tax Consequences of the Plan. THE FOLLOWING DISCUSSION SUMMARIZES CERTAIN ANTICIPATED U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE TRANSACTIONS PROPOSED BY THE PLAN TO THE DEBTORS AND CERTAIN HOLDERS OF CLAIMS THAT ARE ENTITLED TO VOTE TO

ACCEPT OR REJECT THE PLAN. THIS SUMMARY IS PROVIDED FOR INFORMATION PURPOSES ONLY AND IS BASED ON THE INTERNAL REVENUE CODE OF 1986, AS AMENDED (THE "**CODE**"), TREASURY REGULATIONS PROMULGATED THEREUNDER, JUDICIAL AUTHORITIES, AND CURRENT ADMINISTRATIVE RULINGS AND PRACTICE, ALL AS IN EFFECT AS OF THE DATE HEREOF AND ALL OF WHICH ARE SUBJECT TO CHANGE, POSSIBLY WITH RETROACTIVE EFFECTS THAT COULD ADVERSELY AFFECT THE U.S. FEDERAL INCOME TAX CONSEQUENCES DESCRIBED BELOW.

THIS SUMMARY DOES NOT ADDRESS ALL ASPECTS OF U.S. FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO A PARTICULAR HOLDER OF A CLAIM IN LIGHT OF ITS PARTICULAR FACTS AND CIRCUMSTANCES OR TO CERTAIN TYPES OF HOLDERS OF CLAIMS SUBJECT TO SPECIAL TREATMENT UNDER THE CODE (FOR EXAMPLE, NON-U.S. TAXPAYERS, FINANCIAL INSTITUTIONS, BROKER-DEALERS, LIFE INSURANCE COMPANIES, TAX-EXEMPT ORGANIZATIONS, AND THOSE HOLDING CLAIMS THROUGH A PARTNERSHIP OR OTHER PASSTHROUGH ENTITY). IN ADDITION, THIS SUMMARY DOES NOT DISCUSS ANY ASPECTS OF STATE, LOCAL, OR NON-U.S. TAXATION AND DOES NOT ADDRESS THE U.S. FEDERAL INCOME TAX CONSEQUENCES TO HOLDERS OF CLAIMS THAT ARE UNIMPAIRED UNDER THE PLAN OR HOLDERS OF CLAIMS THAT ARE NOT ENTITLED TO RECEIVE OR RETAIN ANY PROPERTY UNDER THE PLAN. A SUBSTANTIAL AMOUNT OF TIME MAY ELAPSE BETWEEN THE DATE OF THIS DISCLOSURE STATEMENT AND THE RECEIPT OF A FINAL DISTRIBUTION UNDER THE PLAN. EVENTS SUBSEQUENT TO THE DATE OF THIS DISCLOSURE STATEMENT, SUCH AS ADDITIONAL TAX LEGISLATION, COURT DECISIONS, OR ADMINISTRATIVE CHANGES, COULD AFFECT THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND THE TRANSACTIONS CONTEMPLATED THEREUNDER. NO RULING WILL BE SOUGHT FROM THE INTERNAL REVENUE SERVICE (THE "**IRS**") WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN AND NO OPINION OF COUNSEL HAS BEEN OR WILL BE OBTAINED BY THE DEBTORS WITH RESPECT THERETO. ACCORDINGLY, EACH HOLDER OF A CLAIM IS STRONGLY URGED TO CONSULT ITS TAX ADVISOR REGARDING THE U.S. FEDERAL, STATE, LOCAL, AND NON-U.S. TAX CONSEQUENCES OF THE PLAN TO SUCH HOLDER.

1. U.S. Federal Income Tax Consequences to the Debtors

(a) Cancellation of Indebtedness Income. Under the Code, a U.S. taxpayer generally must include in gross income the amount of any discharged indebtedness ("**COD**") realized during the taxable year. COD income generally equals the difference between the "adjusted issue price" of the indebtedness discharged and the sum of the amount of cash, the "issue price" of any debt instruments and the fair market value of any other property transferred in satisfaction of such discharged indebtedness. COD income also includes any interest that has been previously accrued and deducted but remains unpaid at the time the indebtedness is discharged.

The Debtors will not include such COD income in gross income, however, because for tax purposes the indebtedness will be either (i) deemed discharged while the Debtors are under the

jurisdiction of a court in a Title 11 case or (ii) deemed discharged while the Debtors are insolvent. The "insolvency" exception to COD income negotiation is limited to the Debtors' insolvency. Instead of recognizing COD income, the Debtors will be required to reduce certain tax attributes (e.g., net operating loss and net operating loss carryovers (collectively, "**NOLs**"), general business credit carryovers, foreign tax credit carryovers, minimum tax credit, and tax basis in property (collectively, "**Tax Attributes**")) by the amount of the COD income that would otherwise have been required to be included in gross income. Reduction of tax basis in property is limited to the excess of the aggregate tax bases of the relevant Debtors' property over the aggregate of such Debtors' liabilities immediately after the discharge. The reduction in Tax Attributes will occur on the first day of the taxable year following the realization of such COD income.

(b) Utilization of NOLs. The Debtors estimate that they will not have any significant NOL carry forwards as of the consummation of the Plan; however, to the extent that they have any NOLs as of the end of its taxable year that includes the Effective Date, they will likely be eliminated as a result of the reduction of Tax Attributes described above in "Cancellation of Indebtedness Income". Finally, a liquidation of the Debtors for state law purposes (or a deemed liquidation for tax purposes) will eliminate any remaining NOLs.

(c) U.S. Federal Alternative Minimum Tax. For purposes of computing the Debtors' regular tax liability, all of its taxable income recognized in a taxable year generally may be offset by NOLs (to the extent permitted under the Code and subject to various limitations. Even if all of the Debtors' regular tax liability for a given year is reduced to zero by virtue of its NOLs, the Debtors may still be subject to the alternative minimum tax (the "**AMT**"). The AMT imposes a tax equal to the amount by which 20% of a corporation's alternative minimum taxable income ("**AMTI**") exceeds the corporation's regular tax liability. AMTI is calculated pursuant to specific rules in the Code which eliminate or limit the availability of certain tax deductions and which include as income certain amounts not generally included in computing the corporation's regular tax liability (any COD income excluded from the Debtors' regular taxable income, as described above, would also be excluded from their AMTI). Of particular importance to the Debtors is that in calculating AMTI, only 90% of a corporation's AMTI may be offset by net operating loss carryovers (as computed for AMT purposes). However, 100% of a corporation's AMTI may be offset by net operating losses (as computed for AMT purposes) generated in tax years ending 2001 and 2002. For taxable years beginning after December 31, 2017, the Jobs and Tax Cut Act of 2017 has eliminated the corporate alternative minimum tax.

(d) Accrued Interest. To the extent a portion of the consideration issued to holders of Claims is attributable to accrued and unpaid interest, the Debtors may be entitled to interest deductions in the amount of such accrued interest to the extent that the Debtors have not already deducted such amounts. Although the ability of parties to allocate consideration between accrued interest and principal is uncertain in cases where creditors receive less than the full principal amount of their claims, the Plan allocates the full amount of the consideration transferred to holders of Impaired Claims to the principal amount of such claims. Accordingly, the Debtors will take the position that no amount of the consideration received by such holders pursuant to the Plan is attributable to accrued interest.

2. U.S. Federal Income Tax Consequences to Certain Claim Holders

(a) Holders of Secured Claims. Although not free from doubt, the Debtors believe that the receipt of Cash, in respect of the Secured Claims pursuant to the Plan should be treated as a taxable exchange for U.S. federal income tax purposes. Under this position, a holder of Secured Claims should recognize gain or loss for U.S. federal income tax purposes in an amount equal to the difference, if any, between (1) the amount of Cash received in respect of its Secured Claims and, (2) the holder's adjusted tax basis in its Secured Claims. Any such recognized gain or loss will generally be capital gain or loss if a holder of a Secured Claim held such claim as a capital asset for U.S. federal income tax purposes and will be long term capital gain or loss if the holder's holding period for such claim exceeded one year as of the Effective Date.

As discussed above, the manner in which the consideration received pursuant to the Plan is to be allocated between accrued but unpaid interest and principal for U.S. federal income tax purposes is unclear under present law. Although there can be no assurance with respect to the issue, the Plan provides, and the Debtors intend to take the position, that no portion of the consideration distributed to holders of the Secured Claims, if any, pursuant to the Plan is allocable to accrued and unpaid interest on such Claims.

(b) Holders of General Unsecured Claims. A holder of an Allowed General Unsecured Claim who will receive cash under the terms of the Plan, should generally recognize gain or loss for U.S. federal income tax purposes in an amount equal to the difference, if any, between (1) the amount of cash received and (2) the holder's adjusted tax basis in such Claims. Any such recognized gain or loss will generally be capital gain or loss if a holder held such claims as a capital asset for U.S. federal income tax purposes and will be long term capital gain or loss if such holder's holding period for such claim exceeded one year as of the Effective Date.

3. Information Reporting and Backup Withholding. Certain payments of Claims pursuant to the Plan, and the proceeds from the sale or other taxable disposition, may be subject to information reporting to the IRS. Moreover, such reportable payments may be subject to backup withholding unless the taxpayer: (i) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates this fact or (ii) provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the taxpayer is not subject to backup withholding because of a failure to report all dividend and interest income.

4. Importance of Obtaining Professional Tax Assistance. THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATION PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S INDIVIDUAL CIRCUMSTANCES. ACCORDINGLY, HOLDERS SHOULD CONSULT THEIR TAX ADVISORS ABOUT THE U.S. FEDERAL, STATE, LOCAL AND NON-U.S. INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

ARTICLE VII.

CONFIRMATION REQUIREMENTS AND PROCEDURES

PERSONS OR ENTITIES CONCERNED WITH CONFIRMATION OF THIS PLAN SHOULD CONSULT WITH THEIR OWN ATTORNEYS BECAUSE THE LAW ON CONFIRMING A PLAN IS COMPLEX. The following discussion is intended solely for the purpose of alerting readers about basic confirmation issues, which they may wish to consider. The Debtors CANNOT and DO NOT represent that the discussion contained below is a complete summary of the law on this topic.

Many requirements must be met before the Bankruptcy Court can confirm a Plan. Some of the requirements include that the Plan must be proposed in good faith, that at least one class of claims that is impaired by the Plan has accepted the Plan, that the Plan pays creditors at least as much as they would receive in a Chapter 7 liquidation, and that the Plan is feasible. These requirements are not the only requirements for confirmation.

A. Necessary Votes

1. **Votes Necessary to Confirm the Plan.** If impaired classes exist, the Bankruptcy Court cannot confirm the Plan unless at least one impaired class has accepted the Plan without counting the votes of any insiders within that class. There are four impaired classes in this Plan. Class 3 (General Unsecured Claims Against Agent Provocateur, LLC), Class 4 (General Unsecured Claims Against Agent Provocateur, Inc.), Class 5 (Parent and Affiliate Claims), and Class 6 (Interests)

2. **Votes Necessary for a Class to Accept the Plan.** A class of Claims is considered to have accepted the Plan when more than one-half (1/2) in number and at least two-thirds (2/3) in dollar amount of the allowed claims that actually voted, vote to accept the Plan. A class of Interests is considered to have accepted the Plan when at least two-thirds (2/3) in amount of the allowed interests held by holders of interests in such class which actually voted, vote to accept the Plan. Because holders of Interests in Class 6 will not receive or retain any property under the Plan, they are deemed to reject the Plan and are not entitled to vote.

3. **Treatment of Nonaccepting Classes.** In the event only one impaired class votes to accept the proposed Plan, determined without including any acceptance of the Plan by any insider, the Bankruptcy Court may nonetheless confirm the Plan if the nonaccepting classes are treated in the manner required by the Bankruptcy Code. The process by which the Plan could be confirmed despite its rejection by one or more impaired classes is commonly referred to as a "cramdown." Section 1129(b) of the Bankruptcy Code permits the Plan to be "crammed down" on nonaccepting classes of claims or interests if (i) the Plan meets all of the requirements of Section 1129(a) of the Bankruptcy Code, other than the requirement in Section 1129(a)(8) for acceptance of the Plan by all impaired classes, (ii) the Plan does not "discriminate unfairly" among the various impaired classes, and (iii) the Plan is "fair and equitable" in its treatment of each impaired class that has not accepted the Plan. The Debtors believe that the Plan could be "crammed down" upon non-accepting impaired classes in these cases, provided at least one impaired class of Claims accepts the Plan, determined without including any acceptance of the Plan by any insider, because the Plan does not discriminate unfairly among Classes 3, 4 and 5,

and because the Plan is fair and equitable since no holder of any Claim junior to the Claims in such classes will receive or retain any property under the Plan. Similarly, the Plan can be "crammed down" upon the holders of Interests in Class 6 because there are no holders of claims or interests junior to Class 6 who will receive or retain any property under the Plan

B. Liquidation Analysis. Another confirmation requirement is the so-called "**Best Interest Test**" under section 1129(a)(7) of the Bankruptcy Code which requires consideration of a hypothetical liquidation of the Debtors under chapter 7 of the Bankruptcy Code. Under the Best Interest Test, if a claimant or interest holder is in an impaired class and that claimant or interest holder does not vote to accept the Plan, then that claimant or interest holder must receive or retain under the Plan property of a value not less than the amount that such holder would receive or retain if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code. In a Chapter 7 case, the debtor's assets are usually liquidated by a Chapter 7 trustee. Secured creditors are paid first from the proceeds of property and assets on which the secured creditor has a lien. Administrative claims are paid next. Then, unsecured creditors are paid from any remaining liquidation proceeds, according to the priority afforded them under the Bankruptcy Code. Unsecured creditors with the same priority share in proportion to the amount of their allowed claims. Finally, interest holders receive the balance that remains after all creditors are paid. In order for the Bankruptcy Court to be able to confirm this Plan, the Bankruptcy Court must find that all creditors and interest holders who do not accept the Plan will receive at least as much under the Plan as such holders would receive under a Chapter 7 liquidation.

With respect to Class 3 (General Unsecured Claims Against Agent Provocateur, LLC), the holders of Allowed Claims are expected to receive payment in full, and under no circumstances would receive less than the amount they would receive in a chapter 7 liquidation. The Debtors also believe that a Chapter 7 liquidation would result in smaller distributions being made to holders of Claims in Class 4 (General Unsecured Claims Against Agent Provocateur, Inc.) than those provided by the Plan proposed herein. Conversion to Chapter 7 would give rise to administrative expenses involved in the appointment of a trustee, including the expense of attorneys and other professionals to assist the trustee. In particular, a chapter 7 trustee and his/her professionals would need to spend significant time educating themselves with respect to the legal and factual issues surrounding Claims asserted against the Debtor and potential sources of recovery for the benefit of creditors. With that added layer of expense, it is likely that the General Unsecured Creditors will receive less of a recovery, and certainly not more, than that contemplated under the Plan. See Liquidation Analysis attached hereto as Appendix B. Furthermore, the Plan provides for distribution on account of Allowed Claims to commence as soon as practicable after the Plan's Effective Date. Distributions in a Chapter 7 case would not be made until the completion of the case, which might not occur for a significant period of time. The present value of distributions at some uncertain time in the future would likely be materially less than the value of distributions to be made under the terms of this Plan.

C. Feasibility. Another requirement for confirmation involves the feasibility of the Plan, which requirement is delineated in Section 1129(a)(11) of the Bankruptcy Code. "Feasibility" means that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan. Since the Plan provides for the

orderly liquidation of the Debtors' remaining assets, it complies with the requirements of Section 1129(a)(11) of the Bankruptcy Code.

ARTICLE VIII.

