

Steven T. Waterman (4164)
Michael F. Thomson (9707)
Jeffrey M. Armington (14050)
DORSEY & WHITNEY LLP
136 South Main Street, Suite 1000
Salt Lake City, UT 84101-1685
Telephone: (801) 933-7360
Facsimile: (801) 933-7373
Email: waterman.steven@dorsey.com
thomson.michael@dorsey.com
armington.jeff@dorsey.com

*Attorneys for Debtor BSD Medical Corporation
fka Perseon Corporation*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

In re:

BSD MEDICAL CORPORATION fka
PERSEON CORPORATION,

Debtor.

Case No. 16-24435

Chapter 11

Chief Judge R. Kimball Mosier

**DISCLOSURE STATEMENT FOR DEBTOR'S PLAN PURSUANT TO CHAPTER 11
OF THE BANKRUPTCY CODE**

THE DEBTOR IS PROVIDING THE INFORMATION IN THIS DISCLOSURE STATEMENT TO HOLDERS OF CLAIMS AND INTERESTS FOR PURPOSES OF SOLICITING VOTES TO ACCEPT OR REJECT THE DEBTOR'S PLAN OF LIQUIDATION PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE RELIED UPON OR USED BY ANY ENTITY FOR ANY OTHER PURPOSE. BEFORE DECIDING WHETHER TO VOTE FOR OR AGAINST THE PLAN, EACH HOLDER ENTITLED TO VOTE SHOULD CAREFULLY CONSIDER ALL OF THE INFORMATION IN THIS DISCLOSURE STATEMENT, INCLUDING THE RISK FACTORS DESCRIBED IN ARTICLE IX

THE DEBTOR URGES EACH HOLDER OF A CLAIM OR INTEREST TO CONSULT WITH ITS OWN ADVISORS WITH RESPECT TO ANY LEGAL, FINANCIAL, SECURITIES, TAX, OR BUSINESS ADVICE IN REVIEWING THIS DISCLOSURE STATEMENT, THE PLAN, AND EACH PROPOSED TRANSACTION CONTEMPLATED BY THE PLAN. FURTHERMORE, THE BANKRUPTCY COURT'S APPROVAL OF THE ADEQUACY OF THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE THE BANKRUPTCY COURT'S APPROVAL OF THE PLAN.

THIS DISCLOSURE STATEMENT CONTAINS, AMONG OTHER THINGS, SUMMARIES OF THE PLAN, CERTAIN STATUTORY PROVISIONS, CERTAIN EVENTS IN THE DEBTOR'S CHAPTER 11 CASE, AND CERTAIN DOCUMENTS RELATED TO THE PLAN, ATTACHED HERETO OR INCORPORATED BY REFERENCE HEREIN. ALTHOUGH THE DEBTOR BELIEVES THAT THESE SUMMARIES ARE FAIR AND ACCURATE, THEY ARE QUALIFIED IN THEIR ENTIRETY TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS OR EVERY DETAIL OF SUCH EVENTS. IN THE EVENT OF ANY INCONSISTENCY OR DISCREPANCY BETWEEN A DESCRIPTION IN THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR ANY OTHER DOCUMENTS, THE PLAN OR SUCH OTHER DOCUMENTS WILL GOVERN FOR ALL PURPOSES. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTOR'S MANAGEMENT EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE DEBTOR DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION CONTAINED HEREIN, ATTACHED HERETO, OR INCORPORATED HEREIN BY REFERENCE IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

THE DEBTOR HAS PREPARED THIS DISCLOSURE STATEMENT IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 3016(B), AND IS NOT NECESSARILY PREPARED IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER SIMILAR LAWS.

IN PREPARING THIS DISCLOSURE STATEMENT, THE DEBTOR RELIED ON FINANCIAL DATA DERIVED FROM THE DEBTOR'S BOOKS AND RECORDS AND ON VARIOUS ASSUMPTIONS REGARDING THE DEBTOR'S BUSINESS. ALTHOUGH THE DEBTOR BELIEVES THAT SUCH FINANCIAL INFORMATION FAIRLY REFLECTS THE FINANCIAL CONDITION OF THE DEBTOR AS OF THE DATE HEREOF AND THAT THE ASSUMPTIONS REGARDING FUTURE EVENTS REFLECT REASONABLE BUSINESS JUDGMENTS, THE DEBTOR MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY OF THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT OR ASSUMPTIONS REGARDING THE DEBTOR'S BUSINESS. THE DEBTOR EXPRESSLY CAUTIONS READERS NOT TO PLACE UNDUE

RELIANCE ON ANY FORWARD-LOOKING STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT.

THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE, AND SHOULD NOT BE CONSTRUED AS, AN ADMISSION OF FACT, LIABILITY, STIPULATION, OR WAIVER. THE DEBTOR MAY SEEK TO INVESTIGATE, FILE, AND PROSECUTE CLAIMS AND MAY OBJECT TO CLAIMS AFTER THE CONFIRMATION OR EFFECTIVE DATE OF THE PLAN IRRESPECTIVE OF WHETHER THIS DISCLOSURE STATEMENT IDENTIFIES SUCH CLAIMS OR OBJECTIONS TO CLAIMS.

THE DEBTOR IS MAKING THE STATEMENTS AND PROVIDING THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT AS OF THE DATE HEREOF, UNLESS OTHERWISE SPECIFICALLY NOTED. ALTHOUGH THE DEBTOR MAY SUBSEQUENTLY UPDATE THE INFORMATION IN THIS DISCLOSURE STATEMENT, THE DEBTOR HAS NO AFFIRMATIVE DUTY TO DO SO AND EXPRESSLY DISCLAIMS ANY DUTY TO PUBLICLY UPDATE ANY FORWARD-LOOKING STATEMENTS, WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS, OR OTHERWISE. HOLDERS OF CLAIMS AND INTERESTS REVIEWING THIS DISCLOSURE STATEMENT SHOULD NOT INFER THAT, AT THE TIME OF THEIR REVIEW, THE FACTS SET FORTH HEREIN HAVE NOT CHANGED SINCE THIS DISCLOSURE STATEMENT WAS FILED. INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS SUBJECT TO COMPLETION, MODIFICATION, OR AMENDMENT. THE DEBTOR RESERVES THE RIGHT TO FILE AN AMENDED OR MODIFIED PLAN AND RELATED DISCLOSURE STATEMENT FROM TIME TO TIME, SUBJECT TO THE TERMS OF THE PLAN.

THE DEBTOR HAS NOT AUTHORIZED ANY ENTITY TO GIVE ANY INFORMATION ABOUT OR CONCERNING THE PLAN OTHER THAN THAT CONTAINED IN THIS DISCLOSURE STATEMENT. THE DEBTOR HAS NOT AUTHORIZED ANY REPRESENTATIONS CONCERNING THE DEBTOR OR THE VALUE OF ITS PROPERTY OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT.

IF THE BANKRUPTCY COURT CONFIRMS THE PLAN AND THE EFFECTIVE DATE OCCURS, THE TERMS OF THE PLAN AND THE TRANSACTIONS CONTEMPLATED BY THE PLAN WILL BIND ALL HOLDERS OF CLAIMS AND INTERESTS (INCLUDING THOSE HOLDERS OF CLAIMS AND INTERESTS THAT DO NOT SUBMIT BALLOTS TO ACCEPT OR REJECT THE PLAN OR THAT ARE NOT ENTITLED TO VOTE ON THE PLAN).

THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION (THE “SEC”) HAS NOT APPROVED OR DISAPPROVED THIS DISCLOSURE STATEMENT, NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT.

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**ARTICLE I.
EXECUTIVE SUMMARY**

BSD Medical Corporation fka Perseon Corporation (“BSD”), a Delaware corporation, as debtor and debtor in possession (the “Debtor”) filed with the United States Bankruptcy Court for the District of Utah (the “Bankruptcy Court”) a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “Chapter 11 Case”) on May 23, 2016 (the “Petition Date”). The Debtor submits this disclosure statement (this “Disclosure Statement”) in accordance with section 1125 of the Bankruptcy Code to provide information regarding the Debtor’s Plan of Liquidation Pursuant to Chapter 11 of the Bankruptcy Code (as amended, supplemented, or modified from time to time, the “Plan”), dated September 16, 2016. A copy of the Plan is attached to this Disclosure Statement as **Exhibit 1** and incorporated herein by reference. All capitalized terms used but not otherwise defined in this Disclosure Statement have the meanings given to them in the Plan. The rules of interpretation set forth in Article I.B of the Plan govern the interpretation of this Disclosure Statement.

On November 4, 2016, the Bankruptcy Court entered an order [Docket No. 287] (the “Disclosure Statement Order”) (a) approving this Disclosure Statement as containing adequate information, (b) approving, among other things, the dates, procedures, and forms applicable to the process of soliciting votes on, and providing notice of, the Plan and certain vote-tabulation procedures, (c) establishing the deadline for filing objections to the Plan, and (d) scheduling the hearing on confirmation of the Plan (“Confirmation”). The Disclosure Statement Order is attached hereto as **Exhibit 2**. A hearing to consider confirmation of the Plan (the “Confirmation Hearing”) is scheduled to be held before the Honorable Chief Judge R. Kimball Mosier at **3:00 p.m., prevailing Mountain Time, on December 20, 2016** in his courtroom, Room 369, of the

Frank E. Moss United States Courthouse, 350 South Main Street, Salt Lake City, Utah 84101 (the “Hearing”). Additional information with respect to Confirmation is provided in Article VII of this Disclosure Statement.

This Disclosure Statement contains, among other things, descriptions and summaries of certain provisions of, and financial transactions contemplated by, the Plan. Certain provisions of the Plan (and the descriptions and summaries contained herein) remain the subject of continuing negotiations among the Debtor and various parties, have not been finally agreed upon, and may be modified. The Debtor believes that the compromises and transactions contemplated by the Plan are fair and equitable, maximize the value of the Debtor’s chapter 11 estate (the “Estate”), and provide the best recovery to claimholders. Accordingly, the Debtor now seeks the Bankruptcy Court’s approval of the Plan. Before soliciting acceptances of a proposed chapter 11 plan, however, section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement containing information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of that chapter 11 plan. The Debtor submits this Disclosure Statement in accordance with such requirements. This Disclosure Statement includes information about:

- the Debtor’s corporate history and business operations (Article II hereof);
- events leading to the Chapter 11 Case (Article III hereof);
- material events in the Chapter 11 Case (Article IV hereof);
- the classification and treatment of Claims and Interests under the Plan, including who is entitled to vote and how to vote on the Plan (Article V hereof);

- releases contemplated by the Plan that are integral to the overall settlement of Claims and Interests pursuant to the Plan (Article V hereof);
- the appointment of a Disbursing Agent who will administer the distribution to Holders of Claims (Article VI hereof);
- the statutory requirements for confirming the Plan (Article VII hereof);
- certain risk factors holders of Claims and Interests should consider before voting to accept or reject the Plan (Article IX hereof); and
- certain United States federal income tax consequences of the Plan (Article X hereof).

In light of the foregoing, the Debtor believes this Disclosure Statement contains “adequate information” to enable a hypothetical reasonable investor to make an informed judgment about the Plan and complies with all aspects of section 1125 of the Bankruptcy Code. The Debtor further believes that the Plan is in the best interest of the Estate and, accordingly, recommends that you vote to accept the Plan.

THIS EXECUTIVE SUMMARY ONLY PROVIDES A GENERAL OVERVIEW OF THIS DISCLOSURE STATEMENT AND THE MATERIAL TERMS OF, AND TRANSACTIONS PROPOSED BY, THE PLAN. THE EXECUTIVE SUMMARY IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE MORE DETAILED DISCUSSIONS APPEARING ELSEWHERE IN THIS DISCLOSURE STATEMENT AND THE EXHIBITS ATTACHED TO THIS DISCLOSURE STATEMENT, INCLUDING THE PLAN. THE DEBTOR STRONGLY RECOMMENDS READING THE EXECUTIVE SUMMARY IN CONJUNCTION WITH THE ENTIRE DISCLOSURE STATEMENT AND THE PLAN.

A. Purpose and Effect of the Plan

The commencement of a chapter 11 case creates an estate comprising all legal and equitable interests of the debtor as of the commencement date. The Bankruptcy Code provides

that a debtor may continue to operate its business and remain in possession of its property as a “debtor in possession.”

The consummation of a plan is the principal objective of a chapter 11 case. A chapter 11 plan sets forth how a debtor will treat claims and equity interests, and a bankruptcy court’s confirmation of a chapter 11 plan binds the debtor, any entity or person acquiring property under the plan, any creditor of or equity security holder in a debtor, and any other entities and persons to the extent ordered by the bankruptcy court pursuant to the terms of the confirmed plan, whether or not such entity or person is impaired pursuant to the plan, has voted to accept the plan, or receives or retains any property under the plan. A chapter 11 plan divides claims and equity interests into “classes” according to their relative priority and other criteria.

B. Treatment of Claims and Interests under the Plan

The Plan organizes the Debtor’s creditor and equity constituencies into groups called “Classes.” For each Class, the Plan describes (a) the underlying “Claim” or “Equity Interest,” (b) the recovery available to the holders of Claims or Equity Interests (collectively, “Holders”) in that Class under the Plan, (c) whether the Class is “Impaired” under the Plan, meaning that each Holder will receive less than full value on account of its Claim or Equity Interest or that the rights of Holders under law will be altered in some way (such as receiving stock instead of holding a Claim), and (d) the form of consideration, if any, that such Holders will receive on account of their respective Claims or Equity Interests.

