

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

In re : Chapter 11
ALSET OWNERS, LLC, *et al.*,¹ : Case No. 09-11960 (BLS)
: (Jointly Administered)
Debtors. :

**DISCLOSURE STATEMENT IN SUPPORT OF JOINT PLAN OF
LIQUIDATION OF THE DEBTORS AND DEBTORS IN POSSESSION**

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Debtors and Debtors in Possession

Dated: December 2, 2009

¹ The Debtors and the last four digits of their respective tax identification numbers are: Alset Owners, LLC, a Delaware limited liability company (7520); Altes, LLC, a Delaware limited liability company (6927); Setla, LLC, a Delaware limited liability company (6752); and Checkers Michigan, LLC, a Delaware limited liability company (8016). The Debtors' service address is Altes, LLC/Setla, LLC, 1200 North Federal Highway, Boca Raton, FL 33432.

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INTRODUCTORY STATEMENT

THIS DISCLOSURE STATEMENT UNDER SECTION 1125 OF THE BANKRUPTCY CODE (THE "DISCLOSURE STATEMENT") WITH RESPECT TO THE JOINT PLAN OF LIQUIDATION OF THE DEBTORS AND DEBTORS IN POSSESSION (AS MAY BE AMENDED, THE "PLAN") CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN AND OTHER DOCUMENTS RELATING TO THE PLAN. WHILE THE DEBTORS BELIEVE THESE SUMMARIES PROVIDE ADEQUATE INFORMATION WITH RESPECT TO THE DOCUMENTS SUMMARIZED, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS. IF ANY INCONSISTENCIES EXIST BETWEEN THE TERMS AND PROVISIONS OF THIS DISCLOSURE STATEMENT AND THE TERMS AND PROVISIONS OF THE PLAN OR OTHER DOCUMENTS DESCRIBED THEREIN, THE TERMS AND PROVISIONS OF THE PLAN AND OTHER DOCUMENTS ARE CONTROLLING. EACH HOLDER OF AN IMPAIRED CLAIM OR AN IMPAIRED EQUITY INTEREST SHOULD REVIEW THE ENTIRE PLAN AND ALL RELATED DOCUMENTS AND SEEK THE ADVICE OF ITS OWN COUNSEL BEFORE VOTING WHETHER TO ACCEPT OR REJECT THE PLAN.

THIS DISCLOSURE STATEMENT MAY NOT BE RELIED UPON BY ANY PERSON OR ENTITY FOR ANY PURPOSE OTHER THAN BY HOLDERS OF CLAIMS AND INTERESTS ENTITLED TO VOTE ON THE PLAN IN DETERMINING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN. THE DEBTORS ASSERT THAT NOTHING CONTAINED HEREIN WILL CONSTITUTE AN ADMISSION OF ANY FACT OR LIABILITY BY ANY PARTY, OR BE ADMISSIBLE IN ANY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER PARTY. NOTHING CONTAINED HEREIN SHALL BE DEEMED CONCLUSIVE EVIDENCE OF THE TAX OR OTHER LEGAL EFFECTS OF THE LIQUIDATION OF ANY OF THE DEBTORS' ASSETS OR ON HOLDERS OF CLAIMS OR EQUITY INTERESTS.

IRS CIRCULAR 230 NOTICE: TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, PLEASE BE ADVISED THAT ANY WRITTEN U.S. TAX ADVICE CONTAINED IN THIS DISCLOSURE STATEMENT (INCLUDING ANY ATTACHMENT) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF (1) AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE OR (2) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TRANSACTION OR MATTER ADDRESSED HEREIN.

NO PARTY IS AUTHORIZED BY THE DEBTORS TO PROVIDE ANY INFORMATION WITH RESPECT TO THE DEBTORS, OR THE VALUE OF THE DEBTORS' BUSINESS AND PROPERTIES OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT. GENERALLY, EXCEPT AS OTHERWISE PROVIDED, TO THE EXTENT INFORMATION IN THIS DISCLOSURE STATEMENT RELATES TO THE DEBTORS, THE DEBTORS HAVE PROVIDED THE INFORMATION IN THIS DISCLOSURE STATEMENT.

NOTHING CONTAINED IN THIS DISCLOSURE STATEMENT, EXPRESS OR IMPLIED, IS INTENDED TO GIVE RISE TO ANY COMMITMENT OR OBLIGATION OF THE DEBTORS OR WILL CONFER UPON ANY PERSON ANY RIGHTS, BENEFITS OR REMEDIES OF ANY NATURE WHATSOEVER.