EFFECT OF CONFIRMATION OF PLAN

A. Vesting of Property in the Creditor Trust. Pursuant to the Plan, on the Effective Date, all of the property of the Debtors' Estates shall automatically vest in the Creditor Trust.

B. Modification of Plan. The Debtors may modify the Plan at any time before confirmation; provided, however, that any material modification will only be made upon the Committee's written consent. However, the Bankruptcy Court may require a new Disclosure Statement and/or revoting on the Plan if the Debtors modify the Plan before confirmation. The Debtors or the Creditor Trustee may also seek to modify the Plan at any time after confirmation so long as (1) the Plan has not been substantially consummated, and (2) the Bankruptcy Court authorizes the proposed modification after notice and a hearing.

RECOMMENDATION AND CONCLUSION

For all of the reasons set forth in this Disclosure Statement, the Debtors believe that confirmation and consummation of the Plan is the best alternative for an orderly liquidation. Consequently, the Debtors urge all holders of Claims in Classes 3, 4 and 5 to vote to ACCEPT the Plan, and to complete and return their ballots so that they will be RECEIVED on or before the Voting Deadline.

Dated: April 17, 2018

AGENT PROVOCATEUR, INC.

By: /s/ Amanda Brooks
Title: Director

and

AGENT PROVOCATEUR, LLC

By: Agent Provocateur, Inc.
its sole member

By: /s/ Amanda Brooks
Title: Director

Respectfully submitted,

THOMPSON HINE LLP

By: /s/ Alan Lepene

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Attorneys for Debtors

**UNITED STATES BANKRUPTCY
COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X	:	
	:	
In re	:	
	:	Chapter 11
AGENT PROVOCATEUR, INC., et al.,¹	:	Case No. 17-10987 (MEW)
	:	Jointly Administered
	:	
Debtors.	:	
-----X	:	

**CHAPTER 11 PLAN OF LIQUIDATION OF AGENT PROVOCATEUR, INC. AND
AGENT PROVOCATEUR, LLC**

¹ The Debtors in these two chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are Agent Provocateur, Inc. (9441) and Agent Provocateur, LLC (0862).

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Exhibit A: Creditor Trust Agreement

CHAPTER 11 PLAN OF LIQUIDATION OF AGENT PROVOCATEUR, INC. AND AGENT PROVOCATEUR, LLC

INTRODUCTION

Agent Provocateur, Inc. and Agent Provocateur, LLC, as debtors and debtors in possession (together the "**Debtors**"), hereby propose this plan for the orderly liquidation of their remaining assets and for the resolution of outstanding claims against and interests in the Debtors (as the same may from time to time be amended or otherwise modified, the "**Plan**"). Reference is made to the Disclosure Statement (as defined herein) distributed contemporaneously herewith for a discussion of the history, business, properties, results of operations, risk factors, a summary and analysis of the Plan, and other matters related to the Plan. The Debtors are the proponents of the Plan within the meaning of Section 1129 of the Bankruptcy Code (as defined herein).

All holders of Claims who are entitled to vote on the Plan are encouraged to read the Plan and the Disclosure Statement in their entirety before voting to accept or reject the Plan. Subject to certain restrictions and requirements set forth in Section 1127 of the Bankruptcy Code, Rule 3019 of the Bankruptcy Rules (as defined herein), and Section 11.7 of the Plan, the Debtors reserve the right to alter, amend, modify, revoke, or withdraw the Plan prior to its substantial consummation.

For purposes of the Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms not otherwise defined in the Plan shall have the respective meanings given to them in Article I of the Plan. Any capitalized term used in the Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be. Whenever the context requires, defined terms shall include the plural as well as the singular number, the masculine gender shall include the feminine, and the feminine gender shall include the masculine.

ARTICLE I.

DEFINITIONS

For purposes of the Plan, (a) any reference in the Plan to a contract, instrument, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, (b) any reference in the Plan to an existing document or exhibit means such document or exhibit as it may be amended, modified, or supplemented from time to time, (c) unless otherwise specified, all references in the Plan to sections, articles, schedules, and exhibits are references to sections, articles, schedules, and exhibits of or to the Plan, (d) the words "herein," "hereof," and "hereto" refer to the Plan in its entirety rather than to a particular portion of the Plan, (e) captions and headings to articles and sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan, and (f) the rules of construction set forth in Section 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply.

1.1 **"Administrative Claim"** means a Claim against either or both Debtors for payment of an administrative expense of a kind specified in Section 503(b) of the Bankruptcy Code and entitled to priority pursuant to Section 507(a)(2) of the Bankruptcy Code, including, but not limited to, (a) the actual, necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the businesses of the Debtors, including wages, salaries, bonuses, or commissions for services rendered on or after the Petition Date, (b) Professional Fee Claims, and (c) all fees and charges assessed against the Estates under Section 1930 of Title 28 of the United States Code.

1.2 **"Administrative Claim Bar Date"** means, (i) July 5, 2018, with respect to Administrative Claims under 11 U.S.C. § 503(b) that were incurred or that accrued prior to June 5, 2018 (other than claims for fees and expenses of Professionals retained by the Debtors or the Official Committee of Unsecured Creditors in these cases), or (ii) thirty (30) days after the Effective Date with respect to Administrative Claims under 11 U.S.C. 503(b) that were incurred or that accrued on or after June 5, 2018 (other than claims for fees and expenses of Professionals retained by the Debtors or the Official Committee of Unsecured Creditors in this case).

1.3 **"Allowed"** means (a) when used with respect to an Administrative Claim, all or any portion of an Administrative Claim that was incurred by the Debtor(s) in the ordinary course of business during the Chapter 11 Cases and as to which there is no dispute as to the Debtors' liability, or that has been allowed, or adjudicated in favor of the holder by estimation or liquidation, by a Final Order, or that has become allowed by failure to object pursuant to Section 8.1 of the Plan; (b) when used with respect to a Claim other than an Administrative Claim, such Claim or any portion thereof (i) that has been allowed, or adjudicated in favor of the holder by estimation or liquidation, by a Final Order, or (ii) as to which (x) no Proof of Claim has been filed with the Bankruptcy Court and (y) the liquidated and noncontingent amount of which is included in the Schedules, other than a Claim that is included in the Schedules at zero, in an unknown amount, or as Disputed, or (iii) for which a Proof of Claim in a liquidated amount has been timely filed with the Bankruptcy Court pursuant to the Bankruptcy Code, any Final Order of the Bankruptcy Court, or other applicable bankruptcy law, and (with regard to both (ii) and (iii) hereof) as to which either (x) no objection to its allowance has been filed within the periods of limitation fixed by the Plan, the Bankruptcy Code, or any order of the Bankruptcy Court, or (y) any objection to its allowance has been settled or withdrawn, or has been denied by a Final Order, or (iv) that is expressly allowed in a liquidated amount in the Plan.

1.4 **"Available Cash"** means such cash as, consistent with the terms of the Creditor Trust Agreement, the Creditor Trustee shall from time to time determine is available for distribution to holders of Allowed Claims in Classes 3, 4 and 5, after payment of costs and expenses incurred by the Creditor Trustee and payment of any Allowed Secured Claims, Administrative Claims, Other Priority Claims, and Priority Tax Claims. For purposes of determining the amount of Available Cash for distribution to the holders of Allowed Claims, the Creditor Trustee shall segregate in separate accounts Cash belonging to each of the Debtors' Estates until all Allowed Claims in Class 3 (General Unsecured Claims Against Agent Provocateur, LLC) are paid in full. Upon payment of all Allowed Claims in Class 3 in full, the remaining Available Cash belonging to Agent Provocateur, LLC shall be transferred to an account for the benefit of the creditors of Agent Provocateur, Inc. and shall be included in the

calculation of Available Cash for distribution to the holders of all other Allowed Claims as provided in the Plan.

1.5 **"Bankruptcy Code"** means Title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as now in effect or hereafter amended.

1.6 **"Bankruptcy Court"** means the United States Bankruptcy Court for the Southern District of New York, or such other court as may have jurisdiction over the Chapter 11 Cases, or any aspect thereof.

1.7 **"Bankruptcy Rules"** means the Federal Rules of Bankruptcy Procedure.

1.8 **"Bar Date(s)"** means (a) **September 13, 2017**, the date designated by order of the Bankruptcy Court, dated July 26, 2017 (the **"Bar Date Order"**), as the last date for filing Proofs of Claim asserting pre-petition Claims against the Debtors, other than Claims of Governmental Units; (b) **October 9, 2017**, the date designated as the last date for Governmental Units to file Proofs of Claim asserting pre-petition Claims against the Debtors; or (c) such other date(s) established pursuant to any Bankruptcy Court order entered on or before the Confirmation Date.

1.9 **"Business Day"** means any day, excluding Saturdays, Sundays, or "legal holidays" (as defined in Rule 9006(a) of the Bankruptcy Rules), on which commercial banks are open for business in New York, New York.

1.10 **"Buyer"** means Agent Provocateur International (US) LLC.

1.11 **"Cash"** means legal tender of the United States or equivalents thereof.

1.12 **"Chapter 11 Cases"** means the Chapter 11 cases of the Debtors filed in the Bankruptcy Court and assigned Case Numbers 17-10987 (Agent Provocateur, Inc.) and 17-10989 (Agent Provocateur, LLC).

1.13 **"Claim"** means (a) the right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, or (b) the right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured.

1.14 **"Claims Objection Deadline"** means the last day for filing objections to Claims, which day shall be (a) for all Claims other than General Unsecured Claims, the latest of (i) sixty (60) days after the Effective Date, (ii) sixty (60) days after the applicable Proof of Claim or request for payment of an Administrative Claim is filed, or (iii) such other date ordered by the Bankruptcy Court upon motion of the Debtors, the Creditor Trustee or any other party; or (b) for General Unsecured Claims, the latest of (i) one hundred and twenty days (120) days after the Effective Date, (ii) sixty (60) days after the applicable Proof of Claim is filed, or (iii) such other date ordered by the Bankruptcy Court upon motion of the Debtor, the Creditor Trustee or any other party.

1.15 "**Class**" means a category of holders of Claims or Interests, as described in Article II of the Plan.

1.16 "**Committee**" means the Official Committee of Unsecured Creditors appointed by the Office of the United States Trustee on May 3, 2017.

1.17 "**Confirmation**" means entry of an order by the Bankruptcy Court confirming the Debtor's Plan pursuant to Section 1129 of the Bankruptcy Code.

1.18 "**Confirmation Date**" means the date of entry by the clerk of the Bankruptcy Court of the Confirmation Order.

1.19 "**Confirmation Hearing**" means the hearing to consider Confirmation of the Plan under Section 1129 of the Bankruptcy Code.

1.20 "**Confirmation Order**" means the order entered by the Bankruptcy Court confirming the Plan.

1.21 "**Creditor**" means any Person who holds a Claim against the Debtors.

1.22 "**Creditor Trust**" means the trust to be formed under the Plan which shall hold the Creditor Trust Assets.

1.23 "**Creditor Trust Agreement**" means that certain agreement establishing and delineating the terms and conditions of the Creditor Trust, substantially in the form attached as Exhibit A hereto.

1.24 "**Creditor Trust Assets**" means the aggregate of (i) all Cash in the Debtors' Estates on the Effective Date, and (ii) all of the other assets and rights of the Debtors as of the Effective Date, including without limitation Litigation Rights.

1.25 "**Creditor Trustee**" means such Person designated by the Committee to serve as the trustee of the Creditor Trust.

1.26 "**Debtors**" means Agent Provocateur, Inc. and Agent Provocateur, LLC.

1.26A "**Debtors' Dissolution Date**" means the later of (i) the Effective Date, or (ii) the date the Debtors have completed the Dissolution Activities.

1.27 "**Disbursing Agent**" means the Creditor Trustee, or any Person designated by the Creditor Trustee, in its sole discretion, to serve as disbursing agent under the Plan with respect to distributions to be made to the holders of Allowed Claims.

1.28 "**Disclosure Statement**" means the written disclosure statement that relates to the Plan, as amended, supplemented, or modified from time to time, and that is prepared, approved and distributed in accordance with Section 1125 of the Bankruptcy Code and Rule 3018 of the Bankruptcy Rules or any summary thereof approved by the Bankruptcy Court for distribution to certain Classes of Claims.

1.29 **"Disputed"** means, with respect to any Claim, other than a Claim that has been allowed pursuant to the Plan or a Final Order of the Bankruptcy Court: (a) a Claim that has been or hereafter is listed on the Schedules as unliquidated, contingent, or disputed and as to which no Proof of Claim has been filed by the applicable bar date; (b) if a Proof of Claim has been filed or deemed to have been filed by the applicable Bar Date, as to which the Debtors or another party has timely filed an objection or request for estimation in accordance with the Plan, the Bankruptcy Code, the Bankruptcy Rules, or any orders of the Bankruptcy Court, or which is otherwise disputed by the Debtors or other party in accordance with applicable law, such objection, request for estimation, or dispute has not been withdrawn or determined by a Final Order; (c) a Claim for which a Proof of Claim was required to be filed by the Bankruptcy Code, the Bankruptcy Rules, or an order of the Bankruptcy Court, but as to which a Proof of Claim was not timely or properly filed; (d) a Claim that is disputed pursuant to the provisions of the Plan; or (e) a Claim as to which the applicable Claims Objection Deadline has not expired.

1.29A **"Dissolution Activities"** means the activities described in Section 5.2(b) of this Plan.

1.30 **"Distribution"** means any payment of Cash or property to any holder of an Allowed Claim as provided in the Plan.

1.31 **"Distribution Date"** means (a) for any Administrative Claims, Other Priority Claims, Priority Tax Claims, and Secured Claims that are Allowed as of the Effective Date, on or as soon as practicable after the Effective Date, but in no case later than ten (10) Business Days after the Effective Date, or (b) for any other Allowed Claim, such date(s) as may be established by the Creditor Trustee in accordance with the Creditor Trust Agreement.

1.32 **"Distribution Record Date"** means the record date for determining entitlement to receive distributions under the Plan on account of Allowed Claims, which date shall be the third Business Day after the Confirmation Date at 5:00 p.m. prevailing Eastern time.

1.33 **"Distribution Reserve"** means the amount of Cash or property to be held in a separate reserve established for the payment or other satisfaction of Disputed Claims that become Allowed Claims after the Effective Date.

1.34 **"Effective Date"** means the Business Day upon which all conditions to the consummation of the Plan as set forth in Section 9.1 of the Plan have been satisfied, and is the date on which the Plan becomes effective.

1.35 **"Estate(s)"** means the estate of either Debtor, as the context may require, and collectively, the estates of both Debtors created pursuant to Section 541 of the Bankruptcy Code.

1.36 **"Final Order"** means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in the Chapter 11 Cases or the docket of any such court, the operation or effect of which has not been stayed, reversed, or amended and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal or seek review or rehearing or leave to appeal has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, no longer remains pending.

1.37 **"General Unsecured Claim"** means a Claim against either or both Debtors that is not a Secured Claim, an Administrative Claim, a Priority Tax Claim, an Other Priority Claim, a Parent and Affiliate Claim, or an Intercompany Claim. This definition specifically includes, without limitation, Claims that are not in one of the categories listed in the preceding sentence and that are rejection damages Claims, non-priority employee Claims, non-priority tax Claims, environmental Claims, indemnification Claims, customer Claims, escheat Claims and litigation Claims.

1.38 **"Impaired"** means, with respect to any Claim or Interest, that such Claim or Interest is impaired within the meaning of Section 1124 of the Bankruptcy Code.

1.38A **"Intercompany Claim"** means a Claim that one of the Debtors may have against the other Debtor. All such Claims shall be disallowed and released on the Effective Date of the Plan.