The table below provides a summary of the classification, treatment, and estimated recoveries of Claims and Equity Interests under the Plan. The table provides this information for illustrative purposes only, is subject to material change based on contingencies related to the

claims-reconciliation process, and is qualified in its entirety by reference to the provisions of the Plan. For a more detailed description of the treatment of Claims and Equity Interests under the Plan, see Article V of this Disclosure Statement, entitled “Summary of the Plan.”

Class		Treatment of Class of Claims or Interests	Estimated Aggregate Claims or Interests	Estimated Recovery
1	<i>Priority Claims</i>	Except to the extent that a Holder of an Allowed Priority Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and compromise of each and every Allowed Priority Claim, each Holder of an Allowed Priority Claim shall be paid in full in Cash in an amount equal to such Allowed Priority Claim by the Debtor on the Effective Date or by the Disbursing Agent after the Effective Date plus interest accrued on the amount of the Allowed Priority Claim at the Interest Rate from the Petition Date through the Effective Date.	\$73,500 ¹	100% (plus 5% interest from the Petition Date through the Effective Date)
2	<i>General Unsecured Claims</i>	Except to the extent that a Holder of an Allowed General Unsecured Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed General Unsecured Claim, each Holder of an Allowed General Unsecured Claim shall be paid in full in Cash in an amount equal to	\$2,462,725	100% (plus 5% interest from the Petition Date through the Effective Date)

¹ The Governmental Bar Date is November 21, 2016 so the projected amount of Allowed Priority Claims is subject to fluctuation.

		such Allowed General Unsecured Claim by the Debtor on the Effective Date or by the Disbursing Agent after the Effective Date plus interest accrued on the amount of the Allowed General Unsecured Claim at the Interest Rate from the Petition Date through the Effective Date.		
3	<i>Common Stock Interests</i>	Except to the extent that a Holder of an Allowed Common Stock Interest agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Common Stock Interest, each Holder of an Allowed Common Stock Interest shall receive its Pro Rata Share of the Disbursing Agent Assets.	9,766,323 Shares	\$0.01-0.03 per share of Common Stock
4	<i>Private Warrant Interests</i>	Except to the extent that a Holder of an Allowed Private Warrant Interest agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Private Warrant Interest, each Holder of an Allowed Private Warrant Interest shall receive its Pro Rata Share of the Disbursing Agent Assets.	744,882 Private Warrants	\$0.01-0.03 per Private Warrant
5	<i>Public Warrant Interests</i>	On the Effective Date all Public Warrant Interests shall be cancelled without any distribution on account of such interests.	13,512,500 Public Warrants	No Distribution

C. Voting on the Plan

1. Holders of Claims and Interests Entitled to Vote on the Plan

This Disclosure Statement is being transmitted to certain Holders for the purpose of soliciting votes on the Plan and to others for informational purposes. The purpose of this Disclosure Statement is to provide adequate information to enable holders of Interests that are entitled to vote on the Plan to make a reasonably informed decision with respect to the Plan prior to exercising their right to vote to accept or reject the Plan.

By the Disclosure Statement Order, the Bankruptcy Court approved this Disclosure Statement as containing information of a kind and in sufficient and adequate detail to enable holders of Interests that are entitled to vote on the Plan to make informed judgments with respect to acceptance or rejection of the Plan. The Bankruptcy Court's approval of this Disclosure Statement does not constitute either a guarantee of the accuracy or completeness of the information contained herein or an endorsement of the Plan by the Bankruptcy Court.

All holders of Claims and Interests are encouraged to read this Disclosure Statement, its exhibits and the Plan filed prior to the Voting Deadline carefully and in their entirety before, if applicable, deciding to vote either to accept or to reject the Plan. This Disclosure Statement contains important information about the Plan, considerations pertinent to acceptance or rejection of the Plan and developments concerning the Chapter 11 Case.

This Disclosure Statement, the other materials included in the Solicitation Package, and the Plan comprise the only documents authorized by the Bankruptcy Court to be used in connection with the solicitation of votes on the Plan. No solicitation of votes may be made by

any person except after distribution of this Disclosure Statement is approved by the Bankruptcy Court.

Certain of the information contained in this Disclosure Statement is by its nature forward-looking and contains estimates, assumptions and projections that may be materially different from actual and future results. Other events may occur subsequent to the date hereof that may have a material impact on the information contained in this Disclosure Statement. Except as expressly stated, the Debtor does not intend to update the Disclosure Statement. Thus, the Disclosure Statement will not reflect the impact of any subsequent events. Further, the Debtor does not anticipate that any updates, amendments, or supplements to this Disclosure Statement will be distributed to reflect such occurrences. Accordingly, the delivery of this Disclosure Statement does not imply that the information herein is correct or complete as of any time subsequent to the date hereof.

EXCEPT WHERE SPECIFICALLY NOTED, THE FINANCIAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS NOT BEEN AUDITED BY A CERTIFIED PUBLIC ACCOUNTANT AND HAS NOT BEEN PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

In general, a holder of a claim or equity interest may vote to accept or reject a chapter 11 plan if (i) no party in interest has objected to such claim or interest (or the claim or interest has been allowed subsequent to any objection or estimated for voting purposes), (ii) the claim or interest is impaired by the plan, and (iii) the holder of such claim or interest will receive or retain property under the plan on account of such claim or interest. The Holders of Interests in **Class 3 – Common Stock Interests** and **Class 4 – Private Warrant Interests** are entitled to vote on the Plan.

In general, if a claim is unimpaired under a chapter 11 plan, section 1126(f) of the Bankruptcy Code deems the holder of such claim to have accepted the plan and thus the holders of claims in such unimpaired classes are not entitled to vote on the plan. Because **Class 1 – Priority Claims** and **Class 2 – General Unsecured Claims** are Unimpaired under the Plan, the holders of Claims in these Classes are not entitled to vote.

In general, if the holder of an impaired claim or impaired interest will not receive any distribution or retain any property under a chapter 11 plan in respect of such claim or interest, section 1126(g) of the Bankruptcy Code deems the holder of such claim or interest to have rejected the plan, and thus the holders of claims or interests in such classes are not entitled to vote on the plan. The holders of **Class 5 – Public Warrant Interests** are thus conclusively presumed to have rejected the Plan and are therefore not entitled to vote.

If you are entitled to vote, after carefully reviewing the Plan, this Disclosure Statement, and the detailed instructions accompanying your Ballot, please indicate your acceptance or rejection of the Plan by checking the appropriate box on the enclosed Ballot. Please complete and sign your original Ballot (copies with non-original signatures will not be accepted) and return it in the envelope provided. You must provide all of the information requested by the appropriate Ballot. Failure to do so may result in disqualification of your vote on such Ballot. Holders of Claims that fail to vote are not counted as either accepting or rejecting the Plan.

IN ORDER FOR YOUR VOTE TO BE COUNTED, YOU MUST PROPERLY COMPLETE YOUR BALLOT AS SET FORTH ABOVE AND IN ACCORDANCE WITH THE VOTING INSTRUCTIONS ON THE BALLOT, AND THE DEBTOR MUST ACTUALLY RECEIVE THE BALLOT ON OR BEFORE DECEMBER 9, 2016, AT 5:00 P.M., (PREVAILING MOUNTAIN TIME), (THE “VOTING DEADLINE”) BY U.S. MAIL OR OTHER HAND-DELIVERY SYSTEM AT THE FOLLOWING ADDRESS:

Dorsey & Whitney LLP
Attn: Jeffrey M. Armington
136 South Main St., Suite 1000
Salt Lake City, UT 84101-1685

BALLOTS RECEIVED AFTER THE VOTING DEADLINE MAY NOT BE COUNTED.

D. Confirmation Hearing and Deadline for Objections to Confirmation

In accordance with section 1128 of the Bankruptcy Code and Bankruptcy Rule 3017(c), the Bankruptcy Court has scheduled the hearing to consider Confirmation (the “Confirmation Hearing”) for **December 20, 2016, at 11:00 a.m.**, prevailing Mountain Time, before the Honorable Chief Judge R. Kimball Mosier, in his courtroom, Room 369, of the Frank E. Moss United States Courthouse 350 South Main Street, Salt Lake City, Utah 84101. The Bankruptcy Court may adjourn the Confirmation Hearing from time to time (i) prior to the Confirmation Hearing by posting notice of the adjournment on the docket for the Chapter 11 Case and (ii) at the Confirmation Hearing without further notice except for a notice filed on the Bankruptcy Court’s docket or an announcement of the adjournment date made at the Confirmation Hearing or at any subsequently adjourned Confirmation Hearing.

In accordance with the Disclosure Statement Order, any objection to Confirmation must be filed with the Bankruptcy Court and served on (a) counsel to the Debtor, Dorsey & Whitney LLP, 136 South Main St. Suite 1000, Salt Lake City, Utah 84101 Attn: Steven T. Waterman, email: waterman.steven@dorsey.com; and (b) the Office of the United States Trustee for the District of Utah, 405 South Main St. #300, Salt Lake City, UT 84111 (collectively, the “Notice Parties”) so as to be actually received on or before **4:00 p.m., prevailing Mountain Time, on December 7, 2016.**

**ARTICLE II.
DESCRIPTION AND HISTORY OF THE BUSINESS**

A. Description of the Debtor's Business

The Debtor is a publicly traded medical technology developer and manufacturer that was organized as BSD Medical Corporation under Delaware law in 1986. In February 2015, the Debtor changed its name to Perseon Corporation. The Debtor developed, manufactured, marketed and serviced groundbreaking medical systems to treat cancer using heat therapy, including a microwave ablation system that employs precision-guided microwave energy to ablate diseased soft tissue. The Debtor also developed extensive intellectual property and distributed its products in the United States, Europe, and Asia.

The Debtor developed technology and products for thermal ablation and hyperthermia cancer therapy through multiple techniques, including:

- Thermal ablation ablates (destroys) soft tissues at high temperatures through focused microwave energy;
- Superficial hyperthermia non-invasively treats cancerous tumors located within a few centimeters of the surface of the body, such as melanoma and recurrent breast cancer;
- Internal or interstitial hyperthermia treats tumors in combination with internal radiation therapy by inserting tiny microwave antennas that deliver hyperthermic microwave energy to tumors through the same catheters used to deliver radioactive materials, or “seeds,” to tumors for radiation therapy. This technique can be employed in treating prostate cancer, breast cancer, head and neck cancer as well as other cancer sites; and

- Deep hyperthermia non-invasively treats tumors located deep within the body.

B. Debtor's Management

The Debtor's Chapter 11 management team consists of highly capable professionals with extensive experience in the industry. Information on the Debtor's management is as follows:

Name	Biography
Timothy C. McQuay	Mr. McQuay has served as a director of the Debtor since February 2008 and currently serves as Chairman of the Board of Directors. He retired from his position as Managing Director – Investment Banking – with Noble Financial Capital Markets on December 31, 2015. Prior to joining Noble Financial Capital Markets in November 2011, Mr. McQuay was a Managing Director – Investment Banking with B Riley & Co. Prior to joining B Riley in September 2008, Mr. McQuay served for ten years as Managing Director – Investment Banking with A. G. Edwards & Sons, Inc., where he specialized in Healthcare, including medical technology, biotechnology and specialty pharmaceuticals. He currently serves as a member of the Board of Directors of Superior Industries International, Inc. Mr. McQuay holds an AB in Economics from Princeton University and an MBA from UCLA.
Clinton E. Carnell	Mr. Carnell was appointed a director of the Debtor by unanimous written consent of the Debtor's Board of Directors in November 2014. At that time, the Debtor also named Mr. Carnell as President and Chief Executive Officer. Mr. Carnell served as President and Chief Executive Officer of the Debtor until September 8, 2016. Mr. Carnell previously served as an advisor to Covidien plc, a publicly traded global health care leader, in the role of 'Executive in Residence.' From 2011 to 2014, Mr. Carnell served as Chairman, Chief Executive Officer and President of MyoScience, Inc., a commercial-stage medical device company which developed technology to target nerves for the treatment of pain, muscle disorders, aesthetic and other medical conditions. From 2005 to 2011 Mr. Carnell was the Chief Operating Officer of Solta Medical, Inc., a publicly held medical aesthetics company where he had responsibility for the Thermage and Fraxel Brands, led the integration of three strategic acquisitions and played a key role in Solta's IPO in 2006. During the period from 2002 to 2005 he was Vice President of Sales for the US Surgical Division of Bausch & Lomb Prior to 2002, Mr. Carnell held management positions with healthcare companies including Gambro Healthcare, Johnson & Johnson and Charleston Renal Care, LLC.
Harold R. Wolcott	Mr. Wolcott has served as a director of the Debtor since April 2009. Mr. Wolcott also served as President of the Debtor from April 2009 until his successor was appointed in November 2014. Mr. Wolcott has

