

IN THE DISTRICT COURT FOR THE VIRGIN ISLANDS  
BANKRUPTCY DIVISION  
DIVISION OF ST. THOMAS AND ST. JOHN

In re	)	
	)	
WINTDOTS DEVELOPMENT, LLC,	)	Case No. 12-30003-MFW
	)	
	)	Chapter 11
	)	
Debtor.	)	
_____	)	

**DEBTOR'S PLAN OF REORGANIZATION**  
**Dated November 27, 2012**

Wintdots Development, LLC, the Debtor in Possession ("Debtor") hereby submits to its creditors its Amended Plan of Reorganization (the "Plan") pursuant to Chapter 11 of Title 11, United States Code (hereinafter the "Bankruptcy Code" or "Code").

**SUMMARY OF PLAN**

The Plan provides for payment of all administrative expenses and the allowed or agreed claims of the secured, priority unsecured and general unsecured creditors as described below through continued operation of the business and post-petition financing. Taxes owed to the Internal Revenue Service will be paid in full as detailed below. General unsecured creditors will receive one hundred percent (100%) of their allowed or agreed claims as detailed below. A more detailed discussion of the Plan and its implementation, together with projections of income and expenses and the time necessary to complete the Plan, is found in the Disclosure Statement dated November 27, 2012 ("the Disclosure Statement"). If there is a discrepancy or conflicting provision between the Plan and the Disclosure Statement, the provisions of the Plan govern. The Plan should be read in conjunction with the Disclosure Statement. The Debtor urges creditors and parties in interest to consult with counsel. The parties in interest should not rely on any representations not contained in the Plan or Disclosure Statement in making a determination on voting for the Plan. A detailed discussion of the voting rights of the creditors is contained in the Disclosure Statement.

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## ARTICLE I

### DEFINITIONS

Except as otherwise indicated, the terms used in this Plan have the definitions used in the Bankruptcy Code and applicable Federal Rules of Bankruptcy Procedure and the Local Rules of the United States Bankruptcy Court and the United States District Court for the Virgin Islands. In addition, the following terms shall have the following meanings:

1.01. ALLOWED CLAIM shall mean a Claim (a) in respect of which a proof of claim has been filed with the Court within the applicable period of limitation fixed by Rule 3003; or (b) scheduled in the list of creditors prepared and filed with the Court pursuant to Rule 1007(b) and not listed as disputed, contingent or unliquidated as to amount, in either case as to which no objection to the allowance thereof has been interposed within any applicable period of limitation fixed by Rule 3007 or an order of the Court, or as to which any such objection has been determined by an order or judgment which is no longer subject to appeal or certiorari proceeding and as to which no appeal or certiorari proceeding is pending. An Allowed Claim shall not include unmatured or post-petition interest unless otherwise stated in the Plan.

1.02. ALLOWED SECURED CLAIM shall mean an Allowed Claim secured by a lien, security interest, mortgage or other charge against or interest in property in which Debtor has an interest, or which is subject to setoff under 11 U.S.C.A. § 553, to the extent of the value (determined in accordance with 11 U.S.C.A. § 506(a)) of the interest of the holder of such Allowed Claim in the Debtor's interest in such property or to the extent of the amount subject to such setoff, as the case may be. An Allowed Secured Claim may include post-petition interest if permitted under § 506 of the Code.

1.03. CLAIM shall mean any right to payment, or right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, against Debtor in existence on or as of the Petition Date, whether or not such right to payment or right to an equitable remedy is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, secured or unsecured.

1.04. CLASS shall mean any class into which Allowed claims or Allowed Interests are classified pursuant to Article III.

1.05. CODE shall mean the Bankruptcy Code, 11 U.S.C.A. 101 et seq., as amended.

1.06. CONFIRMATION DATE shall mean the date upon which the Order of Confirmation is entered by the Court.

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1.07. COURT shall mean the United States District Court for the Virgin Islands, Bankruptcy Division, District of St. Thomas and St. John, in which the Debtor's Chapter 11 case, pursuant to which this Plan is proposed, is pending, and any court having competent jurisdiction to hear an appeal or certiorari proceeding therefrom.

1.08. DEBTOR shall mean Wintdots Development, LLC, the Debtor-in-Possession in this Chapter 11 case and proponent of this Plan.

1.09. DISTRIBUTION ACCOUNT shall mean the consideration to be distributed to holders of Allowed Claims and Allowed Interests on the Distribution Date (and the corresponding consideration payable to holders of Claims and Interests which have not been allowed as of the Distribution Date) and any account or accounts into which such consideration has been deposited.

1.10. DISTRIBUTION DATE shall mean the date upon which the Order of Confirmation is no longer subject to appeal or certiorari proceeding, on which date no such appeal or certiorari pending is then pending and on which date all of the conditions to the effectiveness of the Plan expressly set forth in the Plan have been satisfied fully or effectively waived.