1.39 **"Interests"** means, collectively, all equity interests in the Debtors, including, without limitation, membership units, warrants, any conversion rights, rights of first refusal, or other rights, contractual or otherwise, to acquire or receive any membership units in the Debtors, and any contracts, commitments, or agreements pursuant to which a party was or could have been entitled to receive membership units, or other ownership interests in the Debtors as of the Petition Date.

1.40 **"Lien"** means a charge against or interest in property to secure payment of a debt or performance of an obligation.

1.41 **"Litigation Rights"** means the claims, rights of action, suits, or proceedings whether in law or in equity, whether known or unknown, that the Debtors or their Estates may hold against any Person, which rights are to be transferred to and retained by the Creditor Trust pursuant to Section 5.1(d) of the Plan, including without limitation, claims or causes of action arising under or pursuant to Chapter 5 of the Bankruptcy Code.

1.42 **"Other Priority Claim"** means a Claim against either or both Debtors entitled to priority pursuant to Section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

1.43 **"Parent and Affiliates"** means (i) Pearl Group Ltd. (in Administration) (formerly known as Agent Provocateur Ltd.), the 100% owner of Agent Provocateur, Inc., (ii) L'Agent, and (iii) any affiliates, other than the Debtors, of either of the foregoing.

1.44 **"Parent and Affiliate Claims"** means, collectively, all claims which have been or could be asserted by the Parent and Affiliates against either or both of the Debtors, including (i) the Proof of Claim filed by Pearl Group Ltd. (in Administration) against Agent Provocateur, Inc. in the amount of \$7,317,554.43 and (ii) the Proof of Claim filed by Pearl Group Ltd. (in Administration) against Agent Provocateur, LLC in the amount of \$1,202,936.01.

1.45 **"Person"** means any individual, firm, partnership, corporation, trust, association, company, limited liability company, joint stock company, joint venture, governmental unit, or other entity or enterprise.

1.46 **"Petition Date"** means April 11, 2017, the date on which the Debtors filed their voluntary petitions for relief commencing the Chapter 11 Cases.

1.47 **"Plan"** means this plan of liquidation under Chapter 11 of the Bankruptcy Code and all exhibits annexed hereto or referenced herein, as the same may be amended, modified, or supplemented from time to time.

1.48 **"Priority Tax Claim"** means a Claim against either or both of the Debtors that is entitled to priority pursuant to Section 507(a)(8) of the Bankruptcy Code.

1.49 **"Professional"** means any professional employed in the Chapter 11 Cases pursuant to Sections 327 or 1103 of the Bankruptcy Code, and any professional seeking compensation or reimbursement of expenses in connection with the Chapter 11 Cases pursuant to Sections 328, 330, 331 and 503(b) of the Bankruptcy Code.

1.50 **"Professional Fee Claim"** means a Claim of a Professional for compensation or reimbursement of costs and expenses relating to services rendered after the Petition Date and prior to and including the Effective Date.

1.51 **"Proof of Claim"** means a proof of claim filed with the Bankruptcy Court in connection with the Chapter 11 Case.

1.52 **"Pro Rata"** means a proportion calculated as the ratio of (a) the amount of an Allowed Claim in a Class to the amount of all Allowed Claims in such Class, in the event that all Claims in the Class have been Allowed, or (b) prior to the allowance or disallowance of all Claims in a Class, the amount of an Allowed Claim in a Class to the sum of all Allowed Claims and Disputed Claims (in their face amount or estimated maximum allowable amount) in such Class.

1.53 **"Sale"** means the sale of certain of the Debtors' assets to the Buyer pursuant to Section 363 of the Bankruptcy Code that closed on or about June 29, 2017.

1.54 **"Sale Approval Order"** means that Bankruptcy Court order dated June 28, 2017, approving the Sale.

1.55 **"Schedules"** means the schedules of assets and liabilities and the statements of financial affairs filed in the Bankruptcy Court by the Debtors, as amended or supplemented from time to time, in accordance with Rule 1009 of the Bankruptcy Rules or orders of the Bankruptcy Court.

1.56 **"Secured Claim"** means, as determined by a Final Order pursuant to Section 506(a) of the Bankruptcy Code, or in the case of setoff, pursuant to Section 553 of the Bankruptcy Code, or in either case as otherwise agreed upon in writing by the Debtors (prior to the Effective Date) or the Creditor Trustee (on or after the Effective Date) and the holder of such Claim (i) a Claim that is secured by a Lien which is not subject to avoidance or subordination under the Bankruptcy Code or otherwise invalid under the Bankruptcy Code or applicable state law, on property in which the Estates have an interest, to the extent of the value of the Claim

holder's interest in the Estates' interest in such property, or (ii) a Claim that is subject to setoff under Section 553 of the Bankruptcy Code to the extent of the amount subject to setoff.

1.57 "**Unimpaired**" means, with respect to any Claim, that such Claim is not impaired within the meaning of Section 1124 of the Bankruptcy Code.

ARTICLE II.

CLASSIFICATION OF CLAIMS AND INTERESTS

A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and such Claim or Interest has not been paid, released, or otherwise settled prior to the Effective Date. A Claim may be bifurcated, if appropriate, and portions of such Claim placed in more than one Class to the extent such portion of the Claim falls within the description of such Class.

2.1 Unclassified Claims. In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims, against either or both of the Debtors, have not been classified, and the respective treatment of such unclassified claims is set forth in Section 3.1 of the Plan.

2.2 Unimpaired Claims.

Class 1 - Other Priority Claims:

Class 1 consists of all Other Priority Claims against either or both of the Debtors.

Class 2 - Secured Claims:

Class 2 consists of all Secured Claims against either or both of the Debtors. The Debtors do not believe there are any creditors holding Secured Claims.

2.3 Impaired Claims.

Class 3 - General Unsecured Claims Against Agent Provocateur, LLC:

Class 3 consists of all General Unsecured Claims against Agent Provocateur, LLC.

Class 4 - General Unsecured Claims Against Agent Provocateur, Inc.

Class 4 consists of all General Unsecured Claims against Agent Provocateur, Inc.

Class 5 - Parent and Affiliate Claims:

Class 5 consists of all Parent and Affiliate Claims.

2.4 Impaired Interests.

Class 6 - Interests:

Class 6 consists of all Interests, including the Interests held by Agent Provocateur, Inc. in Agent Provocateur, LLC.

ARTICLE III.

TREATMENT OF CLAIMS AND INTERESTS

3.1 Unclassified Claims.

(a) Administrative Claims. The Creditor Trustee shall pay, on the Distribution Date, from Cash in the Estate of each respective Debtor, all Administrative Claims against such Debtor that have been Allowed as of the Effective Date, in Cash in full, or as otherwise agreed by the claimants. The Creditor Trustee shall pay from Cash in the Estate of each respective Debtor, each Administrative Claim against such Debtor that is Allowed, or otherwise becomes due, subsequent to the Effective Date, in Cash in full within ten (10) business days after the last day of the month in which the Claim is Allowed.

(b) Priority Tax Claims. The Creditor Trustee shall pay, on the Distribution Date, from Cash in the Estate of each respective Debtor, all Priority Tax Claims against such Debtor that have been Allowed as of the Effective Date, in Cash in full, or as otherwise agreed by the claimants. The Creditor Trustee shall pay from Cash in the Estate of each respective Debtor, each Priority Tax Claim against such Debtor that is Allowed, or otherwise becomes due, subsequent to the Effective Date, in Cash in full within ten (10) business days after the last day of the month in which the Claim is Allowed.

3.2 Unimpaired Classes of Claims.

(a) Class 1: Other Priority Claims. The Creditor Trustee shall pay, on the Distribution Date, from Cash in the Estate of each respective Debtor, all Other Priority Claims against such Debtor, if any, that have been Allowed as of the Effective Date, in Cash in full, or as otherwise agreed by the claimants. The Creditor Trustee shall pay from Cash in the Estate of each respective Debtor, each Other Priority Claim against such Debtor that is Allowed, or otherwise becomes due, subsequent to the Effective Date, in Cash in full within ten (10) business days after the last day of the month in which the Claim is Allowed.

(b) Class 2: Secured Claims. The Creditor Trustee (i) shall pay, on the Distribution Date, from Cash in the Estate of each respective Debtor, all Secured Claims against such Debtor, if any, that have been Allowed as of the Effective Date, in Cash in full, or as otherwise agreed by the claimants, or, (ii) with respect to Claims that are determined to be Allowed Secured Claims pursuant to Section 506 (a)(1) of the Bankruptcy Code by reason of a right of setoff, shall exercise such right of setoff in full satisfaction of such Claim. Identical treatment shall be accorded by the Creditor Trustee to any Secured Claims that become Allowed Claims subsequent to the Effective Date. The Debtors do not believe there are any creditors holding Secured Claims.

3.3 Impaired Classes of Claims.

(a) Class 3: General Unsecured Claims Against Agent Provocateur, LLC. On each Distribution Date, each holder of an Allowed General Unsecured Claim in Class 3 will receive payment in full, in Cash, of the Allowed amount of its Claim from Available Cash in the Estate of Agent Provocateur, LLC that remains after payments made to holders of Allowed Administrative Claims, Other Priority Claims, Priority Tax Claims and Secured Claims, against Agent Provocateur, LLC pursuant to Sections 3.1 and 3.2 of this Plan; provided, however, that if there is not sufficient Available Cash in the Estate of Agent Provocateur, LLC to satisfy all Allowed Claims in Class 3 in full, each holder of an Allowed Claim in Class 3 shall receive, in full satisfaction of its Claim, its Pro Rata share of the amount of Available Cash in the Estate of Agent Provocateur, LLC in accordance with the terms of the Creditor Trust Agreement.

(b) Class 4: General Unsecured Claims Against Agent Provocateur, Inc. On each Distribution Date, each holder of an Allowed General Unsecured Claim in Class 4 will receive its Pro Rata share of the Available Cash in accordance with the terms of the Creditor Trust Agreement. For purposes of determining the amount of Available Cash for distribution to the holders of Allowed Claims in Class 4, the Creditor Trustee shall segregate in separate accounts Cash belonging to each of the Debtors' Estates until all Allowed Claims in Class 3 (General Unsecured Claims against Agent Provocateur, LLC) have been paid in full from Available Cash belonging to Agent Provocateur, LLC. Upon payment in full of all Allowed Claims in Class 3, the remaining Available Cash belonging to Agent Provocateur, LLC shall be transferred to an account for the benefit of the creditors of Agent Provocateur, Inc. and included in the calculation of Available Cash for distribution to the holders of Allowed Claims against Agent Provocateur, Inc. For the avoidance of doubt, Cash available for payment of Claims against Agent Provocateur, Inc. shall first be used to pay Allowed Administrative Claims, Other Priority Claims, Priority Tax Claims and Secured Claims, against Agent Provocateur, Inc. pursuant to Sections 3.1 and 3.2 of this Plan, and the balance shall then be distributed Pro Rata to the holders of Allowed Claims in Class 4..

(c) Class 5: Parent and Affiliate Claims. The holders of Allowed Parent and Affiliate Claims shall not receive any distribution on account of such Claims unless and until all other Allowed Claims are paid in full.

3.4 Impaired Classes of Interests.

(a) Class 6: Interests. All Interests of any kind, shall be cancelled as of the Effective Date and the holders thereof shall not receive or retain any property under the Plan on account of such Interests.

3.5 Reservation of Rights Regarding Claims. Except as otherwise explicitly provided in the Plan, nothing shall affect the Debtors' or the Creditor Trustee's rights and defenses, both legal and equitable, with respect to any Claims, including, but not limited to, all rights with respect to legal and equitable defenses to alleged rights of setoff or recoupment.

ARTICLE IV.

ACCEPTANCE OR REJECTION OF THE PLAN

4.1 Impaired Classes of Claims and Interests Entitled to Vote. Holders of Claims and Interests in each Impaired Class of Claims or Interests are entitled to vote as a Class to accept or reject the Plan, other than Classes that are deemed to reject the Plan as provided in Section 4.4 of the Plan. Accordingly, the votes of holders of Claims in Classes 3, 4 and 5 shall be solicited with respect to the Plan.

4.2 Acceptance by an Impaired Class. In accordance with Section 1126(c) of the Bankruptcy Code, and except as provided in Section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if the Plan is accepted by the holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims of such Class that have timely and properly voted to accept or reject the Plan.

4.3 Presumed Acceptances by Unimpaired Classes. Classes 1 and 2 are Unimpaired under the Plan. Under Section 1126(f) of the Bankruptcy Code, holders of such Unimpaired Claims are conclusively presumed to have accepted the Plan, and the votes of such Unimpaired Claim holders shall not be solicited.

4.4 Classes Deemed to Reject Plan. Holders of Interests in Class 6 are not entitled to receive or retain any property under the Plan. Under Section 1126(g) of the Bankruptcy Code, such holders are deemed to have rejected the Plan, and the votes of such holders shall not be solicited.

4.5 Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code. To the extent that any Impaired Class rejects the Plan or is deemed to have rejected the Plan, the Debtors shall request Confirmation of the Plan, as it may be modified from time to time, under Section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to alter, amend, modify, revoke, or withdraw the Plan and any exhibit or supplement thereto, including the right to amend or modify the Plan, to satisfy the requirements of Section 1129(b) of the Bankruptcy Code, if necessary.

ARTICLE V.

MEANS FOR IMPLEMENTATION OF THE PLAN

5.1 (a) Formation of Creditor Trust. On the Effective Date, a Creditor Trust shall be established for the purpose of (A) administering the Creditor Trust Assets, (B) resolving all Claims that are Disputed Claims as of the Effective Date, if any, and (C) making all Distributions provided for under the Plan in respect of Classes 3 and 4 Allowed Claims and all other Claims that become Allowed Claims subsequent to the Effective Date. The Creditor Trust is intended to qualify as a liquidating trust pursuant to United States Treasury Regulation Section 301.7701-4(d). The specific terms and provisions governing the Creditor Trust shall be as set forth in the Creditor Trust Agreement, attached to the Plan as Exhibit A.

(b) The Creditor Trustee.

(i) The Creditor Trustee shall be designated by the Committee, subject to the approval of the Bankruptcy Court. The Creditor Trustee shall be independent of the Debtors. The Committee shall file a notice not less than ten (10) days prior to the Confirmation Hearing designating the Person it has selected to serve as the Creditor Trustee, and shall include an affidavit from the proposed Creditor Trustee affirming that such individual is "disinterested" (within the meaning of Section 101(14) of the Bankruptcy Code). For the purposes of this paragraph, no person shall be deemed not "disinterested" merely as a consequence of serving as a professional retained by the Debtors or the Committee in the Chapter 11 Cases. If approved by the Bankruptcy Court, the person so designated shall become the Creditor Trustee on the Effective Date. The Creditor Trustee shall have and perform all of the duties, responsibilities, rights, and obligations set forth in the Creditor Trust Agreement.

(ii) The Creditor Trustee shall have full authority to take any steps necessary to administer the Creditor Trust, including, without limitation, the duty and obligation to (A) liquidate Creditor Trust Assets, (B) make and file objections to Claims and resolve Disputed Claims pursuant to the authority granted herein; and (C) make distributions provided under the Plan to holders of Allowed Claims in Classes 3 and 4 and to holders of all other Claims that become Allowed Claims subsequent to the Effective Date. The Creditor Trustee may retain such professionals as the Creditor Trustee deems necessary to accomplish these tasks without further approval of the Bankruptcy Court. With respect to the Creditor Trustee's authority to liquidate the Creditor Trust Assets, the Creditor Trustee may enter into agreements and settlements without further approval of the Bankruptcy Court.

(c) The Trust Advisory Board.

(i) An advisory board (the "**Trust Advisory Board**") shall be created for the Creditor Trust and shall be comprised of up to three (3) members, each of whom shall be designated by the Committee. The Committee shall file notice of the identities of such members with the Bankruptcy Court not less than ten (10) days prior to the Confirmation Hearing.