	<p>45 years of experience managing and growing newly-formed venture capital financed corporations as well as multi-million dollar medical device businesses with international operations. He has a wide range of experience in the areas of product research, product engineering, manufacturing and plant management, as well as expertise in all aspects of sales and marketing, acquisition/integration, and the sale of medical device businesses. Prior to joining the Debtor, Mr. Wolcott served from 2006 through 2009 as President and Chief Operating Officer, and later, as Director of Dimicron Inc., a development stage medical company utilizing synthetic diamond for orthopedic applications. From 2001 until 2005, Mr. Wolcott served as Chief Operating Officer and Director of Rubicon Medical, Inc., a company focusing on proprietary technology in embolic protection for interventional cardiology and interventional neurology.</p>
Peter Vitulli	<p>Mr. Vitulli, has served as a director of the Debtor since April 2015. Mr. Vitulli has over 35 years of experience within the consumer products and healthcare industries in both large corporations and entrepreneurial-stage companies. Mr. Vitulli has served as the President and CEO of DNA Diagnostics Center (“DDC”), the world's largest provider of private DNA tests, since 2010. Prior to joining DDC, Mr. Vitulli served as President and CEO of Sciona, Inc., a personal genetics company offering customized health and wellness solutions, and as President and CEO for Amerifit Nutrition, Inc., a nutritional supplement company focused on women's health. Earlier in his career, Mr. Vitulli managed start-up enterprises for various investor groups and was a general manager of the \$1 billion North American Gatorade business for the former Quaker Oats Company. He holds an MBA from New York University's Leonard N. Stern School of Business and a BA from College of the Holy Cross. He is an “independent director” as such term is defined in the NASDAQ Stock Market Listing Standards.</p>
Steven G. Stewart	<p>Mr. Stewart has served as a director of the Debtor since 2006. From July 1998 through June 2013, Mr. Stewart served in several management positions at Headwaters, Inc. (a New York Stock Exchange company), including Director of Financial Affairs, Treasurer, and as the Chief Financial Officer for approximately ten years before retiring on July 1, 2013. Prior to joining Headwaters, Mr. Stewart served as a business assurance partner for PricewaterhouseCoopers LLP (formerly Coopers & Lybrand LLP), and as an audit partner with Ernst & Young (formerly Arthur Young), including service as the Salt Lake City office Director of High Technology and Entrepreneurial Services.</p>
Damian E. Dupuy	<p>Dr. Dupuy was appointed a Director in April 2011. Dr. Dupuy has been a Professor of Diagnostic Imaging at the Warren Alpert Medical School of Brown University since 2005, and has served as Director, Tumor Ablation, at Rhode Island Hospital in Providence, RI since 2001. Dr. Dupuy, a fellow of the American College of Radiology, is a</p>

	<p>pioneer in the growing field of image guided tumor ablation, whereby various types of thermal devices destroy tumors by direct placement through the skin under image guidance. Dr. Dupuy is internationally known for his pioneering clinical work in treating cancer patients who suffer from tumors of the lung, liver, kidney, head and neck, pelvis, adrenal and skeleton. Dr. Dupuy has led two National Cancer Institute multi-center trials and currently is the Interventional Oncology Symposium Chair of the Radiological Society of North America. Dr. Dupuy, who is a graduate of the University of Massachusetts, Amherst, and the University of Massachusetts Medical School, has published widely on a variety of specialized medical issues and is the recipient of numerous post-graduate honors and awards, including an American College of Radiology Imaging Network Publications Merit Award in 2010.</p>
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ARTICLE III. EVENTS LEADING TO THE PETITION DATE

A. Failed Merger and Deteriorating Financial Condition

Faced with decreasing revenues and beginning in roughly 2013, the Debtor began searching for either a strategic partner or an acquirer of its assets.

In February 2015, the Debtor engaged SunTrust Robinson Humphrey, Inc. (“SunTrust”) as its investment banker to assist the debtor in identifying, evaluating and pursuing strategic alternatives, including a potential sale of the Debtor, with the intention of preserving or receiving the highest and best value for the Debtor’s assets.

On April 1, 2015, the Debtor sold the assets associated with its hyperthermia cancer treatment systems to Pyrexar Medical, Inc. (“Pyrexar”) in exchange for 19.9% of the Series A Preferred Shares of Pyrexar and a percentage of revenues that Pyrexar would receive from sales of the hyperthermia cancer treatment systems.

Following the sale of its hyperthermia cancer treatment systems to Pyrexar, the Debtor focused on creating and manufacturing thermal ablation technologies for treating cancer.

In July and August of 2015, the Debtor completed an offering of common stock and warrants which netted approximately \$4.3 million in proceeds to the company.

During this period, beginning with SunTrust's retention, SunTrust and the Debtor commenced a marketing process designed to identify potential acquirers and/or strategic partners in order to maximize value for the Debtor's stakeholders. As part of that process, SunTrust and the Debtor compiled a list of parties likely to be interested in the Debtor or its assets and, from this list, SunTrust contacted approximately 30 entities during the 18 months prior to the Debtor's bankruptcy filing.

On October 26, 2015, the Debtor entered into an Agreement and Plan of Merger (the "Merger Agreement") with Galil Medical, Inc., a Delaware corporation ("Galil"), and Galil Merger Sub, Inc., a Delaware corporation and a wholly owned subsidiary of Galil ("Merger Sub"), pursuant to which Merger Sub would, on the terms and subject to the conditions set forth therein, conduct a tender offer ("Offer") for (i) all of the Debtor's outstanding common stock and (ii) warrants to purchase common stock traded on The Nasdaq Capital Market and then merge with and into the Debtor (the "Merger"). Among the conditions to the Merger Agreement was that a minimum number of shares of common stock and public warrants would be tendered for purchase by the Merger Sub and that Galil would obtain sufficient financing to consummate the Offer.

Throughout the Merger process, the Debtor advised its shareholders that notwithstanding any cost cutting measures by the Debtor, if the Merger was not consummated, the Debtor may not be able to continue operations. The Merger Agreement required the Debtor to maintain its operations at a set level, which substantially outstripped the amount of revenue that the Debtor

was earning at that time. During this failed attempted Merger period, the Debtor lost approximately \$500,000.00.

On December 22, 2015, Galil delivered a notice to the Debtor, electing to terminate the Merger Agreement because the Offer expired in accordance with its terms without Merger Sub having purchased any shares or public warrants pursuant to the Offer. The Debtor has retained any and all claims or causes of action that it may have against Galil.

On December 23, 2015, the Debtor terminated a substantial number of employees in order to materially reduce expenses.

After Galil terminated the Merger Agreement, the Debtor renewed its efforts to find either a strategic partner or a purchaser for its assets.

With the Debtor's financial condition deteriorating rapidly, in an effort to raise cash, on February 22, 2016, the Debtor sold the shares it obtained from Pyrexar back to Pyrexar for a \$1,000,000 purchase price.

Prior to the Petition Date, the Debtor attempted to obtain additional financing outside of bankruptcy, but was unable to do so.

B. The Asset Purchase Agreement

Following the termination of the merger agreement, the Debtor and SunTrust continued the marketing process and recommenced discussions with entities interested in the Debtor's assets. Through these discussions, the Debtor and SunTrust concluded that an offer received from MedLink Technologies, LLC ("MedLink") represented the highest and best opportunity to maximize the value of the Debtor's assets.

Over the course of approximately 5 weeks, the Debtor and MedLink engaged in active negotiations concerning the terms of an asset purchase agreement, including whether MedLink would be entitled to bid protections.

Eventually, the Debtor decided to enter into that certain Asset Purchase Agreement, dated as of May 17, 2016, by and between the Debtor as seller and MedLink as buyer (the “APA”). Pursuant to which, the Debtor agreed to file the Chapter 11 Case, and to seek Bankruptcy Court approval of the sale of substantially all of the Debtor’s assets to MedLink or to any party making a higher and better offer at auction.

ARTICLE IV. THE CHAPTER 11 CASE AND CERTAIN SIGNIFICANT EVENTS

A. First Day Motions

On May 23, 2016, the Debtor filed its Schedules, Statement of Financial Affairs, and a series of “first day motions” seeking Bankruptcy Court authority to continue to pay the Debtor's employees, insurance providers, and taxes as necessary, and to allow the Debtor to continue to use its prepetition bank accounts. The Bankruptcy Court held a hearing on the Debtor's first day motions on May 24, 2016 and entered interim orders approving those motions. On June 15, 2016, the Bankruptcy Court entered final orders approving the relief requested in the first day motions.

B. Sale Motion

On May 24, 2016, the Debtor filed *Debtor’s Motion for Orders Pursuant to 11 U.S.C. §§ 105(a), 363, 364, 365, 503, and 507 and Fed. R. Bankr. P. 6004 and 6006 (I)(a) Authorizing Entry into and Assumption of Asset Purchase Agreement, (b) Authorizing Bid Protections, (c) Authorizing Bidding Procedures and Auction, and (d) Scheduling Sale Hearing and*

Approving Notice Thereof; (II) Authorizing Sale of Assets; and (III) Granting Related Relief [Docket No. 24] (the “Sale Motion”). Through the Sale Motion, the Debtor sought Bankruptcy Court authorization and approval of the sale of substantially all of the Debtor’s assets to MedLink, a wholly owned subsidiary of Scion Medical Technologies, LLC (“Scion”) for \$4.35 million pursuant to the APA, a copy of which was attached to the Sale Motion as Exhibit A.

The Debtor sought Bankruptcy Court approval of the APA through a two-step process. First, the Debtor sought approval of certain bidding procedures and bidding protections for MedLink as the stalking horse bidder, and that the Bankruptcy Court set a bid deadline and an auction date for parties other than MedLink to submit competing bids for the Debtor’s assets.

On June 21, 2016, the Bankruptcy Court entered its *Order (a) Authorizing Assumption of Asset Purchase Agreement, (b) Authorizing Bid Protections, (c) Authorizing Bidding Procedures and Auction, and (d) Scheduling Sale Hearing and Approving Notice Thereof* [Docket No. 56] (the “Bidding Procedures Order”). The Bidding Procedures Order authorized the Debtor to assume the APA, set a July 11, 2016 deadline for parties to object to the asset sale, set a July 21, 2016 deadline for parties to submit a higher and better bid for the Debtor’s assets, set an auction for July 25, 2016, and established bidding procedures for the auction.

No competing bids were received by the Debtor prior to the bid deadline and the Debtor sought approval of the sale of its assets to Scion, to which MedLink assigned all of its rights under the APA, at the July 26, 2016, Bankruptcy Court hearing to approve the asset sale. The Debtor continued the hearing on the Sale Motion to August 11, 2016, to give the Debtor an

opportunity to resolve issues related to its assumption of the Debtor's manufacturing agreement with CEA Technologies, Inc.

On August 11, 2016, the Bankruptcy Court entered its *Order Authorizing Sale of Assets* [Docket No. 160] (the "Sale Order"), which authorized the Debtor's sale of assets to Scion pursuant to the APA. Under the APA, the Debtor sold the name "Perseon Corporation" to Scion, and consequently, the Debtor has taken action with the Delaware Division of Corporations to change its name to BSD Medical Corporation.

On August 22, 2016, the sale transaction contemplated under the APA closed and the Debtor received the \$4.35 million purchase price, minus the \$850,000 bid deposit, from Scion.

C. Retention of Professionals

The Bankruptcy Court approved of the Debtor's retention of various professionals to assist the Debtor with its sale efforts and to operate the Debtor's business throughout the duration of this Chapter 11 Case. Each of the professionals is listed below with a description of such professional's role and the docket number of the Order approving such retention:

- Dorsey & Whitney, LLP – Debtor's counsel [Docket No. 150];²
- SunTrust Robinson Humphrey, Inc. – Debtor's investment banker in connection with the sale process [Docket No. 147];
- David Green – Debtor's Chief Restructuring Consultant [Docket No. 128];³
- Tanner, LLC – Debtor's tax accountant [Docket No. 90];
- Nixon Peabody LLP – intellectual property counsel for the Debtor [Docket No. 149];

² B.E. Capital Management Fund, L.P. ("B.E.") filed an appeal of this Order with the Bankruptcy Appellate Panel of the Tenth Circuit Court of Appeals.

³ Mr. Green's employment with the Debtor terminated on September 9, 2016.

- Riley Astill – accountant for the Debtor [Docket No. 89]; and
- Rocky Mountain Advisory, LLC – accountant for the Debtor in connection with Plan process [Docket No. 278].

D. Settlement of Claims

On August 12, 2016, B.E., an entity which has purchased several claims from the Debtor's trade creditors, filed a *Motion for Order Converting Case to Chapter 7* [Docket No. 162] (the "Motion to Convert"). In the Motion to Convert, B.E. argues that the Bankruptcy Court should convert the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code to avoid the incurrence of additional expenses.

On August 16, 2016, B.E. filed an appeal of the Bankruptcy Court's *Order Granting Debtor's Motion for Entry of an Order Authorizing Debtor to Reinstate Salary Pursuant to Debtor's Employment Agreement with Clinton E. Carnell Jr.* [Docket No. 148] (the "Salary Reinstatement Order") with the Bankruptcy Appellate Panel of the Tenth Circuit Court of Appeals. On September 15, 2016, the Debtor filed an election to have B.E.'s appeal of the Salary Reinstatement Order heard in the United States District Court for the District of Utah.