1.11. EFFECTIVE DATE shall mean the date following the Confirmation date after which no appeal of the Order of Confirmation can be taken or thirty (30) days from the Confirmation date, whichever is later.

1.12. FISCAL YEAR shall mean the fiscal year of Debtor, which is the 12 month period ending December 31.

1.13. INDEBTEDNESS as applied to any Person shall mean:

(a) all indebtedness or other obligations of the Person for borrowed money or for the deferred purchase price of property or services;

(b) all indebtedness of the Person, contingent, direct or otherwise, secured (or for which the holder of such indebtedness has an existing right contingent or otherwise to be secured) by any mortgage, pledge, lien, security interest or vendor's interest under any conditional sale or other title retention agreement existing on any property indebtedness secured thereby shall have been assumed by the Person (hereinafter "Secured"); or

(c) all indebtedness of others, secured or unsecured, directly or indirectly guaranteed, endorsed, or discounted with recourse by the Person, or in respect of which the Person is otherwise directly or indirectly liable, including without limitation, indebtedness in effect guaranteed by the Person through any agreement (contingent or otherwise) to purchase, repurchase or otherwise acquire such indebtedness or any security therefor, or to provide funds for the payment or discharge of such indebtedness (whether in the form of loans, advances, stock purchases, capital contributions or otherwise), or to

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maintain the solvency or any balance sheet or other financial condition of the obligor of such indebtedness, or to make payment for any products, materials or supplies or for any transportation or services regardless of the non-delivery or non-furnishing thereof.

1.14. ORDER OF CONFIRMATION shall mean the order entered by the Court confirming the Plan in accordance with the provisions of Chapter 11 of the Code, which order is no longer subject to appeal or certiorari proceeding and as to which no appeal or certiorari proceeding is pending.

1.15. PERSON shall mean an individual, corporation, partnership, joint venture, trust, estate, unincorporated organization, or a government or any agency or political subdivision thereof.

1.16. PETITION DATE shall mean March 11, 2012, the date on which Debtor filed its Chapter 11 petition with the Court.

1.17. PLAN shall mean this Chapter 11 Plan, as amended in accordance with the terms hereof or modified in accordance with the Code.

1.18. PRO-RATA shall mean with respect to any holder of Plan Debt in the same proportion that the amount of such Plan Debt bears to the aggregate amount of the Plan Debt.

1.19. RULES shall mean the Federal Rules of Bankruptcy Procedure, as amended and supplemented by such Interim Bankruptcy Rules and Local Rules as are adopted by the Court.

## ARTICLE II

### MEANS OF IMPLEMENTATION AND GENERAL DESCRIPTION OF THE PLAN

2.01(a). General Description. The Debtor shall remain in business and repay its creditors as proposed as quickly as possible. A more complete description of the implementation and means of completing the Plan is set out in the Disclosure Statement. On confirmation all assets of the Debtor's bankruptcy estate shall vest in the Debtor subject to any valid lien, security interest, mortgage or other interest in property securing an Allowed Secured Claim provided for in the Plan. All non-essential assets will be liquidated in an orderly fashion at management's direction and discretion and the proceeds used to fund payments provided for in the Plan thereafter. The Debtor will continue in business and repay its creditors as more fully described hereinafter.

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2.01(b) Means of Implementation. The means necessary for the execution of this Plan include obtaining post-petition financing and the continuation of the Debtor's business. The Debtor, as reorganized, will retain all property of the estate, excepting property which is to be sold or otherwise disposed of as provided for herein, executory contracts which are rejected pursuant to this Plan, and any property transferred to creditors of the Debtor pursuant to the express terms hereof. The retained property shall be used and employed by the Debtor in the continuance of its business. (Further details concerning the nature and scope of the Debtor's future business operations may be found in the disclosure statement which accompanies this plan.)

### ARTICLE III

#### PROVISION FOR PAYMENT OF ADMINISTRATIVE CLAIMS, EXPENSES AND CERTAIN PRIORITY CLAIMS

3.01. Administrative Expenses: The administrative expenses of the Debtor's Chapter 11 case allowed pursuant to § 503(b) of the Code and given priority pursuant to § 507(a)(1) of the Code shall be paid in full upon the Effective Date, or shall be paid upon such other terms as may be agreed in writing before confirmation between the holder of any allowed administrative claim and the Debtor. The Debtor shall pay fees under 28 U.S.C. §1930 until the entry of a final decree, conversion, or dismissal.

3.02. Allowed Claims for Wages, Salaries, or Commissions and Contributions to Employee Benefit Plans: Any Allowed claims for wages, salaries or commissions and contributions to employee benefit plans entitled to priority pursuant to § 507(a)(3) and § 507(a)(4) of the Code, if any, shall be paid in full upon the Effective Date unless otherwise agreed between the holder of any such Allowed Claim and the Debtor.