(ii) The Trust Advisory Board shall adopt such bylaws as it may deem appropriate. The Creditor Trustee shall consult regularly with the Trust Advisory Board when carrying out the purpose and intent of the Creditor Trust.

(iii) The Creditor Trustee shall be entitled to compensation and the Creditor Trustee and the members of the Trust Advisory Board shall be entitled to reimbursement of the reasonable and necessary expenses incurred by them in carrying out the purpose of the Creditor Trust in accordance with the Creditor Trust Agreement. Such compensation and reimbursement shall be payable solely from the Creditor Trust.

(iv) The Creditor Trustee may be removed by the Bankruptcy Court for cause shown or pursuant to the terms of the Creditor Trust Agreement. In the event of the resignation or removal of the Creditor Trustee, the Trust Advisory Board shall, by majority vote, designate a person to serve as successor Creditor Trustee.

(v) Upon the certification by the Creditor Trustee that the Creditor Trust Assets have been liquidated, distributed, abandoned, or otherwise disposed of, the members of the Trust

Advisory Board shall resign their positions, whereupon they shall be discharged from further duties and responsibilities.

(d) Funding of the Creditor Trust

(i) On the Effective Date, the Debtors shall transfer and convey all right, title, and interest in the Creditor Trust Assets to the Creditor Trust, and all Creditor Trust Assets shall automatically and irrevocably vest in the Creditor Trust without further action on the part of the Debtors or the Creditor Trustee, and with no reversionary interest in the Debtors. Until such time as all Allowed Claims in Class 3 (General Unsecured Claims Against Agent Provocateur, LLC) are paid in full, the Creditor Trustee shall segregate in separate accounts the Cash belonging to each of the Debtors' Estates. Upon payment in full of all Allowed Claims in Class 3, the remaining Cash belonging to Agent Provocateur, LLC shall be available, together with all other Cash included in the Creditor Trust Assets, for distribution to the holders of Allowed Claims in accordance with the terms of the Plan and the Creditor Trust Agreement.

(ii) The transfer of the Creditor Trust Assets to the Creditor Trust shall be made for the benefit and on behalf of the Creditors entitled to receive distributions from the Creditor Trust under the Plan. The assets comprising the Creditor Trust Assets will be treated for tax purposes as being transferred by the Debtors to the Creditors entitled to receive distributions from the Creditor Trust under the Plan in exchange for their Allowed Claims, and then by the Creditors entitled to receive distributions from the Creditor Trust under the Plan to the Creditor Trust in exchange for the beneficial interests in the Creditor Trust. Such Creditors shall be treated as the grantors and owners of the Creditor Trust. Upon the transfer of the Creditor Trust Assets, the Creditor Trust shall succeed to all of the Debtors' rights, title, and interest in the Creditor Trust Assets, and the Debtors will have no further interest in or with respect to the Creditor Trust Assets.

(iii) Upon the transfer of the Creditor Trust Assets to the Creditor Trust, the Debtors and their Estates shall have no other or further rights or obligations with respect to the Creditor Trust except as specifically set forth in the Plan; provided, however, that the Debtors will make reasonable efforts to cooperate with the Creditor Trustee in achieving the intent and purpose of the Creditor Trust.

(e) Rights and Powers of the Creditor Trustee. The Creditor Trustee shall have all the rights and powers set forth in the Creditor Trust Agreement, including, without limitation, the right to: effect all actions and execute all agreements, instruments, and other documents necessary to implement the provisions of the Plan and the Creditor Trust Agreement; (ii) liquidate all assets held by the Creditor Trust; (iii) exercise all Litigation Rights; (iv) make distributions in respect of Allowed Class 3 and Class 4 Claims and all other Claims that become Allowed Claims subsequent to the Effective Date in accordance with the priorities established in the Plan; (v) address any Disputed Claims and establish any reserves therefor, and any other reserves as may be required; and (vi) employ and compensate professionals and other agents, *provided, however*, that any such compensation shall be made only out of the Creditor Trust Assets. Except for determinations of the Allowed amount of any Disputed Claims, the Creditor Trustee shall not be required to obtain further approval of the Bankruptcy Court in exercising such rights and powers.

(f) Preservation of Rights of Action. Subject to Section 11.10 and except as otherwise provided in the Plan or the Confirmation Order, or in any contract, instrument, or other agreement entered into pursuant to the Plan, on the Effective Date, all Litigation Rights against any Person shall be conveyed to, and vested in, the Creditor Trust. The Creditor Trustee shall retain and may in his/her sole discretion, enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all such Litigation Rights, with all proceeds therefrom to become Creditor Trust Assets and distributed in accordance with the Plan. The Creditor Trustee may pursue such retained Litigation Rights as appropriate, in accordance with applicable law and the best interests of the Creditor Trust beneficiaries, and consistent with the terms of the Plan. The Creditor Trustee shall investigate and may choose to pursue chapter 5 causes of action (which are included in the Litigation Rights), including avoidance actions under Sections 544, 547 and 548 of the Bankruptcy Code. Potential defendants to such avoidance actions include all persons and entities who have not been released from liability pursuant to prior order of the Bankruptcy Court, and who (i) received transfers of money or other property from the Debtors that may be avoidable under Section 547(b) of the Bankruptcy Code, or (ii) received transfers of money or property from the Debtors that may be avoidable under Sections 544 or 548 of the Bankruptcy Code, including those parties listed in Section 3 of the Debtors' respective Statements of Financial Affairs filed with the Bankruptcy Court (docket nos. 103 and 104).

(g) Tax Treatment. The Creditor Trust Agreement shall provide that the Creditor Trustee may pay taxes from the Creditor Trust Assets as appropriate. In addition, the Creditor Trust Agreement will require consistent valuation of the property contributed to the Creditor Trust by the Creditor Trustee and the beneficiary-Creditors for all federal income tax purposes. The Creditor Trust is intended to be treated for federal income tax purposes as a liquidating trust for the benefit of Creditors or claimants within the meaning of Treasury Regulations Section 301.7701-4(d) and in accordance with IRS Revenue Procedure 94-45, and, as a grantor trust under Section 677 of the Internal Revenue Code of 1986, as amended. Accordingly, the distributions to the Creditor Trust in respect of holders of Allowed Claims shall be treated for all purposes of the Internal Revenue Code as (i) a transfer of such distribution to such Creditors who are the beneficiaries of the Creditor Trust; and (ii) a transfer to the Creditor Trust by the beneficiary-Creditors, who will be treated as the grantors and deemed owners of the Creditor Trust Assets. The Creditor Trustee shall be responsible for filing all federal, state, and local tax returns for the Creditor Trust as a grantor trust pursuant to applicable Treasury Regulations, and any income of the Creditor Trust will be treated as subject to tax on a current basis. Subject to the receipt of any definitive guidance of the IRS or an order from the Bankruptcy Court, the Distribution Reserve established under Section 8.4 of this Plan shall be treated as a disputed ownership fund pursuant to Proposed Treasury Regulation Section 1.468B-9. As such, the Creditor Trustee shall act as the "administrator" of the Distribution Reserve and shall report and pay any taxes on its income. The Distribution Reserve shall be subject to the continuing jurisdiction of the Bankruptcy Court. No money or other property shall be distributed to any Person holding a Disputed Claim except to the extent that such Disputed Claim becomes an Allowed Claim pursuant to the Plan.

(h) Investment Authority. The Creditor Trust Agreement will limit the investment powers of the Creditor Trustee in accordance with IRS Revenue Procedure 94-45 and require the Creditor Trust to distribute at least annually to the beneficiary-Creditors (as such may have been determined at such time) its net income (net of Taxes paid, if any), except for amounts retained

as reasonably necessary to maintain the value of the Creditor Trust Assets or to meet claims and contingent liabilities.

(i) Fees and Expenses of the Creditor Trust. Except as otherwise ordered by the Bankruptcy Court, the amount of any fees and expenses incurred by the Creditor Trust on or after the Effective Date shall be paid in accordance with the Creditor Trust Agreement, without the need for any professionals retained by the Creditor Trustee to file any fee applications or obtain the Court's approval.

(j) Indemnification. The Creditor Trust Agreement may include reasonable and customary indemnification provisions and any such indemnification shall be the sole responsibility of, and be paid by, the Creditor Trust.

(k) Reports to be Filed by the Creditor Trust. The Creditor Trustee shall file with the Bankruptcy Court quarterly operating reports regarding the liquidation or other administration of property comprising the Creditor Trust Assets, the distributions made by it, and other matters required to be included in such report in accordance with the Creditor Trust Agreement.

(l) Termination. The Creditor Trust Agreement provides that termination of the trust shall occur no later than five (5) years after the Effective Date, unless the Bankruptcy Court shall approve an extension based upon a finding that such an extension is necessary for the Creditor Trust to complete its purpose.

5.2 Liquidation of the Debtors.

(a) The Debtors shall be deemed to have been liquidated and dissolved as of the Debtors' Dissolution Date. All Interests in the Debtors shall automatically be cancelled and extinguished as of the Effective Date without the need for any further action by the Bankruptcy Court or any entity.

(b) Notwithstanding the foregoing, as soon as practicable after the Effective Date, the Creditor Trustee shall, on behalf of the Debtors: (i) complete and file the Debtors' final federal, state and local tax returns, and pursuant to Section 505(b) of the Bankruptcy Code, request an expedited determination of any unpaid tax liability of the Debtors or their Estates for any tax incurred during the administration of the Debtors' Chapter 11 cases, as determined under applicable tax laws, and (ii) file certificates of dissolution, together with all other necessary corporate documents, to effect the Debtors' dissolution under the applicable laws of their state of organization (the foregoing tasks described in (i) and (ii) of this section being collectively referred to as the "**Dissolution Activities**"). The filing of certificates of dissolution of the Debtors shall be authorized and approved in all respects without further action under applicable law, regulation, order, or rule, including, without limitation, any action by the stockholders, members or the board of directors of the Debtors.

(c) Following completion of the purposes for which the Creditor Trust is created, the Creditor Trustee shall be authorized to request that the Bankruptcy Court issue a final decree closing the Debtors' cases.

5.3 Cancellation of Interests. On the Effective Date, except as otherwise provided for herein, the Interests and any other note, bond, or indenture evidencing or creating any indebtedness or obligation of the Debtors shall be cancelled and deemed terminated.

5.4 Exemption From Certain Transfer Taxes. Pursuant to Section 1146(a) of the Bankruptcy Code, any transfers from the Debtors or the Creditor Trust to any Person pursuant to the Plan in the United States shall not be taxed under any law imposing a stamp tax or other similar tax. Such exemption specifically applies, without limitation, to all documents necessary to evidence and implement distributions under the Plan.

ARTICLE VI.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

6.1 Assumed Executory Contracts and Leases. Except as otherwise provided in the Plan, or in any contract, instrument, or other agreement or document entered into in connection with the Plan, as of the Effective Date, each of the Debtors shall be deemed to have rejected each executory contract and unexpired lease to which they are a party unless such contract or lease (i) was previously assumed and assigned to the Buyer or rejected by the Debtors, or (ii) previously expired or terminated pursuant to its own terms. The Confirmation Order shall constitute an order of the Bankruptcy Court under Section 365(a) of the Bankruptcy Code approving the contract and lease rejections described above, as of the Effective Date.

6.2 Rejected Contracts and Leases. The Debtors believe that all executory contracts and leases have previously either been rejected or assumed and assigned to the Buyer. However, if the Debtors become aware of an existing executory contract or unexpired lease that has not been previously rejected or assumed and assigned to the Buyer, the Debtors reserve the right, at any time prior to the Effective Date, except as otherwise specifically provided herein, to seek to assume or reject any executory contract or unexpired lease to which the Debtors are a party and to file a motion requesting authorization for the assumption or rejection of any such executory contract or unexpired lease. Any executory contracts or unexpired leases that expire by their terms prior to the Effective Date are deemed to be rejected, unless previously assumed or otherwise disposed of by the Debtors.

6.3 Claims Arising From Rejection. All Allowed Claims arising from the rejection of an executory contract or unexpired lease shall be treated as General Unsecured Claims pursuant to Section 3.3(a) of this Plan unless otherwise ordered by Final Order of the Bankruptcy Court; and all other Allowed Claims relating to an executory contract or unexpired lease shall have such status as they may be entitled to under the Bankruptcy Code as determined by Final Order of the Bankruptcy Court.

ARTICLE VII.

PROVISIONS GOVERNING DISTRIBUTIONS

7.1 Distributions for Certain Claims Allowed as of Effective Date. Except as otherwise provided herein or as ordered by the Bankruptcy Court, all distributions to holders of

Administrative Claims, Secured Claims, Other Priority Claims, and Priority Tax Claims that are Allowed Claims as of the Effective Date shall be made by the Creditor Trustee as soon as practicable after the Effective Date, but in any case no later than ten (10) Business Days after the Effective Date.

7.2 Distributions for All Other Claims. Except as otherwise provided herein or as ordered by the Bankruptcy Court, all distributions to holders of Allowed Claims in Classes 3 and 4, and all other Claims that become Allowed Claims subsequent to the Effective Date, shall be made by the Creditor Trustee on the applicable Distribution Date, or as soon as practicable thereafter. The Creditor Trustee shall have the right, in his/her sole discretion, to accelerate any such Distribution Date occurring after the Effective Date if the facts and circumstances so warrant.

7.3 Interest on Claims. Unless otherwise specifically provided for in the Plan or the Confirmation Order, post-Petition Date interest shall not accrue or be paid on Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim.

7.4 Designation; Distributions by Disbursing Agent.

(a) The Creditor Trustee, in his/her sole discretion, may act as Disbursing Agent with respect to all distributions to be made in accordance with Section 7.2 of this Plan, or may designate a Disbursing Agent under the Plan.

(b) Unless otherwise provided herein, the Disbursing Agent shall make all distributions required to be made in accordance with Section 7.2 of this Plan on the respective Distribution Date under the Plan.

(c) If the Disbursing Agent is an independent third party designated by the Creditor Trustee to serve in such capacity, such Disbursing Agent shall receive from the Creditor Trust reasonable compensation as agreed by the Creditor Trustee for distribution services rendered pursuant to the Plan and reimbursement of reasonable out of pocket expenses incurred in connection with such services. No Disbursing Agent shall be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

7.5 Means of Cash Payment. Cash payments made pursuant to the Plan shall be in United States dollars, by the means agreed by the payor and the payee, including by check or wire transfer or, in the absence of an agreement, such commercially reasonable manner as the payor shall determine in its sole discretion.

7.6 Delivery of Distributions. Distributions to holders of Allowed Claims shall be made by the Disbursing Agent (a) at the addresses set forth on the Proofs of Claim filed by such holders (or at the last known addresses of such holders if no Proof of Claim is filed or if the Debtors have been notified of a change of address), (b) at the addresses set forth in any written notices of address changes delivered to the Disbursing Agent after the date of filing of any related Proof of Claim, or (c) at the addresses reflected in the Schedules if no Proof of Claim has been filed and the Disbursing Agent has not received a written notice of a change of address. Distributions shall be deemed complete upon delivery of such distributions as set forth above. If any holder's distribution is returned as undeliverable (or any distribution check is not cashed, notwithstanding

whether or not it is returned), the distribution will be considered undeliverable and no further distributions to such holder shall be made unless and until the Disbursing Agent is notified of such holder's then current address, at which time all missed distributions shall be made to such holder without interest. Amounts in respect of undeliverable distributions made by the Disbursing Agent shall be returned to the Creditor Trust and segregated from other Creditor Trust Assets until such distributions are claimed within the time limit set forth herein. All claims for undeliverable distributions must be made on or before the six (6) month anniversary of the Distribution Date, after which date such undeliverable distributions shall revert to the Creditor Trust free of any restrictions thereon and the claims of any holder or successor to such holder with respect to such property shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. All undeliverable distributions that have been unclaimed within the time limit specified herein shall revert to the Creditor Trust and become a part of the Creditor Trust Assets to be redistributed in accordance with the terms of the Creditor Trust. In the event of a timely claim for an unclaimed distribution, the Disbursing Agent shall make such distribution pursuant to the Plan. Nothing contained in the Plan shall require the Debtors or any Disbursing Agent to attempt to locate any holder of an Allowed Claim.