On August 17, 2016, B.E. filed an appeal of the Bankruptcy Court's *Order Granting Application of the Debtor for Entry of an Order Authorizing the Retention and Employment of Dorsey & Whitney LLP as Counsel for the Debtor in Possession* [Docket No. 150] (the "Attorney Retention Order") with the Bankruptcy Appellate Panel of the Tenth Circuit Court of Appeals. On September 15, 2016, the Debtor filed an election to have B.E.'s appeal of the Attorney Retention Order heard in the United States District Court for the District of Utah.

On November 4, 2016, the Court entered an *Order Approving Debtor's Motion to Approve Settlement Agreement with Clinton E. Carnell Jr. and B.E. Capital Management Fund LP Pursuant to Federal Rule of Bankruptcy Procedure 9019* [Docket No. 288] (the "Settlement Agreement Order"). The Settlement Agreement Order approved the settlement agreement with the Debtor's former CEO and President, Clinton E. Carnell ("Mr. Carnell") and B.E., which: (a) fixed Mr. Carnell's claim against the Debtor's estate; (b) provided B.E. with a substantial contribution claim in the amount of \$50,000.00; (c) resolved the Motion to Convert; and (d) will result in the dismissal with prejudice of B.E.'s appeals of the Salary Reinstatement Order and the Attorney Retention Order.

E. D&O Insurance Order

On October 25, 2016, the Court entered its *Order Granting Debtor's Motion to Renew Insurance Policies* [Docket No. 277] (the "D&O Insurance Order"), which authorized the Debtor to renew and extend the Debtor's current director and officer liability policies to include a six year coverage tail, which will allow the Debtor to meet its contractual indemnification obligations to its current and former officers and directors (the "D&O Policies Extension"). The D&O Policies Extension will provide director and officer liability coverage throughout the life of the policy.

**ARTICLE V.
SUMMARY OF THE PLAN**

The Debtor believes that (a) through the Plan, holders of Allowed Claims will obtain a recovery from the Debtor's estate equal to or greater than the recovery that they would receive if the Chapter 11 Case were converted to a case under chapter 7 of the Bankruptcy Code and (b) consummation of the Plan will maximize the recovery for Creditors.

The Plan is attached to this Disclosure Statement as **Exhibit 1** and is incorporated herein by reference.

A. Overview of the Plan

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

A chapter 11 plan may specify that the legal, contractual, and equitable rights of the holders of claims or interests in certain classes are to remain unaltered by the plan. Such classes are referred to as “unimpaired” and, because of such favorable treatment, are deemed to accept the plan. Accordingly, a debtor need not solicit votes from the holders of claims or interests in such classes. A chapter 11 plan may also specify that certain classes will not receive any distribution of property or retain any claim against a debtor. Such classes are deemed not to accept the plan and, therefore, need not be solicited to vote to accept or reject the plan. Any classes that are receiving a distribution of property under the plan but are not unimpaired will be solicited to vote to accept or reject the plan.

Prior to soliciting acceptances of the proposed plan, section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement containing adequate information of a kind,

and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding the plan. To satisfy the requirements of section 1125 of the Bankruptcy Code, the Debtor is submitting this Disclosure Statement to Holders of Claims against the Debtor who are entitled to vote to accept or reject the Plan.

THE REMAINDER OF THIS ARTICLE PROVIDES A SUMMARY OF THE STRUCTURE AND MEANS FOR IMPLEMENTATION OF THE PLAN AND THE CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN, AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN, INCLUDING ANY SUPPLEMENTS AND SCHEDULES THERETO AND DEFINITIONS THEREIN.

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

B. Classification and Treatment of Claims and Interests

The Debtor believes that the Plan provides the best and most prompt possible recovery to Holders of Claims and Interests. Under the Plan, Claims against, and Interests in, the Debtor are divided into different Classes. Under the Bankruptcy Code, claims and equity interests are classified beyond mere “creditors” or “shareholders” because such entities may hold claims or equity interests in more than one class. If the Plan is confirmed by the Bankruptcy Court and consummated, on the Effective Date or as soon as reasonably practicable thereafter (but subject to Article VII of the Plan), the Debtor will make distributions in respect of certain Classes of Claims and Interests as provided in the Plan.

1. Treatment of Administrative Claims

Unless otherwise agreed to by the Holder of an Allowed Administrative Claim and the Debtor to the extent an Allowed Administrative Claim has not already been paid in full or otherwise satisfied during the Chapter 11 Case, each Holder of an Allowed Administrative Claim will receive, in full and final satisfaction of its Allowed Administrative Claim, Cash equal to the amount of the unpaid portion of such Allowed Administrative Claim either: (a) if such Administrative Claim is Allowed as of the Effective Date, as soon as reasonably practicable thereafter but in no event later than thirty days after the Effective Date; (b) if the Administrative Claim is not Allowed as of the Effective Date, no later than thirty days after the date on which an order of the Bankruptcy Court Allowing such Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; or (c) if the Allowed Administrative Claim is based on liabilities incurred by the Debtor's Estate in the ordinary course of their business after the Petition Date, pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claim, without any further action by the Holder of such Allowed Administrative Claim.

Except as otherwise provided by a Final Order previously entered by the Bankruptcy Court or as provided by Article II.B of the Plan, unless previously Filed, requests for payment of Administrative Claims must be Filed and served on the Debtor no later than the Administrative Claims Bar Date pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order. Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims that do not file and serve such a request by the Administrative Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtor or its property, and such

Administrative Claims shall be deemed discharged as of the Effective Date. Objections to such requests must be Filed and served on the requesting party by the Administrative Claims Objection Bar Date.

2. *Treatment of Professional Fee Claims*

i. Final Fee Applications

All final requests for payment of Professional Fee Claims must be filed with the Bankruptcy Court and served on the Debtor and the United States Trustee, and parties requesting notice in this Chapter 11 Case, no later than the first Business Day that is forty-five days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and any prior orders of the Bankruptcy Court in the Chapter 11 Case, the Allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court.

ii. Professional Fee Escrow Account

On the Effective Date, the Debtor shall establish and fund the Professional Fee Escrow Account. Funds held in the Professional Fee Escrow Account shall not be considered property of the Debtor's Estate, but the remaining balance after payment of all Professional Fees shall vest in the Disbursing Agent Assets after all Professional Fee Claims allowed by the Bankruptcy Court have been irrevocably paid in full. The Professional Fee Escrow Account shall be held in trust for the Professionals and for no other parties until all Professional Fee Claims Allowed by the Bankruptcy Court have been paid in full. Professional Fee Claims shall be paid in Cash to such Professionals from funds held in the Professional Fee Escrow Account when such Claims are Allowed by an order of the Bankruptcy Court. No Liens, claims, or interests shall encumber the Professional Fee Escrow Account in any way.

iii. Post-Effective Date Fees and Expenses

Except as otherwise specifically provided in the Plan, on and after the Effective Date, the Debtor shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional, or other fees and expenses related to implementation of the Plan and Consummation incurred by the Debtor as applicable. Upon the Confirmation Date, any requirement that Professionals comply with sections 327 through 331, 363, and 1103 of the Bankruptcy Code in seeking retention for services rendered after such date shall terminate, and the Debtor may employ any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

3. *Summary of Claims and Interests*

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests in or against the Debtor for all purposes, including, without express or implied limitation, voting, confirmation and distribution, pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Interest will be deemed classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class, and will be deemed classified in a different Class to the extent that any remainder of such Claim or Interest qualifies within the description of such different Class. A Claim or Interest is in a particular Class only to the extent that such Claim or Interest is Allowed in that Class and has not been paid or otherwise satisfied prior to the Effective Date. Except as otherwise specifically provided for in the Plan, the Confirmation Order or other order of the Bankruptcy Court, or required by applicable non-bankruptcy law, in no event will any Holder of an Allowed Claim be entitled to receive payments that in the aggregate exceed the Allowed

amount of such Holder's Claim. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Professional Fee Claims of the kinds specified in sections 507(a)(2) and 507(a)(8) of the Bankruptcy Code have not been classified, and their treatment is set forth in Article II of the Plan.

a. Class 1 - Priority Claims

(i) Classification: Class 1 consists of Priority Claims.

(ii) Treatment: Except to the extent that a Holder of an Allowed Priority Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and compromise of each and every Allowed Priority Claim, each Holder of an Allowed Priority Claim shall be paid in full in Cash in an amount equal to such Allowed Priority Claim by the Debtor on the Effective Date or by the Disbursing Agent after the Effective Date plus interest accrued on the amount of the Allowed Priority Claim at the Interest Rate from the Petition Date through the Effective Date.

(iii) Voting: Class 1 is Unimpaired, and Holders of Class 1 Priority Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 1 Priority Claims are not entitled to vote to accept or reject the Plan.

b. Class 2 – General Unsecured Claims

(i) Classification: Class 2 consists of General Unsecured Claims.

(ii) Treatment: Except to the extent that a Holder of an Allowed General Unsecured Claim agrees to a less favorable treatment, in exchange for

full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed General Unsecured Claim, each Holder of an Allowed General Unsecured Claim shall be paid in full in Cash in an amount equal to such Allowed General Unsecured Claim by the Debtor on the Effective Date or by the Disbursing Agent after the Effective Date plus interest accrued on the amount of the Allowed General Unsecured Claim at the Interest Rate from the Petition Date through the Effective Date.

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

c. Class 3 – Common Stock Interests

(i) Classification: Class 3 consists of Common Stock Interests.

(ii) Treatment: Except to the extent that a Holder of an Allowed Common Stock Interest agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Common Stock Interest, each Holder of an Allowed Common Stock Interest shall receive its Pro Rata Share of the Disbursing Agent Assets.

(iii) Voting: Class 3 is Impaired under the Plan. Holders of Allowed Common Stock Interests are entitled to vote to accept or reject the Plan.

d. Class 4 – Private Warrant Interests

(i) Classification: Class 4 consists of Private Warrant Interests.

(ii) Treatment: Except to the extent that a Holder of an Allowed Private Warrant Interest agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and compromise of and in exchange for each Allowed Private Warrant Interest, each Holder of an Allowed Private Warrant Interest shall receive its Pro Rata Share of the Disbursing Agent Assets.

(iii) Voting: Class 4 is Impaired under the Plan. Holders of Allowed Private Warrant Interests are entitled to vote to accept or reject the Plan.

e. Class 5 – Public Warrant Interests

(i) Classification: Class 5 consists of Public Warrant Interests.

(ii) Treatment: On the Effective Date all Public Warrant Interests shall be cancelled without any distribution on account of such interests.

(iii) Voting: Class 5 is Impaired under the Plan. Holders of Public Warrant Interests are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, such Holders are not entitled to vote to accept or reject the Plan.

C. Acceptance or Rejection of the Plan

1. Voting of Interests

Each Holder of a Class 3 – Common Stock Interest or Class 4 – Private Warrant Interest as of the Voting Record Date will be entitled to vote to accept or reject the Plan as provided in the Disclosure Statement Order or any other order of the Bankruptcy Court.

2. Special Provision Governing Unimpaired Claims

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtor's rights in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

3. *Class Acceptance Requirement*

A Class of Claims shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount of the Allowed Claims in such Class and more than one-half (1/2) in number of Holders of such Claims that have voted on the Plan. A Class of Equity Interests shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount of the Allowed Equity Interests in such Class.

4. *Presumed Acceptance of Plan*

Class 1 – Priority Claims and Class 2 – General Unsecured Claims are Unimpaired by the Plan. Pursuant to section 1126(f) of the Bankruptcy Code, the Holders of Claims in such Classes are conclusively presumed to have accepted the Plan and the votes of such Holders are not solicited.

5. *Presumed Rejection of Plan*

Class 5 – Public Warrant Interests will not receive any distribution under the Plan on account of such Public Warrant Interests. Pursuant to section 1126(g) of the Bankruptcy Code, the Holders of Public Warrant Interests in such Class are conclusively presumed to have rejected the Plan and the votes of such Holders will not be solicited.

6. *Voting Classes; Presumed Acceptance by Non-Voting Classes*

If a Class contains Claims or Equity Interests eligible to vote and no Holders of Claims or Equity Interests eligible to vote in such Class vote to accept or reject the Plan, the Plan shall be presumed accepted by the Holders of such Claims or Equity Interests in such Class.

7. *Confirmation Pursuant to Sections 1129(a) and 1129(b) of the Bankruptcy Code*

Section 1129(a)(10) of the Bankruptcy Code is not applicable because there is no Class of Impaired Claims under the Plan. However, if the Bankruptcy Court determines that any Class of Claims under the Plan is Impaired, the Debtor shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Equity Interests. The Debtor reserves the right to modify the Plan in accordance with Article VIII of the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

D. Means of Implementation of the Plan

1. *Sources of Consideration for Plan Distributions*

All amounts necessary for the Debtor (on the Effective Date) or the Disbursing Agent, (after the Effective Date), as applicable, to make payments or distributions pursuant to this Plan shall be obtained from, among other things, the Cash raised or held by the Debtor.

2. *General Settlement of Claims*

Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, on the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims, Interests, and controversies resolved pursuant to the Plan.