### ARTICLE IV

#### CLASSIFICATION AND TREATMENT OF CLAIMS

The claims of the creditors and interests are classified and shall be treated as follows:

4.01 Secured Claims of Kennedy Funding, Inc. ("Kennedy") and Marvin and Evelyn Freund, Trustees ("Freund") - Class 1: Class 1 shall consist of the secured claims of the Kennedy and Freund in the amounts of \$9,603,640.93 and \$225,000.00, respectively, or in such amounts as may otherwise be allowed. The Debtor shall pay one hundred percent (100%) of the allowed claims of that fall in this category not later than sixty (60) days after the Effective Date of the Plan. Class 1 creditors are not impaired.

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4.05 Priority Unsecured Claims - Class 5: Class 5 shall consist of the allowed, agreed unsecured claims of the Internal Revenue Service ("IRS") in the amount of \$113,707.67. The Debtor shall pay one hundred percent (100%) of the allowed, agreed unsecured claim of the IRS in the amount of \$113,707.67, plus interest at the statutory rate provided by 26 U.S.C. § 6621, not later than sixty (60) days after the Effective Date of the plan. The Class 5 creditor is not impaired.

4.06 General Unsecured Claims - Class 6: Class 6 shall consist of the general unsecured claims<sup>1</sup> in the total amount of \$880,946.54. The Debtor shall pay one hundred percent (100%) of the allowed or agreed claims of the Class 6 creditors, without interest, not later than sixty (60) days after the Effective Date of the Plan. Class 6 creditors are impaired.

## ARTICLE V

### TREATMENT OF INTEREST HOLDERS

The holders of interests in the Debtor shall retain those interests.

## ARTICLE VI

### EXECUTORY CONTRACTS, EXECUTORY CONTRACT HOLDERS, AND UNEXPIRED LEASES

6.01 The Debtor hereby assumes the executory contracts not rejected prior to the Effective Date of the Plan.

6.02 The Debtor reserves the right to assume or reject any executory contract or unexpired lease not assumed or rejected prior to the Effective Date of the Plan.

## ARTICLE VII

### MISCELLANEOUS PROVISIONS

7.01. Vesting of Assets: Upon confirmation all assets of the Debtor's bankruptcy estate shall vest in the Debtor subject to the liens, encumbrances and security interests as

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<sup>1</sup>General unsecured claims are held by AT&T Mobility; Banco Popular de Puerto Rico; Broadway Capital, LLC; Cox, Castle, Nicholson, LLP; Jessica Dinisio; Fenton Enterprises; Ruth Ann Magnuson, PC; Marcia Resnik, Esq.; Turner Construction; Vincent Fuller, Esq.; and, Tracy Wayman.

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provided above.

7.02. Retention of Jurisdiction: The Court shall retain jurisdiction over the Debtor and its operations subject to confirmation of the Plan for the following purposes only:

- A. To rule on the allowance of claims and hear any objections hereto;
- B. To conclude any adversary proceedings pending upon the Effective Date;
- C. To allow and approve or disapprove the payment of any administrative expenses not previously allowed;
- D. To determine and resolve questions concerning the existence of defaults under the Plan;
- E. To modify the Plan pursuant to § 1127(b) of the Code.
- F. To correct any defect, to cure any omission, to reconcile any inconsistency in the Plan or Order of Confirmation as may be necessary to carry out the purposes and intent of the Plan; and,
- G. To issue any order necessary to carry out the Plan.

7.03. Adversary Proceedings: The Debtor reserves the right to begin or continue any adversary proceeding permitted under Title 11, United States Code and the applicable Federal Rules of Bankruptcy Procedure.

7.04. Modification of Plan: The Debtor may submit modifications of the Plan to the court at any time prior to confirmation pursuant to § 1127.

7.05. Default: In the event of a default of the performance of the provisions of this Plan subsequent to the Confirmation Date, any party in interest, including the Creditors Committee, shall have the right to request a determination that such default exists, and if so, petition the Court for performance of the provisions hereof, or any other relief to which such party deems itself entitled or is deemed appropriate by the Court.

## ARTICLE VIII

### DISCHARGE OF DEBTOR

Upon confirmation of the Plan and vesting of all assets, the Debtor will be discharged of all claims and liabilities arising prior to the filing of the petition for relief

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pursuant to 11 U.S.C. § 1141. Confirmation of the Plan shall satisfy all claims or causes of action arising out of any claim settled and satisfied under the terms of the Plan.

## ARTICLE IX

### RETENTION OF JURISDICTION

The Court expressly reserves jurisdiction for the purpose of seeing that the Plan is properly consummated. The Court may review and determine any breach occurring under the Plan, order an accounting of funds not properly distributed, enjoin any act inconsistent with the execution or performance of the Plan, modify the Plan, determine dischargeability, remove the Debtor for failure to carry out the Plan, order the case dismissed from bankruptcy proceedings, convert the case to Chapter 7 and/or order any other relief otherwise available under the United States Bankruptcy Code.

DATED this 27th day of November, 2012.

WINTDOTS DEVELOPMENT, LLC

By: /s/ Glenn Elskoe  
Glenn Elskoe, Managing Member