7.7 Withholding and Reporting Requirements. In connection with the Plan and all distributions hereunder, the Disbursing Agent shall, to the extent applicable, comply with all tax withholding and reporting requirements imposed by any federal, state, provincial, local, or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Disbursing Agent shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements. Notwithstanding any other provision of the Plan, (a) each holder of an Allowed Claim that is to receive a distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding, and other tax obligations, on account of such distribution, and (b) no distribution shall be made to or on behalf of such holder pursuant to the Plan unless and until such holder has made arrangements or provided assurance satisfactory to the Disbursing Agent that all such tax obligations will be satisfied. Any property to be distributed pursuant to the Plan shall, pending the implementation of such arrangements or provision of assurance, be treated as an undeliverable distribution pursuant to Section 7.6 of the Plan.

7.8 Setoffs. The Creditor Trustee may, but shall not be required to, set off against any Claim, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, claims of any nature whatsoever that the Debtors may have against the holder of such Claim; provided, however, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Creditor Trust of any such claim that the Debtors or the Creditor Trust may have against such holder.

7.9 Prepayment. Except as otherwise provided in the Plan, any ancillary documents entered into in connection herewith, or the Confirmation Order, the Debtors or the Creditor Trustee shall have the right to prepay, without penalty, all or any portion of an Allowed Claim at any time; provided, however, that any such prepayment shall not be violative of, or otherwise prejudice, the relative priorities and parities among the Classes of Claims.

7.10 Allocation of Distributions. All distributions received under the Plan by holders of Claims shall be deemed to be allocated first to the principal amount of such Claim as determined for United States federal income tax purposes and then to accrued interest, if any, with respect to such Claim.

7.11 De Minimus Distributions. The Creditor Trustee shall not make distributions to the extent that any distribution to be made on an Allowed Claim is less than \$25, or in the sole discretion of the Creditor Trustee, distributions less than \$25 may be withheld until a later Distribution Date on which the cumulative amount to be distributed is equal to or greater than \$25.

ARTICLE VIII.

PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT, AND UNLIQUIDATED CLAIMS AND DISTRIBUTIONS WITH RESPECT THERETO

8.1 Objection Deadline. All objections to Disputed Claims shall be filed and served upon the holders of each such Claim not later than the Claims Objection Deadline unless otherwise ordered by the Court after notice and a hearing.

8.2 Prosecution of Objections to Claims.

(a) Objections to Claims. If an objection has not been filed to a Proof of Claim or a scheduled Claim by the Claims Objection Deadline, the Claim to which the Proof of Claim or scheduled Claim relates shall be treated as an Allowed Claim if such Claim has not been allowed earlier. From and after the Effective Date, the Creditor Trustee may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code, regardless of whether any party has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event the Bankruptcy Court so estimates any contingent or unliquidated Claim, that estimated amount shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Creditor Trustee may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned Claims objection, estimation, and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanisms.

(b) Authority to Prosecute Objections. After the Effective Date, only the Creditor Trustee shall have the authority to file objections to Claims and to settle, compromise, withdraw, or litigate to judgment objections to Claims.

8.3 Treatment of Disputed Claims. Notwithstanding any other provisions of the Plan, no payments or distributions shall be made on account of a Disputed Claim or, if less than the entire

Claim is a Disputed Claim, the portion of a Claim that is Disputed, until such Claim becomes an Allowed Claim.

8.4 Reserve for Payment of Disputed Claims. On and after the Effective Date, the Creditor Trustee shall hold in the Distribution Reserve an aggregate amount of Cash sufficient to pay to each holder of a Disputed Claim the amount that such holder would have been entitled to receive under the Plan if the full amount of the Disputed Claim had been Allowed as of the Effective Date. With regard to unliquidated Claims, the Creditor Trustee will hold in the Distribution Reserve an aggregate amount of Cash sufficient to pay to each holder of an unliquidated Claim the amount that such holder would have been entitled to receive under the Plan if the amount reasonably estimated by the Creditor Trustee as the maximum reasonable allowable amount of such Claim had been Allowed as of the Effective Date. In making such reserves, the Creditor Trustee may rely on the Debtors' estimates and neither the Debtors nor the Creditor Trustee will have any liability therefor. If, following the Effective Date, all or any portion of a Disputed Claim becomes an Allowed Claim, the Creditor Trustee shall distribute from the Distribution Reserve to the holder of such Allowed Claim, on the next applicable Distribution Date, the amount of Cash which the holder of the Allowed Claim is entitled to receive in accordance with the terms of the Plan or the Creditor Trust Agreement. At such time as all or a portion of a Disputed Claim is disallowed pursuant to a Final Order, the amount that would have been distributed on account of the disallowed portion of the Disputed Claim shall be released from the Distribution Reserve and become part of the Available Cash to be distributed in accordance with the terms of the Creditor Trust Agreement.

ARTICLE IX.

CONDITIONS PRECEDENT TO AND CONSUMMATION OF THE PLAN

9.1 Conditions to Effective Date. The following conditions precedent must be satisfied or waived on or prior to the Effective Date:

(a) the Confirmation Order shall have been entered, and shall, among other things, be in form and substance acceptable to the Debtors and the Committee and provide that the Debtors and the Creditor Trustee, respectively, to the extent provided in the Plan, are authorized and directed to take all actions necessary or appropriate to enter into, implement, and consummate the contracts, instruments, and other agreements or documents created in connection with the Plan;

(b) the Confirmation Order shall not have been stayed, vacated, or reversed; and

(c) all material actions, documents, and agreements necessary to implement the Plan shall have been effected or executed.

ARTICLE X.

RETENTION OF JURISDICTION

10.1 Scope of Retention of Jurisdiction. Under Sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective

Date, and except as otherwise ordered by the Bankruptcy Court, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Case and the Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

(a) allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim or Interest not otherwise Allowed under the Plan (other than personal injury or wrongful death Claims, unless agreed by the holder), including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance or priority of Claims or Interests;

(b) hear and determine all applications for compensation and reimbursement of expenses of Professionals under the Plan or under Sections 327, 328, 330, 331, 503(b), 1103, and 1129(a)(4) of the Bankruptcy Code; provided, however, that from and after the Effective Date, the payment of the fees and expenses of the retained professionals of the Creditor Trust shall be made in the ordinary course without the need to file any fee applications or obtain Court approval.

(c) hear and determine all matters with respect to the assumption 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, including, if necessary, the liquidation or allowance of any Claims arising therefrom;

(d) effectuate performance of and payments under the provisions of the Plan;

(e) hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Chapter 11 Case or the Litigation Rights;

(f) enter such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, and other agreements or documents created in connection with the Plan or the Confirmation Order;

(g) hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including disputes arising under agreements, documents, or instruments executed in connection with the Plan;

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

(i) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person with the implementation, consummation, or enforcement of the Plan or the Confirmation Order;

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

(k) hear and determine any matters arising in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, or other agreement or document created in connection with the Plan, the Disclosure Statement, or the Confirmation Order;

(l) enforce all orders, judgments, injunctions, exculpations, indemnifications, and rulings entered in connection with the Chapter 11 Case;

(m) except as otherwise limited herein, hear and determine all proceedings to recover all assets of the Debtors and property of the Estates, wherever located;

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

(o) hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code; and

(p) enter a final decree closing the Chapter 11 Case.

10.2 Failure of the Bankruptcy Court to Exercise Jurisdiction. If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Case, including the matters set forth in Section 10.1 of the Plan, the provisions of this Article X shall have no effect upon and shall not control, prohibit, or limit the exercise of any other court having jurisdiction with

ARTICLE XI.

MISCELLANEOUS PROVISIONS

11.1 Professional Fee Claims; Expense Reimbursements. All requests for payment of Professional Fee Claims for services rendered prior to the Effective Date pursuant to Sections 327, 328, 330, 331, 503(b), or 1103 of the Bankruptcy Code must be filed and served on the Creditor Trustee, counsel for the Debtors, and other necessary parties-in-interest no later than sixty (60) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to such requests for payment must be filed and served on the Creditor Trustee, the counsel for the Debtors, and the requesting Professional or other Person no later than twenty one (21) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable request for payment was filed.

11.2 Administrative Claims. All requests for payment of an Administrative Claim (other than as set forth in Section 11.1 of the Plan) arising prior to June 5, 2018 must be filed with the Bankruptcy Court and served on counsel for the Debtors and the Creditor Trustee on or before July 5, 2018. All requests for payment of an Administrative Claim (other than as set forth in Section 11.1 of the Plan) arising after June 5, 2018, must be filed with the Bankruptcy Court and served on counsel for the Debtors and the Creditor Trustee no later than thirty (30) days after the Effective Date. Unless the Debtors or the Creditor Trustee objects to an Administrative Claim within thirty (30) days after its filing, such Administrative Claim shall be deemed Allowed in the

amount requested. In the event that the Debtors or the Creditor Trustee objects to an Administrative Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim.

11.3 Payment of Statutory Fees. All fees payable pursuant to Section 1930 of Title 28 of the United States Code, and any interest thereon, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or before the Effective Date. All such fees that arise after the Effective Date shall be paid by the Creditor Trust. The obligation of the Debtors to pay quarterly fees to the Office of the United States Trustee pursuant to Section 1930 of Title 28 of the United States Code, and any interest thereon, shall continue until such time as the Chapter 11 case is closed, dismissed or converted.

11.4 Intentionally Omitted.

11.5 Committee. As of the Effective Date, the Committee shall dissolve, and its members shall be released and discharged from all further authority, duties, responsibilities, and obligations relating to and arising from the Debtors' Chapter 11 Case. The retention and employment of the professionals retained by the Committee shall terminate as of the Effective Date.

11.6 The Debtors and their Professionals. On the Debtors' Dissolution Date, the Debtors shall be deemed to have been liquidated and dissolved in accordance with Section 5.2(a) and (b) of the Plan. The Debtors' Professionals shall be released and discharged from all further authority, duties, responsibilities, and obligations relating to and arising from the Debtors' Chapter 11 Cases. The employment of the Professionals retained by the Debtors shall terminate as of the Effective Date.

11.7 Modifications and Amendments. The Debtors may alter, amend, or modify the Plan under Section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date; provided, however, that any material modification will only be made upon the Committee's written consent. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in Section 1101(2) of the Bankruptcy Code, the Debtors may, under Section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, provided, however, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

11.8 Severability 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, at the request of the Debtors, shall have the power to alter or 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 valid and enforceable pursuant to its terms.

11.9 Successors and Assigns and Binding Effect. The rights, benefits, and obligations of any Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, personal representative, successor, or assign of such Person, including all parties-in-interest in the Chapter 11 Case.

11.10 Compromises and Settlements. From and after the Effective Date, the Creditor Trustee may compromise and settle Litigation Rights and other claims that the Creditor Trustee may have against other Persons without any further approval by the Bankruptcy Court. Until the Effective Date, the Debtors expressly reserve the right to compromise and settle (subject to the approval of the Bankruptcy Court) Claims and Litigation Rights or other claims that they may have against other Persons.

11.11 Injunction.

(a) Except as provided in the Plan or in the Confirmation Order, as of the Effective Date, all Persons that have held, currently hold, may hold, or allege that they hold, a Claim against the Debtors or other debt or liability of the Debtors are permanently enjoined from taking any of the following actions against the Creditor Trust or its property on account of any such Claims, debts, or liabilities (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff, right of subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors or the Creditor Trust; or (v) commencing or continuing any action, in each such case in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.

(b) As of the Effective Date, all Persons that have held, currently hold, or may hold, a Claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, or liability that is released or discharged pursuant to Section 11.12 of the Plan are permanently enjoined from taking any of the following actions on account of such Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action, or liabilities: (i) commencing or continuing, in any manner or in any place, any action or other proceeding; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance; (iv) asserting a setoff against any debt, liability, or obligation due to any released Person; or (v) commencing or continuing any action, in any manner, in any place, or against any Person that does not comply with or is inconsistent with the provisions of the Plan.

11.12 Exculpation and Limitation of Liability.

(a) The Debtors, the Committee, and their respective present or former members, officers, directors, employees, advisors, attorneys, professionals, and agents, shall not have or incur any liability to any holder of a Claim or an Interest, or any other party in interest, or any of their respective agents, employees, representatives, advisors, attorneys, or affiliates, or any of

their successors or assigns, for any act or omission in connection with, relating to, or arising out of, the filing or administration of the Chapter 11 Cases, the Sale, the formulation, negotiation, or implementation of the Plan, the solicitation of acceptances of the Plan to the extent provided by Section 1125(e) of the Bankruptcy Code, the pursuit of Confirmation of the Plan, the Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for acts or omissions which are the result of fraud, gross negligence, criminal conduct or ultra vires acts, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code, and in all respects shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

(b) Notwithstanding any other provision of the Plan, no holder of a Claim or an Interest, no other party in interest, none of their respective agents, employees, representatives, advisors, attorneys, or affiliates, and none of their respective successors or assigns shall have any right of action against the Debtors, the Committee, or any of their respective present or former members, officers, directors, employees, advisors, attorneys, professionals and agents, for any act or omission in connection with, relating to, or arising out of, the filing or administration of the Chapter 11 Cases, the Sale, the formulation, negotiation, or implementation of the Plan, solicitation of acceptances of the Plan to the extent provided by Section 1125(e) of the Bankruptcy Code, the pursuit of Confirmation of the Plan, the Confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for acts or omissions which are the result of fraud, gross negligence, criminal conduct or ultra vires acts, or willful misconduct or willful violation of federal or state securities laws or the Internal Revenue Code. Nothing in the Plan shall abrogate the applicability of any professional disciplinary rules.

11.13 Term of Injunctions or Stays. Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under Sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date.

11.14 Revocation, Withdrawal, or Non-Consummation. The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date and to file subsequent plans of liquidation. If the Debtors revoke or withdraw the Plan, or if Confirmation or the Effective Date does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan, the assumption or rejection of executory contracts or 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, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Interests in, the Debtors or any other Person, (ii) prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors, or (iii) constitute an admission of any sort by either Debtor or any other Person.

11.15 Notices. Any notice, request, or demand required or permitted to be made or provided to or upon the Debtors or the Creditor Trustee under the Plan shall be addressed to counsel for the Debtors and the Creditor Trustee as set forth below and be (a) in writing, (b) served by (i)

certified mail, return receipt requested, (ii) hand delivery, (iii) overnight delivery service, (iv) first class mail, or (v) facsimile transmission, and (c) deemed to have been duly given or made when actually delivered.

If to the Debtors:

James J. Henderson
THOMPSON HINE LLP
3900 Key Center
127 Public Square
Cleveland, OH 44114-1291
216.566.5800 (facsimile)

If to the Creditor Trustee:
[TO BE PROVIDED]

11.16 Intercompany Claims. All Intercompany Claims shall be disallowed and released on the Effective Date of the Plan.

11.17 Computation of Time. In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

11.18 Governing Law. Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of the State of New York shall govern the construction and implementation of the Plan and (except as may be provided otherwise in any such agreements, documents, or instruments) any agreements, documents, and instruments executed and/or delivered in connection with the Plan, without giving effect to the principles of conflicts of law thereof.

Dated: April 17, 2018

AGENT PROVOCATEUR, INC.