3. *Effectuating Documents; Further Transactions*

On and after the Effective Date, the Disbursing Agent is authorized to and may issue, execute, deliver, file, or record such contracts, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further

evidence the terms and conditions of the Plan without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

4. *Preservation of Rights of Action*

In accordance with section 1123(b) of the Bankruptcy Code, and except where such Causes of Action have been expressly released, sold or otherwise transferred, the Disbursing Agent shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, and the Disbursing Agent's rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. The Disbursing Agent may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Debtor's estate. No Entity may rely on the absence of a specific reference in the Plan, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor, or the Disbursing Agent, as applicable, will not pursue any and all available Causes of Action against them. Except with respect to Causes of Action as to which the Debtor has released, sold, or otherwise transferred to any Person or Entity on or prior to the Effective Date, the Debtor or the Disbursing Agent, as applicable, expressly reserves all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan. Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, sold or otherwise transferred, compromised, or settled in the Plan or a Bankruptcy Court order, the Disbursing Agent expressly reserves all Causes of Action for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion,

estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation.

5. *Wind Down and Dissolution of the Debtor*

On and after the Effective Date, the Disbursing Agent will implement and oversee the Wind Down pursuant to any provision of the Plan and any applicable orders of the Bankruptcy Court, and the Disbursing Agent shall have the power and authority to take any action necessary to wind down and dissolve the Debtor, including (a) filing a certificate of dissolution, together with all other necessary corporate and company documents, to effect the dissolution of the Debtor under Delaware law; (b) completing and filing all final or otherwise required federal, state, and local tax returns for the Debtor, and (c) taking such other actions as the Disbursing Agent may determine to be necessary or desirable to carry out the purposes of this Plan. Notwithstanding anything herein to the contrary, the Disbursing Agent will make, or cause to be made, all distributions under the Plan other than those distributions made by the Debtor on the Effective Date.

6. *Disbursing Agent*

Before or on the Effective Date, the Disbursing Agent shall be designated by the Debtor, for the purposes of conducting the Wind Down and shall succeed to such powers as would have been applicable to the Debtor's officers, directors, and shareholders, and the Debtor shall be authorized to be (and, upon the conclusion of the Wind Down, shall be) dissolved by the Disbursing Agent pursuant to the Confirmation Order. All property of the Estate not distributed to the Holders of Claims or Equity Interests on the Effective Date shall be managed and distributed by the Disbursing Agent and shall be held in the name of the Debtor free and clear of

all Claims and Equity Interests except for rights to such distributions provided to Holders of Allowed Claims and Allowed Equity Interests as provided in the Plan. Any and all reasonable and documented costs and expenses incurred by the Disbursing Agent in connection with the Wind Down, the Professional Fee Escrow Account, and any distributions to Holders of Allowed Claims and Allowed Interests, shall be paid from the Disbursing Agent Assets. The Disbursing Agent shall be compensated and reimbursed for reasonable costs and expenses as set forth in, and in accordance with, the Disbursing Agent Agreement.

E. Provisions Governing Distributions

1. Timing and Calculation of Amounts to Be Distributed

Except as otherwise provided herein, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim or Interest is not an Allowed Claim or Allowed Interest on the Effective Date, on the date that such a Claim or Interest becomes an Allowed Claim or Allowed Interest, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim or Allowed Interest against the Debtor shall receive the full amount of the distributions and payments that the Plan provides for Allowed Claims or Allowed Interests in the applicable Class from the Debtor or Disbursing Agent, as applicable. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent that there are Disputed Claims or Disputed Interests, distributions on account of any such Disputed Claims or Disputed Interests shall be made pursuant to the provisions set forth in Article V of the Plan. Except as otherwise provided herein, Holders of Claims shall not be

entitled to interest, dividends, or accruals on the distributions provided for herein, regardless of whether such distributions are delivered on or at any time after the Effective Date. Notwithstanding anything to the contrary herein, no Holder of an Allowed Claim shall, on account of such Allowed Claim, receive a distribution in excess of the Allowed amount of such Claim.

2. *Distributions and Payments Generally*

All distributions and payments under the Plan that are to be made on the Effective Date, if any, shall be made by the Debtor and payments made after the Effective Date shall be made by the Disbursing Agent.

3. *Disputed Reserves*

On the Effective Date, after making all Distributions required to be made on such date under the Plan, the Disbursing Agent shall establish a separate Disputed Reserve for Disputed Claims, each of which Disputed Reserves shall be administered by the Disbursing Agent. The Disbursing Agent shall reserve in Cash or other property, for Distribution on account of each Disputed Claim, the full asserted amount (or such lesser amount as may be estimated by the Bankruptcy Court in accordance with Article V of the Plan) with respect to each Disputed Claim.

The Disbursing Agent shall hold property in the Disputed Reserves in trust for the benefit of the Holders of Claims and Interests ultimately determined to be Allowed. Each Disputed Reserve shall be closed and extinguished by the Disbursing Agent when all Distributions and other dispositions of Cash or other property required to be made hereunder will have been made in accordance with the terms of the Plan. Upon closure of a Disputed Reserve, all Cash held in that Disputed Reserve shall revert in the Disbursing Agent Assets. All funds or other property

that vest or revest in the Disbursing Agent Assets pursuant to this paragraph shall be (a) used to pay the fees and expenses of the Disbursing Agent as and to the extent set forth in the Disbursing Agent Agreement, and (b) thereafter distributed on a Pro Rata basis to holders of Allowed Interests.

4. *Delivery of Distributions*

a. General Provisions; Undeliverable Distributions

Subject to Bankruptcy Rule 9010 and except as otherwise provided herein, Distributions to the Holders of Allowed Claims and Allowed Interests shall be made by the Disbursing Agent at (a) the address of each Holder as set forth in the Schedules, unless superseded by the address set forth on proofs of Claim or proofs of Interest Filed by such Holder or (b) the last known address of such Holder if no proof of Claim is Filed or if the Debtor has been notified in writing of a change of address. If any Distribution is returned as undeliverable, the Disbursing Agent may, in its discretion, make reasonable efforts to determine the current address of the Holder of the Claim or Interest with respect to which the Distribution was made as the Disbursing Agent deems appropriate, but no Distribution to any such Holder shall be made unless and until the Disbursing Agent has determined the then-current address of such Holder, at which time the Distribution to such Holder shall be made to the holder without interest beyond any interest provided for in the Plan. Amounts in respect of any undeliverable Distributions made by the Disbursing Agent shall be returned to, and held in trust by, the Disbursing Agent until the Distributions are claimed or are deemed to be unclaimed property under Section 347(b) of the Bankruptcy Code, as set forth in Article V.D.3 of the Plan. The Disbursing Agent shall have the discretion to determine how to make Distributions in the most efficient and cost-effective

manner possible; provided, however, that its discretion may not be exercised in a manner inconsistent with any express requirements of the Plan or the Disbursing Agent Agreement.

b. Minimum Distributions

Notwithstanding anything herein to the contrary, if a Distribution to be made to a Holder of an Allowed Claim or Allowed Interest on the Effective Date or any subsequent date for Distributions would be less than the Minimum Distribution Threshold, \$25.00 or less in the aggregate at the time of such Distribution, no such Distribution will be made to that Holder unless a request therefor is made in writing to the Disbursing Agent no later than twenty (20) days after the Effective Date. If the Holder of an Allowed Claim or Allowed Interest with an Allowed amount below the Minimum Distribution Threshold does not make a request for Distribution with the Disbursing Agent within twenty (20) days after the Effective Date, the Disbursing Agent will segregate the amount of the proposed Distribution into an account, the proceeds of which will be donated to “and Justice for all” after all Distributions have been made.

c. Unclaimed Property

Except with respect to property not Distributed because it is being held in a Disputed Reserve, Distributions that are not claimed by the expiration of the later of six (6) months from the Effective Date or ninety (90) days from such Distribution shall be deemed to be unclaimed property under Section 347(b) of the Bankruptcy Code and shall vest or revert in the Disbursing Agent Assets, and the Claims or Interests with respect to which those Distributions are made shall be automatically cancelled. After the expiration of the applicable period, the claim of any Entity to those Distributions shall be discharged and forever barred. Nothing contained in the Plan shall require the Disbursing Agent to attempt to locate any holder of an Allowed Claim or

Allowed Interest. All funds or other property that vests or reverts in the Disbursing Agent Assets pursuant to this Article shall be distributed by the Disbursing Agent to the other Holders of Allowed Claims and Allowed Interests in accordance with the provisions of the Plan or the Disbursing Agent Agreement.

5. *Time Bar to Cash Payments by Check*

Checks issued by the Disbursing Agent on account of Allowed Claims or Allowed Interests shall be null and void if not negotiated within 90 days after the date of issuance thereof. Requests for the reissuance of any check that becomes null and void pursuant to Article IV of the Plan shall be made directly to the Disbursing Agent by the Holder of the Allowed Claim or Allowed Interest to whom the check was originally issued. Any claim in respect of such voided check shall be made in writing on or before the later of six (6) months from the Effective Date or ninety (90) days after the date of issuance thereof. After that date, all claims in respect of void checks shall be discharged and forever barred and the proceeds of those checks shall revert in the Disbursing Agent Assets as unclaimed property in accordance with Section 347(b) of the Bankruptcy Code and be distributed as provided in Article IV.D.3 of the Plan.

6. *Interest on Claims*

Except as specifically provided for in the Plan or the Confirmation Order, interest shall not accrue on Claims and no holder of a Claim shall be entitled to interest accruing on or after the Effective Date on any Claim.

F. Disputed Claims and Interests

1. *Resolution of Disputed Claims*

a. Allowance of Claims

On or after the Effective Date, the Disbursing Agent shall have and shall retain any and all rights and defenses that the Debtor had with respect to any Claim, except with respect to any Claim deemed Allowed as of the Effective Date. Except as expressly provided in the Plan or in any order entered in the Chapter 11 Case prior to the Effective Date (including, without limitation, the Confirmation Order), no Claim shall become an Allowed Claim unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code or the Bankruptcy Court has entered a Final Order, including the Confirmation Order, in the Chapter 11 Case allowing such Claim.

b. Prosecution of Objections to Claims

The Debtor prior to and on the Effective Date or the Disbursing Agent after the Effective Date shall have authority to File objections to Claims, settle, compromise, withdraw or litigate to judgment objections to any and all Claims, regardless of whether such Claims are in a Class or otherwise.

c. Estimation of Claims

Prior to and on the Effective Date, the Debtor, and after the Effective Date, the Disbursing Agent may, at any time, request that the Bankruptcy Court estimate (a) any Disputed Claim pursuant to applicable law and (b) any contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, regardless of whether the Debtor or the Disbursing Agent have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any Disputed Claim, contingent Claim or unliquidated Claim, including during the litigation concerning any objection to any

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

d. Expungement or Adjustment of Claims Without Objection

Any Claim that has been paid, satisfied or superseded may be expunged on the Claims Register by the Debtor or the Disbursing Agent and any Claim that has been amended may be

adjusted thereon by the Debtor or the Disbursing Agent in both cases without a Claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court.

e. Deadline to File Objections to Claims

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

2. *Disallowance of Claims*

All Claims of any Entity from which property is sought by the Debtor or the Disbursing Agent under section 542, 543, 550, or 553 of the Bankruptcy Code or that the Debtor or the Disbursing Agent allege is a transferee of a transfer that is avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if (1) the Entity, on the one hand, and the Debtor or the Disbursing Agent on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turnover any property or monies under any of the aforementioned sections of the Bankruptcy Code and (2) such Entity or transferee has failed to turnover such property by the date set forth in such agreement or Final Order.

EXCEPT AS OTHERWISE AGREED BY THE DEBTOR ANY AND ALL PROOFS OF CLAIM FILED AFTER THE APPLICABLE CLAIMS BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER OR APPROVAL OF THE BANKRUPTCY COURT, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS SUCH LATE PROOF OF CLAIM IS DEEMED TIMELY FILED BY A FINAL ORDER OF THE BANKRUPTCY COURT.

3. *Amendments to Claims*

On or after the Effective Date, a Claim may not be Filed or amended without the prior authorization of the Bankruptcy Court and any such new or amended Claim Filed shall be

deemed disallowed and expunged without any further notice to or action, order or approval of the Bankruptcy Court.

G. Settlement, Release, Injunction and Related Provisions

1. Discharge of Claims and Termination of Interests

To the maximum extent provided by section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in this Plan or in any contract, instrument, or other agreement or document created pursuant to this Plan, the distributions, rights, and treatment that are provided in this Plan shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of Claims, Equity Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Equity Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Equity Interests in, the Debtor or any of its assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Equity Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability to the extent such Claims or Equity Interests relate to services performed by employees of the Debtor prior to the Effective Date and that arise from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Proof of Interest based upon such debt, right, or Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or

(3) the Holder of such a Claim or Interest has accepted the Plan. Any default by the Debtor with respect to any Claim or Interest that existed immediately prior to or on account of the filing of the Chapter 11 Case shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Equity Interests subject to the Effective Date occurring.

Pursuant to Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Equity Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Equity Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtor, its Estate, and Holders of Claims and Equity Interests, and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Disbursing Agent may compromise and settle Claims against the Debtor and its Estate and Causes of Action against other Entities.

2. *Debtor Release*

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided herein, or in any contract, instrument, or other agreement or document created pursuant to this Plan, for good and valuable consideration, on and after

the Effective Date, the Debtor and its Estate shall release each Released Party, and each Released Party shall be deemed released and discharged by the Debtor and its Estate, from any and all claims, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that the Debtor or its Estate would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any claim or interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor or the Chapter 11 Case, the subject matter of, or the transactions or events giving rise to, any claim or interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Equity Interests prior to or in the Chapter 11 Case, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, the Asset Purchase Agreement, or related agreements, instruments or other documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct, bad faith, or gross negligence, each solely to the extent determined by a Final Order. Notwithstanding anything to the contrary in the foregoing, the Debtor Release shall not release any obligations of any Released Party under the Plan or any document, instrument, or agreement executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims released by the Debtor Release; (3) in the best interests of the Debtor and all Holders of Claims and Equity Interests; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to the Debtor or its Estate asserting any Claim or Cause of Action released pursuant to the Debtor Release.

3. Third-Party Release

As of the Effective Date, except as otherwise provided in the Plan, or in any contract, instrument or other agreement or document created pursuant to this Plan, the Releasing Parties shall release the Debtor, its Estate, and the Released Parties shall be deemed released, from any and all claims, interests, obligations, rights, suits, damages, Causes of Action, remedies and liabilities whatsoever, including any derivative claims, asserted on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Chapter 11 Case, the purchase, sale, or rescission of the purchase or sale of any security of the Debtor, the subject matter of, or the transactions or events giving rise to, any claim or interest that is

treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the negotiation, formulation, or preparation of the Plan, the Disclosure Statement, the Asset Purchase Agreement, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Debtor Releasee that constitutes willful misconduct, bad faith, or gross negligence Notwithstanding anything to the contrary in the foregoing, the Third-Party Release shall not release any obligations of any Released Party under the Plan or any document, instrument, or agreement executed to implement the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third-Party Release, which includes by reference each of the related provisions and definitions contained herein, and, further, shall constitute the Bankruptcy Court's finding that the Third-Party Release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the claims released by the Third-Party Release; (3) in the best interests of the Debtor and all Holders of Claims and Equity Interests; (4) fair, equitable and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to any of the Releasing Parties asserting any claim or cause of action released pursuant to the Third-Party Release.

4. *Exculpation*

Except as otherwise specifically provided in the Plan, or in any contract, instrument, or other agreement or document created pursuant to this Plan, no Exculpated Party shall have or incur any liability to any Entity for any prepetition or postpetition act taken or omitted to be taken in connection with, or related to formulating, negotiating, soliciting, preparing, disseminating, confirming, or implementing the Plan, or consummating the Plan, the Disclosure Statement, the Asset Purchase Agreement, the Chapter 11 Case or any contract, instrument, release or other agreement, or document created or entered into in connection with the Plan or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring or liquidation of the Debtor; provided, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her, or its duties pursuant to, or in connection with, the Plan or any other related document, instrument, or agreement; provided, further, that the foregoing Exculpation shall have no effect on the liability of any Entity that results from any such act or omission that is determined in a Final Order to have constituted gross negligence, bad faith, or willful misconduct.

5. *Injunction*

Except as otherwise expressly provided in the Plan or for obligations required to be paid pursuant to the Plan, or Confirmation Order, all Entities who have held, hold, or may hold claims, interests, or Liens that have been discharged pursuant to Article VI.A, released pursuant to Article VI.B or Article VI.C, or are subject to exculpation pursuant to Article VI.D are, to the fullest extent provided under Section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined, from and after the Effective

Date, from taking any of the following actions against, the Debtor, or the Released Parties:

(1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such claims or interests; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such claims or interests; (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or the estate of such Entities on account of or in connection with or with respect to any such claims or interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such claims or interests unless such Entity has timely asserted such setoff right prior to the Effective Date in a document Filed with the Bankruptcy Court explicitly preserving such setoff, and notwithstanding an indication of a claim or interest or otherwise that such Entity asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such claims or interests released or settled pursuant to the Plan.

6. *Setoffs*

Except as otherwise expressly provided for in the Plan or in any court order, the Debtor or the Disbursing Agent, as applicable, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim, may (but shall not be required to) set off against any Allowed Claim and the

distributions to be made pursuant to the Plan on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that the Debtor or its Estate may hold against the Holder of such Allowed Claim, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); provided, that, neither the failure to effect such a setoff nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by the Debtor of any such claims, rights, and Causes of Action that the Debtor may possess against such Holder. In no event shall any Holder of Claims be entitled to setoff any Claim against any claim, right, or Cause of Action of the Debtor unless such Holder has timely Filed a Proof of Claim with the Bankruptcy Court preserving such setoff right.

7. Recoupment

In no event shall any Holder of a Claim be entitled to recoup any Claim against any claim, right, or Cause of Action of the Debtor unless such Holder actually has performed such recoupment and provided notice thereof in writing to the Debtor on or before the Confirmation Date, notwithstanding any indication in any Proof of Claim or otherwise that such Holder asserts, has, or intends to preserve any right of recoupment.

H. Conditions Precedent to Confirmation and Consummation of the Plan

1. Conditions Precedent to the Effective Date

Consummation of the Plan will not occur unless each of the following conditions has been satisfied:

- (a) The Bankruptcy Court shall have entered the Confirmation Order in form and substance reasonably acceptable to the Debtor, and such Confirmation Order shall

have become a Final Order that has not been stayed or modified or vacated on appeal; and

(b) The Disbursing Agent shall have been appointed, and the Debtor shall have executed and delivered the Disbursing Agent Agreement.

2. *Effective Date*

The Effective Date shall be the first Business Day upon which all of the conditions specified in Article VII.A of the Plan have been satisfied. “Substantial Consummation” of the Plan, as defined in 11 U.S.C. § 1101(2), shall be deemed to occur on the Effective Date.

3. *Effect of Non-Occurrence of Conditions Precedent to the Effective Date*

If the Effective Date does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any claims by or Claims against or Equity Interests in the Debtor; (2) prejudice in any manner the rights of the Debtor, any Holders or any other Entity; or (3) constitute an admission, acknowledgment, offer, or undertaking by the Debtor, any Holders, or any other Entity in any respect.

I. Modification, Revocation or Withdrawal of the Plan

1. *Modification and Amendments*

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

Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article VIII of the Plan.

2. Effect of Confirmation on Modifications

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

3. Revocation or Withdrawal of the Plan

The Debtor reserves the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Debtor revokes or withdraws the Plan, or if Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (3) nothing contained in the Plan shall: (i) constitute a waiver or release of any Claims or Interests; (ii) prejudice in any manner the rights of the Debtor, or any other Entity; or (iii) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtor.

J. Retention of Jurisdiction by the Bankruptcy Court

On and after the Effective Date, the Bankruptcy Court will retain jurisdiction of the Chapter 11 Case and all matters arising out of and related to the Chapter 11 Case including jurisdiction to:

(a) allow, disallow, determine, liquidate, classify, estimate, or establish the priority, or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the status, priority, amount, or allowance of Claims or Interests;

(b) decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

(c) ensure that distributions to Holders of Allowed Claims and Interests are accomplished pursuant to the provisions of the Plan;

(d) adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving the Debtor that may be pending on the Effective Date;

(e) adjudicate, decide, or resolve any and all matters related to Causes of Action;.

(f) enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan;

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

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

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

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

(k) determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any other agreement or document created in connection with the Plan or the Disclosure Statement;

(l) adjudicate any and all disputes arising from or relating to distributions under the Plan or any transactions contemplated herein;

(m) consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

(n) determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;

(o) hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, or the Confirmation Order, including

disputes arising under agreements, documents, or instruments executed in connection with the Plan;

(p) hear and determine all disputes involving the existence, nature, or scope of the Debtor's release, including any dispute relating to any liability arising out of the termination of employment, regardless of whether such termination occurred prior to or after the Effective Date;

(q) enforce all orders previously entered by the Bankruptcy Court;

(r) hear any other matter not inconsistent with the Bankruptcy Code;

(s) enter an order concluding or closing the Chapter 11 Case; and

(t) enforce the injunction, release, and exculpation provisions set forth in

Article VI of the Plan.

K. Miscellaneous

1. Immediate Binding Effect

Subject to Article VII.A of the Plan and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan, and the Confirmation Order shall be immediately effective and enforceable and deemed binding upon the Debtor, the Disbursing Agent, and any and all Holders of Claims or Interests (regardless of whether such Claims or Interests are deemed to have accepted or rejected the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, and injunctions described in the Plan, each Entity acquiring property under the Plan or the Confirmation Order. All Claims and debts shall be as fixed, adjusted or compromised, as

applicable, pursuant to the Plan regardless of whether any Holder of a Claim has voted on the Plan.

2. *Payment of Statutory Fees*

All fees payable pursuant to section 1930(a) of the Judicial Code shall be paid by the Debtor (prior to or on the Effective Date) or the Disbursing Agent (after the Effective Date) for each quarter (including any fraction thereof) until the Chapter 11 Case is converted, dismissed, or closed, whichever occurs first.

3. *Reservation of Rights*

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

4. *Successors and Assigns*

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

5. *Service of Documents*

Any pleading, notice, or other document required by the Plan to be served on or delivered to the Debtor shall be served on:

DORSEY & WHITNEY LLP
Attn: Steven T. Waterman
136 South Main Street, Suite 1000
Salt Lake City, Utah 84101

6. *Term of Injunction or Stays*

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

7. *Entire Agreement*

Except as otherwise provided herein or therein, the Plan supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

8. *Nonseverability of Plan Provisions*

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan 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

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: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the Debtor's consent; and (3) nonseverable and mutually dependent.

**ARTICLE VI.
ADDITIONAL DISCLOSURES REGARDING THE DISBURSING AGENT**

A. Purpose of the Disbursing Agent

The Disbursing Agent will be retained for the primary purpose of prosecuting any Causes of Action, disbursing the Disbursing Agent Assets, and winding down the Debtor's Estate.

B. Distribution; Withholding

Notwithstanding anything in the Plan to the contrary, the Disbursing Agent will make, or cause to be made, all Distributions under the Plan and the Disbursing Agent Agreement other than (a) those Distributions made by the Debtor on the Effective Date and (b) distributions from the Professional Fee Escrow Account in accordance with Article II.C of the Plan.

The Disbursing Agent may withhold from amounts distributable to any Entity any and all amounts, determined in the Disbursing Agent's sole discretion, required by the Plan, or applicable law, regulation, rule, ruling, directive, or other governmental requirement.

C. Other Rights and Duties

In addition to the Disbursing Agent's rights and duties with respect to making distributions, on and after the Effective Date, the Disbursing Agent will be authorized to implement the Plan and any applicable orders of the Bankruptcy Court.

Any and all rights to conduct investigations with respect to Causes of Action or claims not released by the Debtor shall vest with the Disbursing Agent as if neither the Confirmation Date nor the Effective Date had occurred.

The filing of the final monthly report (for the month in which the Effective Date occurs) and all subsequent quarterly reports shall be the responsibility of the Disbursing Agent.

D. Exculpation; Indemnification

The Disbursing Agent, professionals retained by the Disbursing Agent, and representatives of each of the foregoing will be exculpated and indemnified pursuant to the terms of the Disbursing Agent Agreement.

**ARTICLE VII.
STATUTORY REQUIREMENTS FOR CONFIRMATION OF THE PLAN**

The following is a brief summary of the Plan Confirmation process. Holders of Claims and Interests are encouraged to review the relevant provisions of the Bankruptcy Code and/or consult their own attorneys.

A. The Confirmation Hearing

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

THE BANKRUPTCY COURT HAS SCHEDULED THE CONFIRMATION HEARING FOR DECEMBER 20, 2016 AT 11:00 A.M. (PREVAILING MOUNTAIN TIME) BEFORE THE HONORABLE CHIEF JUDGE R. KIMBALL MOSIER, IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF UTAH, IN HIS COURTROOM, ROOM 369, OF THE FRANK E. MOSS UNITED STATES COURTHOUSE, 350 SOUTH MAIN STREET, SALT LAKE CITY, UTAH 84101. THE CONFIRMATION HEARING MAY BE ADJOURNED FROM TIME TO TIME BY THE BANKRUPTCY COURT (i) PRIOR TO THE CONFIRMATION HEARING BY POSTING NOTICE OF SAME ON THE DOCKET FOR THE CHAPTER 11 CASE AND (ii) AT THE CONFIRMATION HEARING WITHOUT FURTHER NOTICE EXCEPT FOR AN ANNOUNCEMENT OF THE ADJOURNED DATE

MADE AT THE CONFIRMATION HEARING OR ANY ADJOURNMENT THEREOF. OBJECTIONS TO CONFIRMATION OF THE PLAN MUST BE FILED AND SERVED ON OR BEFORE DECEMBER 7, 2016 AT 4:00 P.M. (PREVAILING MOUNTAIN TIME) IN ACCORDANCE WITH THE CONFIRMATION HEARING NOTICE. UNLESS OBJECTIONS TO CONFIRMATION ARE TIMELY SERVED AND FILED IN COMPLIANCE WITH THE APPROVAL ORDER, THE CONFIRMATION HEARING NOTICE AND THE VOTING PROCEDURES, THEY WILL NOT BE CONSIDERED BY THE BANKRUPTCY COURT.