By: /s/ Amanda Brooks

Title: Director

AGENT PROVOCATEUR, LLC

By: Agent Provocateur, Inc., its sole member

By: /s/ Amanda Brooks

Title: Director

Respectfully submitted,

THOMPSON HINE LLP

By: /s/ Alan Lepene

Alan R. Lepene

Admitted Pro Hac Vice

Andrew L. Turscak, Jr.

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- and -

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Email:

William.Schrag@ThompsonHine.com

Attorneys for the Debtors

EXHIBIT A

CREDITOR TRUST AGREEMENT

This Creditor Trust Agreement (the “**Agreement**”), dated as of this ____ day of _____, among Agent Provocateur, Inc. (“**APINC**”) and Agent Provocateur, LLC (“**APLLC**” and together with APINC the “**Debtors**”), for and on behalf of their respective creditors (the “**Creditors**”) and _____, as Trustee (the “**Creditor Trustee**”), is executed in connection with the *Chapter 11 Plan of Liquidation of Agent Provocateur, Inc. and Agent Provocateur, LLC* dated _____, as the same may be amended, modified or supplemented (the “**Plan**”), filed in the Debtors’ jointly administered Chapter 11 cases, Case Nos. 17-10987 (MEW) and 17-10989 (MEW) in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”), which Plan provides for the formation of a liquidating creditor trust (the “**Creditor Trust**”) to resolve, liquidate, realize upon, and distribute certain of the Debtors’ assets, rights, claims and causes of action, including, without limitation, the Creditor Trust Assets, as successor to and representative of the Debtors’ bankruptcy estates (the “**Estates**”). All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Plan.

WITNESSETH

WHEREAS, on April 11, 2017, the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code;

WHEREAS, on _____, the Bankruptcy Court entered the Confirmation Order confirming the Plan;

WHEREAS, under the terms of the confirmed Plan, the Creditor Trust is to be established pursuant to this Agreement for the purpose of, *inter alia*, (a) administering and liquidating the Creditor Trust Assets for the benefit of the holders of Allowed Claims as of the Effective Date and all other Claims that become Allowed Claims subsequent to the Effective Date (collectively, the “**Beneficiaries**”), (b) resolving all Claims that are Disputed Claims as of the Effective Date, and (c) making all Distributions provided for under the Plan in respect of Allowed Claims as of the Effective Date and all other Claims that become Allowed Claims subsequent to the Effective Date;

WHEREAS, the Creditor Trust is intended to be treated for federal income tax purposes as a liquidating trust for the benefit of Creditors or claimants as grantors, with no objective or authority to continue or engage in the conduct of a trade or business, within the meaning of Treasury Regulations Section 301.7701-4(d) and in accordance with IRS Revenue Procedure 94-45, and, as a grantor trust under Title 26, Chapter 1, Subchapter J, Part I, subpart E of the Internal Revenue Code of 1986, as amended (the “**Tax Code**”); and

WHEREAS, pursuant to the Plan, the Committee has selected the person to serve as the Creditor Trustee, subject to the approval of the Bankruptcy Court, and, pursuant to the Plan, the Creditor Trustee has the right to designate a Disbursing Agent(s) in accordance with the terms hereof;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein and in the Plan, the Debtors and the Creditor Trustee agree as follows:

ARTICLE 1

PURPOSES OF THE TRUST

1.1 **Purpose of the Trust.** The Creditor Trust shall be established for the sole purpose of liquidating and administering the Creditor Trust Assets, in accordance with Treasury Regulation Section 301.7701-4(d), with no objective to continue or engage in the conduct of any trade or business. Accordingly, the Creditor Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the Creditor Trust Assets, make timely distributions as provided for herein and in the Plan and not unduly prolong the duration of the Creditor Trust. The liquidation of the Creditor Trust Assets may be accomplished, as more specifically provided for herein and in the Plan, through all appropriate means, including without limitation, the sale or liquidation of the Creditor Trust Assets (in whole or combination) or otherwise.

ARTICLE 2

ESTABLISHMENT OF THE TRUST

2.1 **Transfer of Creditor Trust Assets to the Creditor Trust.** Pursuant to the Plan, all of the Debtors' right, title and interest in and to the Creditor Trust Assets are irrevocably and absolutely transferred, assigned, conveyed and delivered to the Creditor Trustee and are automatically and irrevocably vested in the Creditor Trust on and as of the Effective Date, without further action on the part of the Debtors or the Creditor Trustee, and with no reversionary interest in the Debtors, free and clear of all liens, claims, charges, encumbrances and other interests of any kind or nature whatsoever, and such transfer is made on behalf, and for the benefit, of the Beneficiaries (whether such Beneficiaries' Claims are Allowed Claims on or after the Effective Date of the Plan), to establish the Creditor Trust. To the extent any law or regulation prohibits the transfer of ownership of any of the Creditor Trust Assets from the Debtors to the Creditor Trustee and such law is not superseded by the Bankruptcy Code, the Creditor Trustee's interest shall be a Lien upon and security interest in such Creditor Trust Assets, to be held in trust, nevertheless, for the sole use and purpose set forth herein. The Debtors hereby grant such security interest to the Creditor Trustee for such purpose, and this Agreement shall be deemed a security agreement granting such security interest thereon. All of the Debtors' right, title and interest in and to any attorney-client privilege and work product privilege that attach to communications or work product that are relevant to any litigation prosecuted by the Creditor Trustee are hereby vested and preserved in the Creditor Trust. By executing this Agreement, the Creditor Trustee hereby accepts all of such property as the Creditor Trust Assets, to be held in trust for the Beneficiaries, subject to the terms of this Agreement and the Plan.

2.2 Title to the Creditor Trust Assets.

(a) The transfer of the Creditor Trust Assets to the Creditor Trust shall be made by the Debtors for the benefit and on behalf of the Beneficiaries. In this regard, the Creditor Trust Assets will be treated for all purposes, including tax purposes, as being transferred

(subject to all Allowed Claims, whether such Claims are Allowed Claims on or after the Effective Date) by the Debtors to the Beneficiaries, and then by such Beneficiaries to the Creditor Trust in exchange for beneficial interests (the “**Creditor Trust Interests**”) in the Creditor Trust for the benefit of such holders in accordance with the Plan. The Distributions of the Creditor Trust Interests among the Beneficiaries shall be based on the Allowed amount of such Beneficiaries’ Claims. Upon the transfer of the Creditor Trust Assets, the Creditor Trustee shall succeed to all of the Debtors’ right, title and interest in and to the Creditor Trust Assets, free and clear of all liens, claims, charges, encumbrances and other interests whatsoever but subject to the terms of the Plan, the Confirmation Order and this Agreement, and the Debtors will have no further interest, legal, equitable or otherwise, in or with respect to the Creditor Trust Assets or this Creditor Trust.

(b) For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Creditor Trustee, and the Beneficiaries) shall treat the transfer of the Creditor Trust Assets to the Creditor Trust, as set forth in this Section 2.2 and in accordance with the Plan, as a transfer of the Creditor Trust Assets to the Beneficiaries, followed by a transfer of such assets by the Beneficiaries to the Creditor Trust, and the Beneficiaries shall be treated as the grantors and owners of their respective shares in the Creditor Trust Assets.

2.3 **Valuation of Creditor Trust Assets.** As soon as practicable after the Effective Date, but in no event later than one hundred twenty (120) days thereafter, the Creditor Trustee shall (a) make a good faith determination, in reliance upon such professionals as the Creditor Trustee may retain, of the fair market value of the Creditor Trust Assets transferred to the Creditor Trust, and (b) apprise the holders of the Creditor Trust Interests in writing of such valuation. The valuation shall be used consistently by all parties and Persons (including, without limitation, the Debtors, the Creditor Trustee, and the Beneficiaries) for all federal income tax purposes.

2.4 **Appointment of the Creditor Trustee.** The Committee has appointed and constituted _____ as the Creditor Trustee pursuant to the terms set forth in the engagement letter (the “**Engagement Letter**”) attached hereto as Exhibit A.

2.5 **The Creditor Trust Advisory Board.**

(a) The Committee has appointed _____ to serve as members of the Creditor Trust Advisory Board.

(b) The Trust Advisory Board shall select from its Members a chairperson pursuant to the terms and conditions of by-laws adopted by the Trust Advisory Board as amended from time to time. Each of the foregoing initial Members of the Trust Advisory Board shall execute and deliver a written acceptance of such position in the form of Exhibit B attached hereto. Members of the Trust Advisory Board may be organizations or other Persons (as defined in this Agreement) and each such organization or Person shall be permitted to designate representatives to act on its behalf and to change such representative from time to time. Any Member(s) may (i) resign upon thirty (30) days’ prior written notice to the Creditor Trustee and the other Members of the Trust Advisory Board, and/or (ii) be removed for cause by the Beneficiaries holding the majority of the beneficial interests in the Creditor Trust. The

remaining Members of the Trust Advisory Board may (but shall not be required to) select a replacement Member(s) who shall have been a member(s) of the Committee, provided, however, that if no member of the Committee is willing to serve, then the replacement Member(s) shall be chosen from the holders of Allowed Class 4 Claims. Selection of the replacement Member(s) and other actions of the Trust Advisory Board shall be by majority vote. If there is one remaining Trust Advisory Board Member and such Member resigns or otherwise ceases to serve as a Member, the Creditor Trustee shall designate the successor Member(s) who shall have been a member(s) of the Committee, provided, however, that if no member of the Committee is willing to serve, then the replacement Member(s) shall be chosen from the holders of Allowed Class 4 Claims. Members of the Trust Advisory Board shall be entitled to reimbursement of all reasonable and necessary expenses incurred by them in carrying out the purpose of the Trust Advisory Board in accordance with this Agreement. Reimbursement of reasonable and necessary expenses to Members of the Trust Advisory Board may occur upon submission of requests for reimbursement to the Creditor Trustee.

(c) The Trust Advisory Board's chairperson shall be charged with the responsibility of scheduling, arranging for minutes to be kept, and overseeing administration of all Trust Advisory Board matters, unless otherwise delegated. Members of the Trust Advisory Board shall not participate in, and shall abstain from, any discussion of or vote with respect to matters in which such Member has a personal interest (including, but not limited to, the sale of any Trust Asset to a Member or its affiliates), or litigation involving such Trust Advisory Board Member.

(d) The Trust Advisory Board may adopt such by-laws as it may deem appropriate.

(e) Except as otherwise specifically provided herein, Trust Advisory Board Members shall not be held personally liable for any claim asserted against the Creditor Trust, the Creditor Trustee, the Creditor Trustee's employees, the Trust Advisory Board's employees, any of the Creditor Trustee's professionals or representatives, or any of the Trust Advisory Board's professionals or representatives. Without limiting the generality of the foregoing, Members of the Trust Advisory Board shall not be liable for any error of judgment made in good faith, or with respect to any action taken or omitted to be taken in good faith, except for actions or omissions to act that are due to gross negligence, willful misconduct, or fraud.

(f) Members of the Trust Advisory Board shall be and hereby are exculpated by all persons from any and all claims, causes of action and other assertions of liability arising out of the discharge of the powers and duties conferred upon such Members or any of such Members' professionals or representatives by this Agreement or applicable law or otherwise, except for actions or omissions to act that are due to gross negligence, willful misconduct, or fraud. The Creditor Trust shall indemnify, defend and hold harmless the Members of the Trust Advisory Board and their professionals or representatives from and against any and all claims, causes of action, liabilities, obligations, losses, damages or reasonable expenses (including reasonable attorneys' fees and expenses), except for such Members' or such professionals' or representatives' gross negligence, willful misconduct or fraud, to the fullest extent permitted by applicable law.

(g) Upon certification by the Creditor Trustee that all Creditor Trust Assets have been liquidated, distributed, abandoned, or otherwise disposed of, the Members of the Trust Advisory Board shall resign their positions, whereupon they shall be discharged from further duties and responsibilities.

(h) Commencing sixty (60) days after the Effective Date, the Creditor Trustee shall report to the Trust Advisory Board on at least a semi-annual basis. The Creditor Trustee shall provide such report as soon as reasonably practicable after the end of each six month interval. The Creditor Trustee and the Trust Advisory Board may subsequently agree that the Creditor Trustee shall report on the basis of other periods. The Creditor Trustee's reports to the Trust Advisory Board shall set forth (i) the status and/or disposition by the Creditor Trustee of Creditor Trust Assets during the prior six month period, or for such other agreed to period, including the disposition of funds in the Creditor Trust; (ii) an itemization of all expenses the Creditor Trustee anticipates will become due and payable during the period that the Creditor Trustee's next report will cover; and (iii) the status of all material matters affecting the Creditor Trust and such other information as is requested by the Trust Advisory Board. Copies of such reports shall be filed with the Bankruptcy Court.

(i) The Trust Advisory Board may:

- (1) remove the Creditor Trustee in its discretion and designate a person to serve as successor Creditor Trustee consistent with Sections 5.12 and 5.14 herein; and
- (2) approve the Creditor Trustee's exercise of any power enumerated in Section 3.1 that requires approval of the Trust Advisory Board.

ARTICLE 3

AUTHORITY, POWERS AND DISTRIBUTIONS

3.1 **Authority of the Creditor Trustee.** The Creditor Trustee is hereby authorized and empowered to perform any and all acts necessary or desirable to accomplish the purposes of the Creditor Trust, including, without limitation, all of the obligations and agreements of the Creditor Trust and/or of the Creditor Trustee provided for in the Plan and herein. Without limiting, but subject to the foregoing and Section 3.2 hereof, the Creditor Trustee shall be expressly authorized, but shall not be required, to:

(a) Hold legal title to any and all assets and rights of the holders of the Creditor Trust Interests in or arising from the Creditor Trust Assets, including, without limitation, the right to vote any claim or interest in a case under the Bankruptcy Code and receive any distribution therein;

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

(c) Perform the duties, exercise the powers, and assert the rights of a trustee under Sections 704 and 1106 of the Bankruptcy Code, including, without limitation, commencing, prosecuting, abandoning, compromising, or settling Litigation Rights, enforcing contracts, addressing tax liabilities (by judicial proceedings or otherwise), and asserting claims, defenses, offsets and privileges;

(d) Satisfy, object to, estimate and reconcile any and all Claims or liabilities created, incurred or assumed (including tax liabilities) by the Creditor Trust;

(e) Pay all fees, costs and expenses and make all other payments relating to the Creditor Trust Assets;

(f) Keep and maintain appropriate deposit accounts in the name of the Creditor Trustee for the benefit of the Beneficiaries into which the Creditor Trustee shall deposit all Creditor Trust Assets consisting of Cash or Cash equivalents, including without limitation a separate deposit account for the benefit of the holders of Allowed Class 3 Claims (General Unsecured Claims Against Agent Provocateur LLC), until such Claims have been paid in full;

(g) Establish, keep and maintain the Distribution Reserve (as defined below in Article 4) for the benefit of the holders of all Disputed Claims;

(h) Account separately for and maintain a Distribution Reserve for each Disputed Claim until the Claim is an Allowed Claim or a Disallowed Claim;

(i) Retain and reasonably compensate (including on a *nunc pro tunc* basis prior to the Effective Date) professionals, including, without limitation, attorneys, accountants, advisors, experts, and other professionals, as well as employees and other third parties, necessary to assist the Creditor Trustee in carrying out its duties hereunder;

(j) Prepare and file on behalf of the Creditor Trust any and all tax information and returns and pay taxes, if any, properly payable by the Creditor Trust exclusively out of the Creditor Trust Assets;

(k) Invest any moneys held as part of the Creditor Trust, limited, however, to such investments that are consistent with the Creditor Trust's status as a liquidating trust within the meaning of Treasury Regulation Section 301.7701-4(d) and Rev. Proc. 94 45, 1994-2 C.B. 684;

(l) Obtain insurance coverage with respect to the liabilities and obligations of the Creditor Trustee under this Agreement (in the form of, among other things, errors and omissions policy or otherwise) and indemnification for the Creditor Trustee and others provided for in the Plan and in this Agreement;

(m) Make distributions in accordance with this Agreement and the Plan;

(n) Execute, acknowledge, file, record, and deliver any and all contracts, deeds, releases, or other instruments that are necessary or deemed by the Creditor Trustee to be consistent and advisable in connection with the performance of his duties;

(o) With the approval of the Trust Advisory Board, abandon in any commercially reasonable manner, including abandonment or donation (including, but not limited to, a part gift-part sale) to a charitable organization of the Creditor Trustee's choice or to any federal, state, or local government or any subdivision thereof of the Creditor Trustee's choice, any Trust Assets that the Creditor Trustee concludes are of no benefit to the Beneficiaries, or burdensome to the Creditor Trust;

(p) Enter into agreements with any governmental unit and seek a determination by a court of competent jurisdiction or a private letter ruling or expedited determination of taxes from the Internal Revenue Service or other agency with respect to any tax that has been or may be imposed upon the income or other receipt of the Creditor Trust and any account established and maintained under the terms of this Agreement; provided, however that the Creditor Trustee shall not be required to do so;

(q) Designate, in its sole discretion, a Disbursing Agent(s) to carry out the purposes provided in the Plan and this Agreement; and

(r) Take or refrain from taking any and all actions necessary to effectuate the purposes of this Creditor Trust.

3.2 **Limitation on Creditor Trustee's Authority.** Notwithstanding Section 3.1 hereof, the Creditor Trustee shall, prior to (a) settling, compromising or abandoning any Litigation Rights, (b) selling, liquidating, transferring or disposing of any Creditor Trust Assets valued in excess of \$_____, or (c) settling or compromising any Disputed Claim in an amount in excess of \$_____, procure the approval of the Trust Advisory Board. In the event the Trust Advisory Board fails to approve any of such foregoing actions, the Creditor Trustee shall not be authorized to undertake such action unless and until Bankruptcy Court approval is obtained. Any member of the Trust Advisory Board shall recuse itself from any deliberations concerning its claims against the Debtors and their Estates and/or the claims, if any, against it by the Debtors and their Estates.

3.3 **The Beneficiaries' Creditor Trust Interests.** The Creditors holding Allowed Claims as of the Effective Date shall be Beneficiaries, and holders of Disputed Claims as of the Effective Date shall become Beneficiaries upon the allowance of their Claims. The Beneficiaries shall have beneficial interests in the Trust Assets as provided in this Agreement and in accordance with their Classes' respective treatment provided in the Plan. Each Beneficiary's beneficial interest in the Creditor Trust shall be uncertificated, shall be reflected only on the records of the Creditor Trustee, and shall consist of a fraction of all distributions from the Creditor Trust, as described below.

3.4 **Distribution of the Beneficiaries' Creditor Trust Interests.** On each date that the Creditor Trustee sets for a distribution (each a "**Distribution Date**"), each holder of an Allowed Claim as of such date that is entitled to a distribution of Cash pursuant to the Plan will

receive a distribution on account of such Claim in an amount equal to the amount of Cash that such holder is entitled to receive under the terms of the Plan. Notwithstanding the foregoing, the Creditor Trustee shall not be required to make any distribution on any Distribution Date if the Creditor Trustee determines, in its sole and absolute discretion, that making such distribution would not be cost-efficient. Any distribution to a holder of a Claim that has not been made shall be retained for distribution on the next Distribution Date for which such distribution is cost-efficient, or such time as all Claims have been allowed or disallowed.

3.5 **Reporting Duties.** In addition to the reporting duties set forth in Section 2.5(h) and Section 8.2 hereof, the Creditor Trustee shall file tax information returns for the Creditor Trust as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a). The Creditor Trustee shall also file or cause to be filed any other statements, tax returns or disclosures relating to the Creditor Trust that are required by any governmental authority.

3.6 **Compliance with Laws.** Any and all distributions of Creditor Trust Assets shall be in compliance with the Plan and applicable laws, including, but not limited to, applicable federal and state securities laws.

ARTICLE 4 **DISTRIBUTION RESERVES**

4.1 **Distribution Reserves.** Pursuant to the Plan and as effected hereby, on the initial Distribution Date, and after making all distributions required to be made on such date under the Plan, separate reserves (each a “**Distribution Reserve**”) shall be established for, among other things, the payment or other satisfaction of Disputed Claims that become an Allowed Claim after the Effective Date, which Distribution Reserve shall be held in trust by the Creditor Trust for the benefit of the holders of the Creditor Trust Interests. The Creditor Trust shall reserve in Cash, for distribution on account of each Disputed Claim, (a) with respect to liquidated Claims, the amount that such holder would have been entitled to receive under the Plan if the full amount of the Disputed Claim asserted in a filed Proof of Claim or Administrative Claim had been allowed as of the Effective Date, or, with respect to unliquidated Claims, the amount that the holder would have been entitled to receive under the Plan if the amount reasonably estimated by the Creditor Trustee as the maximum reasonable allowable amount of such Claim had been allowed as the Effective Date, (b) such other amount or property as the Creditor Trustee and such holder of the Disputed Claim agree, or (c) such amount ordered by the Bankruptcy Court.

4.2 **Taxes on the Distribution Reserves.** Unless the Creditor Trustee determines otherwise in his or her sole and absolute discretion, the Creditor Trust shall pay, or cause to be paid, out of the funds held in a particular Distribution Reserve, any tax imposed by any federal, state, or local taxing authority on (i) any income related to any payments received by the Creditor Trust and deposited in any Distribution Reserve and (ii) on the income generated by the funds or property held in any Distribution Reserve. Such tax shall be computed as if each Distribution Reserve was a separate trust taxable on its income pursuant to Subparts A, B, C and D of Chapter 1, Part I, Subchapter J of the Tax Code, and on the basis that such trust has a basis in its interest in any Litigation Rights equal to the agreed value of zero. The Creditor Trust shall file, or cause to be filed, any tax or information return related to a Distribution Reserve that is required by any federal, state, or local taxing authority.

4.3 **Distribution of the Distribution Reserves.** Amounts in each Distribution Reserve, net of any taxes payable pursuant to Section 4.2 hereof shall be distributed as follows: If, following the Effective Date, all or any portion of a Disputed Claim becomes an Allowed Claim, the Creditor Trustee shall distribute from the Distribution Reserve, to the holder of such Allowed Claim, on the next applicable Distribution Date, the amount of Cash which the holder of the Allowed Claim is entitled to receive in accordance with the terms of the Plan and this Agreement. At such time as all or a portion of a Disputed Claim is disallowed pursuant to a Final Order, the amount that would have been distributed to the holder of such Disputed Claim shall be released from the Distribution Reserve and become available for distribution to the holders of Allowed Claims in accordance with the terms of the Plan and this Agreement.

4.4 **No Payment of Interest.** No interest shall accrue or be paid on the unpaid amount of any distribution paid on a Distribution Date in accordance with this Agreement and the Plan.

4.5 **Termination of Distribution Reserves.** Each Distribution Reserve shall be closed and extinguished by the Creditor Trustee when all distributions and other dispositions of Cash or other property required to be made hereunder and under the Plan will have been made in accordance with the terms hereunder and under the Plan. Upon closure of a Distribution Reserve, all Cash or other property remaining in that Distribution Reserve shall revert in and become the property of the Creditor Trust. All funds or other property that vests or reverts in the Creditor Trust pursuant to this section shall be applied in accordance with Section 3.4 of this Agreement.

ARTICLE 5

THE CREDITOR TRUSTEE

5.1 **Responsibilities of the Creditor Trustee.** The Creditor Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the Creditor Trust Assets, make timely distributions and not unduly prolong the duration of the Creditor Trust. In so doing, the Creditor Trustee will exercise its reasonable business judgment in liquidating the Creditor Trust Assets. The liquidation of the Creditor Trust Assets may be accomplished through the sale or liquidation of the Creditor Trust Assets (in whole or in combination), including, without limitation, the assignment of any Litigation Rights or through the prosecution or settlement of any or all Litigation Rights or otherwise. In connection therewith, the Creditor Trustee will have the power to prosecute for the benefit of the Creditor Trust all claims, rights and Litigation Rights transferred to the Creditor Trust, whether such suits are brought in the name of the Creditor Trust, the Creditor Trustee, the Debtors or otherwise. Any and all proceeds generated from such Creditor Trust Assets shall be the property of the Beneficiaries of the Creditor Trust. Except as expressly set forth herein or in the Plan, the Creditor Trustee shall have absolute discretion to pursue or not to pursue any and all Litigation Rights, as the Creditor Trustee determines are in the best interests of the holders of the Creditor Trust Interests and consistent with the purposes of the Creditor Trust, and the Creditor Trustee shall have no liability for the outcome of its decision. The Creditor Trustee may incur any reasonable and necessary expenses in liquidating, distributing, disposing and protecting the Creditor Trust Assets.

5.2 **Records of the Creditor Trustee.** The Creditor Trustee shall maintain accurate books and records including records of receipts and disbursements and other activity of the Creditor Trust, and the Trust Advisory Board and its duly authorized representatives shall have reasonable access to books and records of the Creditor Trust.

5.3 **Creditor Trustee Compensation.**

(a) In lieu of any commission or fees which may be fixed by applicable law for trustees or fiduciaries (and which are hereby waived by the Creditor Trustee), the Creditor Trustee shall receive compensation on such terms as approved by the Committee and agreed to by the Creditor Trustee as set forth in the attached Engagement Letter. Such compensation shall be paid solely from the Creditor Trust Assets and shall constitute administrative costs of the Debtors' Estates. In addition, the Creditor Trustee shall be entitled to reimbursement from the Creditor Trust Assets of all reasonable expenses and costs (including, without limitation, the fees, costs and expenses of the Creditor Trustee and its professionals, agents, representatives, and employees) to administer the Creditor Trust, distribute to the Beneficiaries the Creditor Trust Assets, litigate any Litigation Rights or take other actions contemplated herein or under the Plan.

(b) If the Cash in the Creditor Trust shall be insufficient to compensate and reimburse the Creditor Trustee, including, without limitation, any professionals or third parties retained by the Creditor Trustee, for any amounts to which they are entitled hereunder, the Creditor Trustee is hereby authorized to reduce to Cash that portion of the Creditor Trust Assets necessary so as to effect such compensation and reimbursement.

5.4 **Liability of the Creditor Trustee.** The Creditor Trustee shall not be personally liable for any claim asserted against the Creditor Trust or the Creditor Trustee, other than the failure to perform such duties and obligations as are specifically set forth in this Agreement, the Plan or the Confirmation Order; provided, however, the Creditor Trustee shall not be liable for any error of judgment made in good faith, or with respect to any action taken or omitted to be taken in good faith. Notwithstanding the foregoing, no provision of this Agreement shall be construed to relieve the Creditor Trustee from liability for its gross negligence, fraud or wilful misconduct.

5.5 **Indemnification.** Neither the Creditor Trustee, nor any of its professionals, duly designated agents or representatives, nor their respective employees, shall be liable for any act or omission of the Creditor Trustee or any such designee, agent, employee or representative, other than for acts or omissions resulting from such Person's willful misconduct, gross negligence or fraud. The Creditor Trustee may, in connection with the performance of its functions, and in its sole and absolute discretion, consult with attorneys, accountants, financial advisors and agents, and shall not be liable for any act taken, omitted to be taken, or suffered to be done in accordance with advice or opinions rendered by such professionals. Notwithstanding such authority, the Creditor Trustee shall be under no obligation to consult with attorneys, accountants, financial advisors or agents, and its determination to not do so shall not result in imposition of liability on the Creditor Trustee unless such determination is based on willful misconduct, gross negligence or fraud. The Creditor Trust shall defend, indemnify and hold harmless the Creditor Trustee and its designees, agents, representatives, professionals, and employees (the "**Creditor Trustee**

Indemnitees”) from and against and in respect of any and all liabilities, losses, damages, claims, costs and expenses, including, but not limited to, attorneys’ fees and costs (which shall be payable no less than monthly in arrears), arising out of or due to their actions or omissions, or consequences of such actions or omissions, with respect to the Creditor Trust or the implementation or administration of the Plan and this Agreement; provided, however, that no such defense or indemnification will be made to such Persons for such actions or omissions as a result of willful misconduct, gross negligence or fraud. As security for any amounts due and owing to the Creditor Trust and the Creditor Trustee Indemnitees hereunder, the Creditor Trust and the Creditor Trustee Indemnitees shall each have a Lien against the Creditor Trust Assets, which Lien(s) shall be prior to the rights of the Beneficiaries. The obligations of the Creditor Trust and the benefits to the Creditor Trustee and the Creditor Trustee Indemnities under this Section 5.5 shall survive the termination of this Agreement and/or the resignation or removal of the Creditor Trustee or a Creditor Trustee Indemnitee. To the fullest extent permitted by law, expenses to be incurred by the Creditor Trustee or a Creditor Trustee Indemnitee shall, from time to time, be advanced by, or on behalf of, the Creditor Trust prior to the final disposition of any matter upon receipt by the Creditor Trust of an undertaking by, or on behalf of, such Person to repay such amount if it shall be determined that the Person is not entitled to be indemnified under this Section.

5.6 **Expenses and Costs of Creditor Trustee.** Subject to Sections 5.3 and 5.5 hereof, the Creditor Trust Assets shall be subject to the claims of the Creditor Trustee, and the Creditor Trustee shall be entitled to reimburse itself out of any available Cash in the Creditor Trust, for its actual out-of-pocket expenses and against and from any and all loss, liability, claim, expense, cost or damage which the Creditor Trustee may sustain in good faith and without willful misconduct, gross negligence, or fraud in the exercise and performance of any of the powers and duties of the Creditor Trustee under this Agreement or under the Plan. If the Cash in the Creditor Trust shall be insufficient to compensate and reimburse the Creditor Trustee for any amounts to which it is entitled hereunder and if the Creditor Trustee shall be unable to borrow funds sufficient for such compensation and reimbursement in accordance with the terms of this Agreement, then the Creditor Trustee is hereby authorized to reduce to Cash that portion of the Creditor Trust Assets necessary to effectuate such compensation and reimbursement.

5.7 **No Commingling of Property.** The Creditor Trustee shall not commingle any of the Creditor Trust Assets with its own property or the property of any other Person.

5.8 **Claims Against the Creditor Trustee.** In accepting the Creditor Trust hereby created, the Creditor Trustee acts solely as Creditor Trustee hereunder, and all Persons having any claim against the Creditor Trustee in connection with its performance of its rights, powers and duties as such Creditor Trustee shall only look to the Creditor Trust Assets for payment or satisfaction thereof.

5.9 **Bond.** The Creditor Trustee shall serve without bond.

5.10 **Reliance by Creditor Trustee.** The Creditor Trustee may rely upon, and shall be fully protected, indemnified and held harmless pursuant to Section 5.5 hereof in acting or not acting upon, any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument, paper, spreadsheet, database or document to which it has no

reason to believe (a) that it is other than genuine, (b) that it has been signed or presented by parties other than those whose names or signatures appear thereon or therewith, or (c) in the case of digital facsimile transmissions, that it has been sent by a party other than the proper party or parties, in each case without obligation to satisfy itself that the same was given in good faith and without responsibility for errors in delivery, transmission or receipt. The Creditor Trustee may also rely as to the truth of statements and correctness of the facts and opinions expressed therein and shall be fully protected in acting or not acting thereon.

5.11 **Confidentiality.** The Creditor Trustee shall, during the period that it serves as Creditor Trustee under this Agreement and following the termination of this Agreement or following its removal or resignation hereunder, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any Person to which the Creditor Trust Assets relate or of which it has become aware in its capacity as Creditor Trustee.