B. Confirmation Standards

To confirm the Plan, the Bankruptcy Court must find that the requirements of section 1129 of the Bankruptcy Code have been satisfied. The Debtor believes that section 1129 has been satisfied because, among other things:

- (a) the Plan complies with the applicable provisions of the Bankruptcy Code;
- (b) the Debtor, as Plan proponent, has 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 under the Plan for services or for costs and expenses of or in connection with the Chapter 11 Case, or in connection with the Plan, has been approved by, or is subject to the approval of, the Bankruptcy Court as reasonable;
- (e) with respect to each Class of Impaired Claims or Interests, either each Holder of a Claim or Interest in such Class has accepted the Plan or will receive or retain under the Plan on account of such Claim or Interest property of a value, as of the Effective Date of the Plan, that is not less than the amount that such Holder would

receive or retain if the Debtor were liquidated on such date under chapter 7 of the Bankruptcy Code (see Article VII.C below);

(f) each Class of Claims or Interests has either accepted the Plan or is not Impaired under the Plan, or the Plan can be confirmed without the approval of such Class pursuant to section 1129(b) of the Bankruptcy Code;

(g) except to the extent that the Holder of a particular Claim has agreed or will agree to a different treatment of such Claim, the Plan provides that Allowed Administrative Claims will be paid in full in Cash on the Effective Date;

(h) except to the extent that a Holder of an Allowed Priority Claim has agreed to a different treatment of such Claim, each such Holder shall receive Cash in an amount equal to the Allowed amount of such Claim, or treatment in any other manner so that such Claim shall otherwise be rendered Unimpaired, on or as soon as reasonably practicable after the Effective Date or the date such Claim becomes Allowed; and

(i) all fees payable under section 1930 of title 28 of the United States Code will be paid as of the Effective Date.

C. Best Interests Test

1. Explanation of the Best Interests Test

Pursuant to section 1129(a)(7) of the Bankruptcy Code, Confirmation requires that, with respect to each Class of Impaired Claims or Interests, each Holder of a Claim or Interest in such Class either (a) accept the Plan or (b) receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that such

Holder would receive or retain if the Debtor were liquidated on such date under chapter 7 of the Bankruptcy Code (this latter clause is often called the “Best Interests Test”).

To determine the probable distribution to Holders of Claims and Interests in each Impaired Class if the Debtor were liquidated under chapter 7 of the Bankruptcy Code, the Bankruptcy Court must determine the dollar amount that would be generated from the liquidation of the Debtor’s assets and properties in the context of a chapter 7 liquidation.

The Debtor’s liquidation value would consist primarily of the Cash held by the Debtor at the time of the conversion to a chapter 7 liquidation and the proceeds resulting from the sale of the Debtor’s remaining assets by a chapter 7 trustee. The gross Cash available for distribution would be reduced by the costs and expenses of the chapter 7 liquidation and any additional Administrative Claims that might arise as a result of the chapter 7 case. Costs and expenses incurred as a result of the chapter 7 liquidation would further include, among other things, the fees payable to a chapter 7 trustee in bankruptcy and the fees payable to attorneys and other professionals engaged by such trustee. Such Administrative Claims and other Administrative Claims that might arise in a liquidation case or result from the pending Chapter 11 Case, such as compensation for attorneys, financial advisors and accountants, would be paid in full from the liquidation proceeds before the balance of those proceeds would be made available to pay prepetition Claims and Interests. The Debtor believes that the administrative expenses of a chapter 7 liquidation will be greater than the chapter 11 administrative expenses required to confirm the Plan and make distributions to creditors.

To determine if the Plan is in the best interests of each Impaired Class, the present value of the distributions from the proceeds of a liquidation of the Debtor’s remaining assets, after

subtracting the amounts attributable to the costs, expenses and Administrative Claims associated with a chapter 7 liquidation, must be compared with the value offered to such Impaired Classes under the Plan. If the hypothetical liquidation distribution to Holders of Claims or Interests in any Impaired Class is greater than the distributions to be received by such parties under the Plan, then the Plan is not in the best interests of the Holders of Claims or Interests in such Impaired Class.

2. *Liquidation Analysis of the Debtor*

Amounts that Holders of Claims and Interests in Impaired Classes would receive in a hypothetical chapter 7 liquidation are discussed in the liquidation analysis of the Debtor prepared by the Debtor's management with the assistance of its advisors (the "Liquidation Analysis"), which is attached hereto as **Exhibit 3**.

As described in the Liquidation Analysis, the Debtor developed the Liquidation Analysis based on the Debtor's cash on hand and remaining asset values, the estimated Allowed amounts of Claims and Interests, the estimated expenses incurred by the Debtor to confirm the Plan, and the estimated costs that the Debtor's estate would incur in a chapter 7 liquidation including the chapter 7 trustee fees and fees incurred by professionals retained by the chapter 7 trustee. The recoveries may change based on further refinements of Allowed Claims and Allowed Interests, as the Debtor's claim objection and reconciliation process continues.

The Liquidation Analysis is solely for the purposes of (i) providing "adequate information" under section 1125 of the Bankruptcy Code to enable the Holders of Claims and Interests entitled to vote under the Plan to make an informed judgment about the Plan and (ii) providing the Bankruptcy Court with appropriate support for the satisfaction of the "Best

Interests Test” pursuant to section 1129(a)(7) of the Bankruptcy Code, and should not be used or relied upon for any other purpose, including the purchase or sale of securities of, or Claims or Interests in, the Debtor.

In deciding whether to vote to accept or reject the Plan, Holders of Claims must make their own determinations as to the reasonableness of any assumptions underlying the Liquidation Analysis and the reliability of the Liquidation Analysis.

3. Application of the Best Interests Test

The Debtor believes that the Plan meets the Best Interests Test because conversion of the Chapter 11 Case to a case under chapter 7 of the Bankruptcy Code will decrease recoveries for Holders of Claims based on the fees payable to a chapter 7 trustee and the fees payable to attorneys and other professionals engaged by such trustee. Further, converting this case to a case under chapter 7 would significantly delay payments to Holders of Claims while the chapter 7 trustee learned the Debtor’s business, investigated potential avoidable transfers, and investigated the merits of individual Claims. Accordingly, the Debtor believes that conversion of the Chapter 11 Case to a case under chapter 7 will increase costs without providing any benefit to Holders of Allowed Claims and Allowed Interests and will delay payments to such Claim and Interest Holders.

D. Financial Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires, as a condition to confirmation of a chapter 11 plan, that a bankruptcy court find that such confirmation is not likely to be followed by the liquidation of the debtor or the need for further financial reorganization, unless such liquidation is contemplated by the plan. Here, the Plan contemplates a liquidation of the

Debtor's Assets and payment of all amounts to the Debtor's Claim and Interest Holders. Accordingly, the Plan meets the "feasibility" standard.

E. Acceptance by Impaired Classes

The Bankruptcy Code also requires, as a condition to confirmation of a chapter 11 plan, that each impaired class of claims or interests accept the plan. A class of claims or interests that is unimpaired under the plan is deemed to have accepted the plan and, therefore, solicitation of acceptances with respect to such class is not required. A class is impaired unless the plan (i) leaves unaltered the legal, equitable and contractual rights to which the claim or interest entitles the holder of such claim or interest or (ii) cures any default, reinstates the original terms of the obligation, and does not otherwise alter the legal, equitable, or contractual rights to which the claim or interest entitles the holder of such claim or interest.

Section 1126(c) of the Bankruptcy Code defines acceptance of the Plan by an Impaired Class of Claims as acceptance by Holders of at least two-thirds in dollar amount and more than one-half in number of Claims in that Class; only those Holders that are eligible to vote and that actually vote to accept or reject the Plan are counted for purposes of determining whether these dollar and number thresholds are met. Thus, a Class of Claims will have voted to accept the Plan only if two-thirds in amount and a majority in number that actually vote cast their ballots in favor of acceptance. Under section 1126(d) of the Bankruptcy Code, a Class of Interests has accepted the Plan if Holders of such Interests holding at least two-thirds in amount that actually vote have voted to accept the Plan. Holders of Claims or Interests who fail to vote are not counted as either accepting or rejecting the Plan.

F. Confirmation Without Acceptance by Impaired Class of Interests

In accordance with 11 U.S.C. § 1129(b), to obtain nonconsensual confirmation of the Plan, it must be demonstrated to the Bankruptcy Court that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to each impaired, nonaccepting class. The Bankruptcy Code provides a non-exclusive definition of the phrase “fair and equitable.” In order to determine whether the Plan is “fair and equitable,” the Bankruptcy Code has established a subjugation test for equity holders, which requires that that holders of any interest that is junior to the nonaccepting class will not receive or retain any property under the plan. The Debtor believes and will demonstrate in connection with confirmation of the Plan that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to any impaired, nonaccepting Class.

G. Classification

The Bankruptcy Code requires that, for purposes of treatment and voting, a chapter 11 plan divide the different claims (excluding administrative claims) against, and equity interests in, a debtor into separate classes based upon their legal nature. Pursuant to section 1122 of the Bankruptcy Code, a plan may place a claim or an interest in a particular class only if such claim or interest is substantially similar to the other claims or interests of such class. The Debtor believes that the Plan classifies all Claims and Interests in compliance with the provisions of the Bankruptcy Code because valid business, factual and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Plan. Accordingly, the classification of Claims and Interests in the Plan complies with section 1122 of the Bankruptcy Code.

ARTICLE VIII. VOTING PROCEDURES

The Bankruptcy Court can confirm the Plan only if it determines that the Plan complies with the technical requirements of chapter 11 of the Bankruptcy Code. One of these technical requirements is that the Bankruptcy Court find, among other things, that the Plan has been accepted by the requisite votes of all Classes of Impaired Claims and Interests unless approval will be sought under section 1129(b) of the Bankruptcy Code in spite of the nonacceptance by one or more such Classes. On November 4, 2016, the Bankruptcy Court entered the Disclosure Statement Order (a) approving, among other things, this Disclosure Statement, procedures for soliciting votes on the Plan, the form of the solicitation documents and various other notice, (b) setting the Voting Record Date, the Voting Deadline, the date of the Confirmation Hearing, and the relevant objection deadlines and procedures associated with Confirmation.

A copy of the Disclosure Statement Order is hereby incorporated by reference as though fully set forth herein. THE APPROVAL ORDER SHOULD BE READ IN CONJUNCTION WITH THIS ARTICLE VIII OF THE DISCLOSURE STATEMENT.

If you have any questions about (i) the procedures for voting your Claim or Interest or with respect to the packet of materials that you have received or (ii) the amount of your Claim or Interest, please contact the Debtor's counsel at (801) 933-8922. If you wish to obtain (at no charge) an additional copy of the Plan, this Disclosure Statement, or other solicitation documents, you can obtain them by requesting a copy from the Debtor's counsel.

A. Who Is Entitled to Vote on the Plan?

In general, a Holder of a Claim or Interest may vote to accept or reject a plan if (i) no party in interest has objected to such Claim or Interest (or the Claim or Interest has been Allowed

subsequent to any objection or estimated for voting purposes), (ii) the Claim or Interest is Impaired by the plan and (iii) the Holder of such Claim or Interest will receive or retain property under the plan on account of such Claim or Interest. The Holders of Class 3 – Common Stock Interests and Class 4 – Private Warrant Interests are entitled to vote on the Plan.

Under section 1126(f) of the Bankruptcy Code, classes that are not impaired under a plan are deemed to accept the plan. The Holders of Class 1 – Priority Claims and Class 2 – General Unsecured Claims are Unimpaired under the Plan and deemed under section 1126(f) of the Bankruptcy Code to accept the Plan.

In general, if the Holder of an Impaired Claim or Impaired Interest will not receive any distribution under a plan in respect of such Claim or Interest, section 1126(g) of the Bankruptcy Code deems the Holder of such Claim or Interest to have rejected the plan, and thus the Holders of Claims in such Classes are not entitled to vote on the Plan. The holders Class 5 – Public Warrant Interests are conclusively presumed to have rejected the Plan and are therefore not entitled to vote.

B. Solicitation Packages for Holders of Class 3 and Class 4 Claims

The following materials constitute the “Solicitation Package”:

- (a) a cover letter describing the contents of the Solicitation Package; and
- (b) a CD-ROM containing: (i) the Disclosure Statement (with the Plan annexed thereto and other exhibits) and (ii) the Disclosure Statement Order (without exhibits);
- (c) the Confirmation Hearing Notice (as defined in the Disclosure Statement Order);

- (d) a Ballot with a pre-addressed postage-paid envelope; and
- (e) such other materials as the Bankruptcy Court may direct.

C. Voting Procedures

BALLOTS MUST BE RECEIVED BY THE DEBTOR BY THE VOTING DEADLINE AT THE FOLLOWING ADDRESS:

DORSEY & WHITNEY LLP
Attn: Jeff Armington
136 South Main Street, Suite 1000
Salt Lake City, Utah 84101

Ballots received after the Voting Deadline will not be counted by the Debtor in connection with the Debtor's request for confirmation of the Plan. The method of delivery of Ballots to be sent to the Debtor is at the election and risk of each Holder of a Claim or Interest. Except as otherwise provided in the Plan, such delivery will be deemed made only when the original executed Ballot is actually received by the Debtor. In all cases, sufficient time should be allowed to assure timely delivery. Original executed Ballots are required. Delivery of a Ballot to the Debtor by facsimile, email or any other electronic means will not be accepted. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, and those restrictions on modifications set forth in the Plan, the Debtor may alter, amend or modify the Plan, without additional disclosure pursuant to section 1125 of the Bankruptcy Code. After the Confirmation Date and prior to substantial consummation of the Plan, the Debtor may institute proceedings in the Bankruptcy Court pursuant to section 1127(b) of the Bankruptcy Code to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order with respect to such matters as may be necessary to carry out the purposes of the Plan.