5.12 **Removal of Creditor Trustee.** The Creditor Trustee may be removed, for cause, by a majority vote of the Trust Advisory Board upon a reasonable determination by the Trust Advisory Board that cause exists; provided, however, that the Creditor Trustee shall continue to serve as Creditor Trustee after its removal (and will continue to be compensated during such period in accordance with the then existing compensation agreement and will continue to be indemnified in accordance with the terms hereof) until such time when the appointment of a successor Creditor Trustee shall become effective pursuant to either Sections 5.14 and 5.15 hereof.

5.13 **Resignation of the Creditor Trustee.** The Creditor Trustee may resign as Creditor Trustee at any time by giving thirty (30) days prior written notice to the Trust Advisory Board; provided, however, that the Creditor Trustee shall continue to serve as Creditor Trustee after its resignation (and will continue to be compensated during such period in accordance with the then existing compensation agreement and will continue to be indemnified in accordance with the terms hereof) until such time when the appointment of a successor Creditor Trustee shall become effective pursuant to either Sections 5.13 and 5.14 hereof.

5.14 **Appointment of Successor Trustee.** In the event of the death, resignation, termination or removal of the Creditor Trustee, the Trust Advisory Board shall promptly appoint a successor Creditor Trustee within thirty (30) days of such death, resignation, termination, or removal. Every successor Creditor Trustee appointed hereunder shall execute, acknowledge and deliver to the Trust Advisory Board and to the predecessor Creditor Trustee an instrument accepting such appointment and the terms and provisions of this Agreement, and thereupon such successor Creditor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers and duties of the prior Creditor Trustee. Any successor Creditor Trustee shall be “disinterested” within the meaning of Section 101(14) of Title 11 of the United States Code as amended from time to time as applicable to Chapter 11 cases.

5.15 **Appointment of Successor upon Removal or Resignation; Trust Continuance.** If the Creditor Trustee is removed pursuant to Section 5.12 hereof or resigns pursuant to Section 5.13 and a Successor Trustee is not appointed or does not accept its appointment within sixty (60) days following such action, any holder of Creditor Trust Interests may petition any court of competent jurisdiction, including the Bankruptcy Court, for the

appointment of a Successor Trustee. Additionally, the death, incompetency, dissolution or resignation of the Creditor Trustee shall not operate to (a) terminate the Creditor Trust created by this Agreement, (b) revoke any existing agency created pursuant to the terms hereof, or (c) otherwise invalidate any action theretofore taken by the Creditor Trustee.

ARTICLE 6 **TERMINATION**

6.1 **Termination.** The duties, responsibilities and powers of the Creditor Trustee shall terminate after all Creditor Trust Assets, including, without limitation, the Litigation Rights transferred and assigned to the Creditor Trust or involving the Creditor Trustee on behalf of the Creditor Trust, are fully resolved, abandoned or liquidated and the Creditor Trust Assets have been distributed in accordance with the Plan and this Agreement. The Creditor Trust shall terminate no later than five (5) years from the Effective Date. However, if warranted by the facts and circumstances provided for in the Plan, and subject to the approval of the Bankruptcy Court upon a finding that an extension is necessary for the purpose of the Creditor Trust, the term of the Creditor Trust may be extended, one or more times for a finite period, based on the particular circumstances at issue; provided, however, that any such extension must be approved by the Bankruptcy Court within six (6) months prior to the beginning of the extended term with notice thereof to all of the known existing Beneficiaries of the Creditor Trust. Upon the occurrence of the termination of the Creditor Trust, the Creditor Trustee shall file with the Bankruptcy Court a report thereof, which report, absent an order requested within sixty (60) days of the filing of such report, shall be deemed to have the full effect of an order discharging the Creditor Trustee. The Creditor Trustee shall not unduly prolong the duration of the Creditor Trust and shall at all times endeavor to resolve, settle or otherwise dispose of all claims that constitute Creditor Trust Assets and to effect the distribution of the Creditor Trust Assets to the holders of the Creditor Trust Interests in accordance with the terms hereof and the Plan and terminate the Creditor Trust as soon as practicable. Upon termination of the Creditor Trust, the Creditor Trust Assets shall be fully distributed to the holders of Creditor Trust Interests, pursuant to the provisions hereof. If any Creditor Trust Assets are not duly claimed, such assets will be distributed to the holders' Creditor Trust Interests, Pro Rata, as defined in the Plan. Thereafter, if there are still Creditor Trust Assets not duly claimed, such assets will be disposed of in accordance with applicable law or under the Plan or as otherwise ordered by the Bankruptcy Court.

6.2 **Bankruptcy Court Order.** Apart from any other provision of this Agreement, the Creditor Trustee or any party in interest may apply to the Bankruptcy Court to terminate this Creditor Trust and the Creditor Trust may be terminated under such terms and conditions as the Bankruptcy Court may establish.

ARTICLE 7 **JURISDICTION**

7.1 **Unenforceable Provisions.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

7.2 **Bankruptcy Court Jurisdiction.** The Bankruptcy Court shall retain jurisdiction over this Agreement and the Creditor Trust established hereby, including, without limitation, the interpretation and enforcement of its provisions, the disposition and distribution of the Creditor Trust Assets, and the determination of all amendments, applications, controversies, claims or disputes with respect to this Agreement, the Creditor Trust and the Creditor Trust Assets.

ARTICLE 8 **MISCELLANEOUS**

8.1 **Intention to Establish Grantor Trust.** This Agreement is intended to create a grantor trust for federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Agreement may be amended to comply with such federal income tax laws, which amendments may apply retroactively.

8.2 **Reporting.**

(a) Under Bankruptcy Code Section 1145, the issuance of Creditor Trust Interests under the Plan shall be exempt from registration under the Securities Act of 1933 and applicable state and local laws requiring registration of securities. If the Creditor Trustee determines, with the advice of counsel, that the Creditor Trust is required to comply with the reporting requirements of the Securities and Exchange Act of 1934, as amended, or the Investment Company Act of 1940, as amended, then the Creditor Trustee shall take any and all actions to comply with such reporting requirements and file periodic reports with the Securities and Exchange Commission.

(b) The Creditor Trustee shall file post-Effective Date semi-annual reports in the format prescribed by the United States Trustee, and continue to pay quarterly fees due to the United States Trustee under 28 U.S.C. § 1930(a)(6), calculated on the basis of post-Effective Date disbursements, until the entry of a final decree or an order closing, converting or dismissing the Chapter 11 Case.

8.3 **Organization.** This Agreement is not intended to create and shall not be interpreted as creating an association, corporation, partnership or joint venture of any kind; it is intended as a trust, to be governed and construed in all respects as a trust.

8.4 **Principal Office.** The Creditor Trustee shall establish a principal office of the Creditor Trust by written notice to counsel for the Committee, which notice shall be filed with the Bankruptcy Court, no later than thirty (30) days after the Effective Date.

8.5 **Preservation of Privilege and Defenses.** Any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Creditor Trust shall vest in the Creditor Trustee and its representatives, and the Debtors and the Creditor Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges and available defenses. Any and all work-product created by on or behalf of the Creditor Trustee, its retained professionals (including, but

not limited to, its counsel), agents, representatives and employees shall be deemed confidential to the extent that such work-product is not protected by any applicable attorney work-product privilege.

8.6 **Books and Records.** The Creditor Trustee shall have the authority to take possession of all books, records and other information of the Debtors, including, but not limited to, all books, records and other information relating to the Litigation Rights. The Creditor Trustee shall not be obligated to maintain any such books and records and may abandon such documents and data described herein without any liability, the need for notice or Bankruptcy Court approval.

8.7 **Tax Identification Numbers.** The Creditor Trustee may require any Beneficiary to furnish to the Creditor Trustee its employer or taxpayer identification number as assigned by the Internal Revenue Service, and the Creditor Trustee may condition any distribution to a Beneficiary upon such receipt of such identification number and any other information required for the Creditor Trustee to comply with Internal Revenue Service requirements.

8.8 **Reliance on Creditor Trustee's Authority.** No entity or other person dealing with the Creditor Trustee with reference to the Creditor Trust Assets or the Creditor Trust, if acting in good faith, shall be required to ascertain the authority of the Creditor Trustee, or to see to the performance by the Creditor Trustee of any of the provisions hereof, nor be responsible in any way for the proper application of funds or properties paid to or delivered to the Creditor Trustee, but if acting in good faith, may deal with the Creditor Trustee as though the Creditor Trustee were the unconditional owner of the Creditor Trust Assets.

8.9 **Access.** The Creditor Trustee shall permit the duly authorized representatives of the Trust Advisory Board and Beneficiaries upon reasonable request and as often as requested, to have access to his books and records pertaining to the Creditor Trust, the Creditor Trust Assets, and all instruments and documents related thereto during normal business hours at the offices of: [_____].

8.10 **Amendment and Waiver.** Any substantive provision of this Agreement may be amended or waived with (a) the unanimous approval of the Trust Advisory Board, or (b) the approval of the Bankruptcy Court; provided however, that no substantive change shall be made to this Agreement that would (i) adversely affect the distributions to be made hereunder to the Beneficiaries, (ii) adversely affect the federal income tax status of this Agreement, or (iii) unless agreed to in writing by the Creditor Trustee, adversely affect the rights, duties or compensation of the Creditor Trustee. Technical amendments to this Agreement may be made, as necessary to clarify this Agreement or to enable the Creditor Trustee to effectuate the terms of this Agreement, with the majority consent of the Trust Advisory Board and without Bankruptcy Court approval; provided however, that no such change shall be made to this Agreement that would adversely affect the rights of the Beneficiaries hereunder.

8.11 **Assignment.** Except as otherwise provided herein, the obligations, duties and/or rights of the Creditor Trustee under this Agreement shall not be assignable, whether voluntarily, involuntarily or by operation of law, and any such assignment shall be void. All covenants and

agreements contained herein shall be binding upon and are personal to the Creditor Trustee and shall inure to the benefit of the Creditor Trustee and any Successor Trustee in the same manner.

8.12 **Laws as to Construction.** This Agreement shall be governed and construed in accordance with the laws of the State of New York, without giving effect to rules governing conflict or choice of law.

8.13 **Entire Agreement.** This Agreement, together with the related instruments and agreements referred to herein, constitute the entire agreement of the parties hereto, and all such agreements, together with the Plan and the Confirmation Order, shall be construed as integrated and complementary of each other and intended to carry out the terms of the Plan. In the event of any conflict or inconsistency between any provision of the Plan and any provision of this Agreement, the applicable provision of the Plan shall be controlling.

8.14 **Severability.** If any provision of this Agreement or the application thereof to any Person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

8.15 **Notices.** Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if (a) personally delivered, (b) deposited by certified mail, postage prepaid, in a post office or letter box, or (c) sent by telecopy, each addressed to the Person for whom such notice is intended:

[_____]

8.16 **Headings.** The section headings contained in this Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Agreement or of any term or provision hereof.

8.17 **Plan Terms Control.** In the event that any term or provision of this Agreement is inconsistent with the terms of the Plan, the terms of the Plan shall control.

IN WITNESS WHEREOF, the parties hereto have either executed and acknowledged this Creditor Trust Agreement, or caused it to be executed and acknowledged on their behalf by their duly authorized officers or representatives all as of the date first above written.

AGENT PROVOCATEUR, INC.

By: _____
Name: Amanda Brooks
Title: Director

AGENT PROVOCATEUR, LLC

By: Agent Provocateur, Inc., its sole
member

By: _____
Name: Amanda Brooks
Title: Director
Name: _____
Title: _____

THE CREDITOR TRUSTEE

By: _____
Name: _____
Title: _____

EXHIBIT A- ENGAGEMENT LETTER

[TO BE PREPARED BY THE COMMITTEE]

EXHIBIT B

ACCEPTANCE OF APPOINTMENT TO TRUST ADVISORY BOARD

[TO BE PREPARED BY THE COMMITTEE]

APPENDIX B

Agent Provocateur, Inc. and Agent Provocateur LLC
Chapter 11 Plan of Liquidation vs. Hypothetical Chapter 7 Liquidation

	<u>Chapter 11</u>	<u>Chapter 7</u>
Agent Provocateur, Inc. Cash Balance ¹	841,744	841,744
Agent Provocateur LLC Cash Balance ²	215,065	215,065
Projected Net Preference Recoveries ³	200,000	200,000
Estimated tax refunds	79,000	79,000
Estimated Funds Available for Distribution	1,335,809	1,335,809
Less Secured Claims	0	0
Estimated Funds Available for Administrative, Prepetition Priority and General Unsecured Claims	1,335,809	1,335,809
Less Chapter 7 Administrative Claims	0	200,000
Less Chapter 11 Administrative Claims ⁴	755,000	651,886
Estimated Funds Available for Priority Claims and General Unsecured Claims	580,809	483,923
Less Estimated Allowed Priority Tax Claims	304,000	304,000
Less Class 1 Other Priority Claims	38,000	38,000
Estimated Funds Available for General Unsecured Claims	238,809	141,923
Less Class 3 – General Unsecured Claims Against Agent Provocateur LLC	20,000	20,000
Less Estimated Creditor Trust Fees	75,000	0
Estimated Funds Available for Class 4 – General Unsecured Claims Against Agent Provocateur, Inc.	143,809	121,923
% Distributed to Class 4 – Allowed Claims Against Agent Provocateur, Inc.	2.9%	2.4%
Estimated Funds Available for Class 5 – Parent and Affiliate Claims	0	0

¹ Cash balance as of March 31, 2018 less \$73,853 which may represent proceeds from a security deposit held by 133 Mercer LLC that may have been erroneously transferred to Agent Provocateur, Inc.

² Cash balance as of March 31, 2018

³ The aggregate amount of potential preference claims after giving credit for subsequent unpaid new value is \$380,509.70

⁴ See Exhibit A attached

EXHIBIT A

Agent Provocateur

Estimated Administrative Claims - April, 2018

	Actual Sept. - Feb.	Estimated Through Confirmation	Estimated + Actual	
Professionals				
Applied Business Strategy	\$ 56,229	\$ 17,000	\$ 73,229	
Thompson Hine	255,570	55,000	310,570	
Cohn Reznick	60,000	40,000	100,000	
Fox Rothschild	51,815	40,000	91,815	Note 1
Total Professional	\$ 423,614	\$ 152,000	\$ 575,614	
Stub Rent				
Whitman (Bal Harbor)	\$ 43,820		\$ 43,820	
GGP (Honolulu)	12,053		12,053	
Katherine Chou	4,353		4,353	
Josiko Properties	5,195		5,195	
Newbuty 123 Investment	11,023		11,023	
GGP (Coral Gables)	9,137		9,137	
GGP (Las Vegas)	9,733		9,733	
Simon	10,215		10,215	
Castagna	6,743		6,743	
Total Stub Rent	\$ 112,272	\$ -	\$ 112,272	
Other				
Wilson Chang	\$ 5,000	\$ 1,000	\$ 6,000	
Amanda Brooks		2,000	2,000	
Trinet		10,000	10,000	
Disputed Insurance Reimbursement to FMG		15,000	15,000	Note 2
Trustee Fees	15,000	15,000	30,000	
Bank Fees		\$ 4,000	4,000	
Total Other	\$ 20,000	\$ 47,000	\$ 67,000	
Total Admin Claims	\$ 555,886	\$ 199,000	\$ 754,886	

Note 1: Actual fees and expenses are September through January. Estimated fees and expenses are from February through the effective date of the plan..

Note 2: Agent Provocateur International (US) LLC, the buyer of the Debtors' assets, claims that it is entitled to an insurance payment received by Agent Provocateur, Inc. prior to the date the Asset Purchase Agreement between the parties was signed. The Debtors dispute the claim, but have included it out of an abundance of caution.