D. Releases under the Plan

Each Ballot advises Interest Holders in bold and capitalized print that Interest Holders who (a) vote to reject the Plan and (b) do not elect to opt out of the release provisions contained in Article VI.C of the Plan shall be deemed to have conclusively, absolutely, unconditionally, irrevocably and forever released and discharged the Released Parties from any and all Causes of Action. Creditors and Interest Holders who do not grant the releases contained in Article VI.C of the Plan will not receive the benefit of the releases set forth in Article VI of the Plan.

**ARTICLE IX.
CERTAIN FACTORS TO BE CONSIDERED PRIOR TO VOTING**

HOLDERS OF CLAIMS AND INTERESTS SHOULD READ AND CONSIDER CAREFULLY THE FACTORS SET FORTH BELOW, AS WELL AS THE OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND THE DOCUMENTS DELIVERED TOGETHER HERewith, REFERRED TO OR INCORPORATED BY REFERENCE HEREIN, PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN. THESE FACTORS SHOULD NOT, HOWEVER, BE REGARDED AS CONSTITUTING THE ONLY RISKS INVOLVED IN CONNECTION WITH THE PLAN AND ITS IMPLEMENTATION.

A. Certain Bankruptcy Considerations

1. Parties in Interest May Object to the Plan's Classification of Claims and Interests

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtor believes that the classification of the Claims and Interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtor created Classes of Claims and Interests, each encompassing Claims and Interests that are substantially similar to the other Claims and Interests in each such Class. Nevertheless, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

2. Failure to Satisfy Vote Requirements

If votes are received in number and amount sufficient to enable the Bankruptcy Court to confirm the Plan, the Debtor intends to seek, as promptly as practicable thereafter, Confirmation of the Plan. In the event that sufficient votes are not received, the Debtor may seek to confirm an alternative chapter 11 plan. There can be no assurance that the terms of any such alternative chapter 11 plan would be similar or as favorable to the Holders of Allowed Claims and Allowed Interests as those proposed in the Plan.

3. The Debtor May Not Be Able to Secure Confirmation of the Plan

Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a chapter 11 plan, and requires, among other things, a finding by the Bankruptcy Court that: (a) such plan “does not unfairly discriminate” and is “fair and equitable” with respect to any non-accepting classes; (b) confirmation of such plan is not likely to be followed by a liquidation or a need for further financial reorganization unless such liquidation or reorganization is contemplated by the plan; and (c) the value of distributions to non-accepting holders of claims and equity interests within a particular class under such plan will not be less than the value of distributions such holders would receive if the debtor were liquidated under chapter 7 of the Bankruptcy Code.

There can be no assurance that the requisite acceptances to confirm the Plan will be received. Even if the requisite acceptances are received, there can be no assurance that the Bankruptcy Court will confirm the Plan. A non-accepting Holder of an Allowed Claim or an Allowed Interest might challenge either the adequacy of this Disclosure Statement or whether the balloting procedures and voting results satisfy the requirements of the Bankruptcy Code or Bankruptcy Rules. Even if the Bankruptcy Court determined that this Disclosure Statement, the

balloting procedures and voting results were appropriate, the Bankruptcy Court could still decline to confirm the Plan if it found that any of the statutory requirements for Confirmation had not been met. If the Plan is not confirmed, it is unclear what distributions, if any, Holders of Allowed Claims and Allowed Interests would receive with respect to their Allowed Claims and Allowed Interests. The Debtor, subject to the terms and conditions of the Plan, reserves the right to modify the terms and conditions of the Plan as necessary for Confirmation. Any such modifications could result in a less favorable treatment of any Class than the treatment currently provided in the Plan. Such less favorable treatment could include a distribution of property to the Class affected by the modification of a lesser value than currently provided in the Plan or no distribution of property whatsoever under the Plan. Changes to the Plan may also delay the confirmation of the Plan and distributions to Holders of Allowed Claims.

4. Nonconsensual Confirmation

In the event that any impaired class of claims or interests does not accept a chapter 11 plan, a bankruptcy court may nevertheless confirm a plan at the proponents' request if at least one impaired class has accepted the plan (with such acceptance being determined without including the vote of any "insider" in such class), and, as to each impaired class that has not accepted the plan, the bankruptcy court determines that the plan "does not discriminate unfairly" and is "fair and equitable" with respect to the dissenting impaired classes. The Debtor believes that the Plan satisfies these requirements, and the Debtor may request such nonconsensual Confirmation in accordance with subsection 1129(b) of the Bankruptcy Code. Nevertheless, there can be no assurance that the Bankruptcy Court will reach this conclusion. In addition, the

pursuit of nonconsensual Confirmation of the Plan may result in, among other things, increased expenses.

5. *Risk of Non-Occurrence of the Effective Date*

The Debtor can provide no assurance as to the timing or as to whether the Effective Date will, in fact, occur. The occurrence of the Effective Date is subject to certain conditions precedent as described in Article VII of the Plan, including, among others, those relating to consummation of the Plan. Failure to meet any of these conditions could result in the Plan not being consummated or the Confirmation Order being vacated.

6. *Contingencies Could Affect Votes to Accept or Reject the Plan*

The distributions available to Holders of Allowed Claims under the Plan can be affected by a variety of contingencies, including, without limitation, whether the Bankruptcy Court orders certain Allowed Claims and Allowed Interests to be subordinated to other Allowed Claims and Allowed Interests. The occurrence of any and all such contingencies, which could affect distributions available to Holders of Allowed Claims and Allowed Interests under the Plan, will not affect the validity of the vote taken by the Impaired Classes to accept or reject the Plan or require any sort of revote by the Impaired Classes.

7. *The Actual Amount of Allowed Claims May Differ From the Estimated Claims and Adversely Affect the Percentage Recovery of Claims*

The estimated Claims and creditor recoveries set forth in this Disclosure Statement are based on various assumptions, and the actual Allowed amounts of Claims may significantly differ from the estimates. Should one or more of the underlying assumptions ultimately prove to be incorrect, the actual Allowed amounts of Claims may vary from the estimated Claims contained in this Disclosure Statement. Moreover, the Debtor cannot determine with any

certainty at this time, the number or amount of Claims that will ultimately be Allowed. Such differences may materially and adversely affect, among other things, the percentage recoveries to Holders of Allowed Claims under the Plan.

8. *Release, Injunction, and Exculpation Provisions May Not Be Approved*

Article VI of the Plan provides for certain releases, injunctions, and exculpations. All of the releases, injunctions, and exculpations provided in the Plan are subject to objection by parties in interest and may not be approved.

**ARTICLE X.
CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

A. Introduction

The following summarizes certain U.S. federal income tax consequences expected to result from the consummation of the Plan as they relate to the Debtor and to Holders of Class 3 – Common Stock Interests and Class 4 – Private Warrant Interests, who are entitled to vote on the Plan. This summary is intended for general information purposes only, is not a complete analysis of all potential federal income tax consequences that may be relevant to any particular Holder, and does not address any tax consequences arising under any state, local, or foreign tax laws or federal estate or gift tax laws.

This discussion is based on the Internal Revenue Code (the “IRC”), United States Treasury Regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the IRS, all as in effect on the date of this Disclosure Statement. These authorities may change, possibly with retroactive effect, resulting in federal income tax consequences different from those discussed below. No ruling has been or will be sought from the IRS, and no legal opinion of counsel will be rendered, with respect to the

matters discussed below. There can be no assurance that the IRS will not take a contrary position regarding the federal income tax consequences resulting from the consummation of the Plan or that any contrary position would not be sustained by a court.

This summary does not apply to Holders that are not United States persons for U.S. federal income tax purposes or that are otherwise subject to special treatment under U.S. federal income tax law (including, for example, banks, governmental authorities or agencies, financial institutions, insurance companies, pass through entities, tax exempt organizations, brokers and dealers in securities, mutual funds, small business investment companies, and regulated investment companies). Moreover, this summary does not purport to cover all aspects of U.S. federal income taxation that may apply to the Debtor and Holders based upon their particular circumstances. Holders should consult their tax advisors regarding the U.S. federal income tax consequences to them of the consummation of the Plan, as well as any tax consequences arising under any state, local, or foreign tax laws, or any other federal tax laws.

This discussion is limited to the federal tax issues addressed in this Disclosure Statement. Additional issues may exist that are not addressed in this discussion and that could affect the federal tax treatment of consummation of the Plan. This discussion was written in connection with the promotion or marketing by the Debtor of the Plan, and it cannot be used by any person for the purpose of avoiding penalties that may be asserted against the person under the IRC. Holders should seek their own advice based on their particular circumstances from an independent tax advisor.

B. Certain U.S. Federal Income Tax Consequences to the Debtor

Pursuant to the APA, the Debtor transferred substantially all of its assets to Scion. The Debtor expects this transfer to be treated as a fully taxable event and expect to recognize taxable gain or loss based on the difference between the fair market value of the transferred assets and the Debtor's tax basis in those assets.

To the extent that the Debtor realizes a gain from the transfer of assets in the above transaction, the Debtor believes that it will have sufficient net operating losses ("NOLs") to offset any gain.

C. Certain U.S. Federal Income Tax Consequences to the Holders of Allowed Common Stock Interests and Allowed Private Warrant Interests

For the purposes of the following discussion of tax consequences to Holders, the character of any recognized gain as capital gain or ordinary income will be determined by a number of factors, including the tax status of the Holder, the nature of the Interests in such Holder's hands (including whether the Claim constitutes a capital asset), whether and to what extent the Holder has previously claimed a deduction with respect to its Interest and whether the Interest was purchased at a discount.

Holders of Common Stock Interests and Private Warrant Interests will receive a pro rata share of the Disbursing Agent Assets after payment in full of all Allowed Administrative Claims, Allowed Priority Claims, and Allowed General Unsecured Claims. Such Holders generally will recognize gain or loss equal to the difference between (i) the fair market value of the Holders' pro rata share of the Disbursing Agent Assets and (ii) the Holders' respective adjusted basis in such Interests. Holders of Allowed Common Stock Interests and Private Warrant Interests that receive a pro rata share of the Disbursing Agent Assets or a distribution from the Debtor are

urged to consult their tax advisors regarding the tax consequences of the right to receive and of the receipt (if any) of property from the Debtor.

THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. THE FOREGOING SUMMARY DOES NOT DISCUSS ALL ASPECTS OF U.S. FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO A PARTICULAR HOLDER IN LIGHT OF SUCH HOLDER'S CIRCUMSTANCES AND INCOME TAX SITUATION. ALL HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTOR SHOULD CONSULT WITH THEIR TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL, OR FOREIGN TAX LAWS, AND OF ANY CHANGE IN APPLICABLE TAX LAWS.

ARTICLE XI. LITIGATION

A. Delaware Litigation and Stay Termination Motion

On April 29, 2015, Paul Schwartz ("Schwartz") filed a "Complaint" against the Debtor, and eleven other current and former directors and officers of the Debtor (collectively, the "Defendants") asserting six causes of action for various securities law violations, thereby initiating the case captioned as *Schwartz v. Perseon Corporation (f/k/a BSD Medical Corporation) et al.*, Case No. 1:15-cv-00344-LPS (D. Del.) (the "Delaware Case"). On June 30, 2015, the Defendants filed a "Motion to Dismiss" the Complaint in its entirety [Delaware Case Docket No. 7]. On March 29, 2016, the court in the Delaware Case issued a Memorandum Opinion which granted the Motion to Dismiss and gave Schwartz leave to file an amended Complaint [Delaware Case Docket No. 26], and entered an order incorporating the Memorandum Opinion [Delaware Case Docket No. 27]. The court in the Delaware Case gave Schwartz an opportunity to file an amended complaint and the Defendants stipulated to extend Schwartz's deadline to file an amended complaint through May 30, 2016 [Delaware Case Docket No. 28].

On May 25, 2016, the Debtor filed a suggestion of bankruptcy in the Delaware Case [Delaware Case Docket No. 30] and the Delaware Case was stayed.

On October 19, 2016, very recently, Schwartz filed the *Motion to Terminate Automatic Stay to Allow Continuation of Federal Court Litigation Against Non-Debtors and Memorandum in Support* [Docket No. 267] (the “Stay Termination Motion”), which seeks Court authority to allow Schwartz to file an amended complaint in the Delaware Case. The Debtor will oppose the Stay Termination Motion.

B. Consequences to Derivative Securities Claims if the Plan is Confirmed

If the Plan is confirmed, then any and all derivative securities claims against the Released Parties will be released and terminated and no Claim or Interest Holder will be able to pursue any derivative securities claims, including but not limited to any and all derivative securities claims previously asserted by Schwartz in the Delaware Case.

**ARTICLE XII.
RECOMMENDATION**

In the opinion of the Debtor, the Plan is preferable to all other available alternatives and provides for a larger distribution to the Debtor’s creditors and interest Holders than would otherwise result in any other scenario. Accordingly, the Debtor recommends that Holders entitled to vote on the Plan vote to accept the Plan and support Confirmation.

DATED this 4th day of November, 2016.

**BSD MEDICAL CORPORATION fka
PERSEON CORPORATION**

By: /s/ Timothy C. McQuay
Name: Timothy C. McQuay
Title: President