EXCEPT AS OTHERWISE NOTED HEREIN, THE INFORMATION CONTAINED HEREIN IS GENERALLY INTENDED TO DESCRIBE FACTS AND CIRCUMSTANCES ONLY AS OF THE DATE OF THIS DISCLOSURE STATEMENT, AND NEITHER THE DELIVERY OF THIS DISCLOSURE STATEMENT NOR THE CONFIRMATION OF THE PLAN WILL CREATE ANY IMPLICATION, UNDER ANY CIRCUMSTANCES, THAT THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS CORRECT AT ANY TIME AFTER THE DATE OF THIS DISCLOSURE STATEMENT OR THAT THE DEBTOR WILL BE UNDER ANY OBLIGATION TO UPDATE SUCH INFORMATION IN THE FUTURE.

I. INTRODUCTION²

The Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C. §§ 101 - 1532 (as amended, the "**Bankruptcy Code**") on June 5, 2009 (the "**Petition Date**"). No trustee or examiner has been appointed in the Debtors' chapter 11 cases (the "**Chapter 11 Cases**"), and the Debtors act as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

The Debtors have filed this Disclosure Statement with the Bankruptcy Court for approval in connection with the solicitation of acceptances and rejections with respect to the Plan. By order dated January 13, 2010, the Bankruptcy Court approved this Disclosure Statement as containing adequate information to enable holders of Claims against the Debtors whose votes are being solicited to make an informed judgment whether to accept or reject the Plan.

II. NOTICE TO HOLDERS OF CLAIMS

A. General

The purpose of this Disclosure Statement is to enable the holders of Claims against the Debtors authorized to vote on the Plan to make informed decisions in voting whether to accept or reject the Plan. All holders of Claims should read this Disclosure Statement in its entirety. No solicitation of votes on the Plan may be made except pursuant to this Disclosure Statement and Section 1125 of the Bankruptcy Code. In considering how to vote, no holder of a Claim or any other party should rely on any information relating to the Debtors and their business and properties, other than that contained in this Disclosure Statement and the Plan, except as otherwise approved by the Bankruptcy Court.

² Unless otherwise defined herein, capitalized terms used herein will have the same meanings ascribed to them in the Plan.

All persons receiving this Disclosure Statement and the Plan are urged to fully review the provisions of the Plan and all exhibits attached hereto, in addition to reviewing the text of this Disclosure Statement. This Disclosure Statement is not intended to replace careful review and analysis of the Plan. Rather, it is submitted as an aid in your review of the Plan and in an effort to explain the terms and implications of the Plan. Every effort has been made to explain fully the various aspects of the Plan as it affects all holders of Claims and Equity Interests. However, to the extent any questions arise, the Debtor urges you to seek independent legal advice.

In reviewing this Disclosure Statement, please keep in mind the following:

1. The approval by the Bankruptcy Court of this Disclosure Statement does not constitute an endorsement by the Bankruptcy Court of the Plan or a guarantee of the accuracy and completeness of the information contained herein.

2. There has been no independent audit of the financial information contained in this Disclosure Statement and the exhibits thereto and no fairness opinion has been obtained regarding the value of the assets and the amount of the liabilities. The factual information regarding the Debtors and their assets and liabilities has generally been derived from the Debtors' internal documents and available public records. While every effort has been made by the Debtors to provide accurate information herein, the Debtors and their legal advisors cannot and do not warrant or represent that the information contained in this Disclosure Statement is without any inaccuracy.

3. Certain of the statements contained in this Disclosure Statement or in exhibits attached hereto are based on certain estimates and assumptions. There can be no assurance that such statements will reflect actual outcomes. You should carefully review and consider Section XVI below, entitled "Certain Factors to Be Considered", before voting to accept or reject the Plan.

4. The Disclosure Statement has not been approved or disapproved by the Securities and Exchange Commission or any securities regulatory authority of any state, nor has the Securities and Exchange Commission or any securities regulatory authority of any state passed upon the accuracy or adequacy of the statements contained herein.

5. The description herein of the Plan is a summary only. Holders of Claims authorized to vote on the Plan are urged to review the entire Plan and any exhibits thereto before casting their votes. In the event that any inconsistency or conflict exists between this Disclosure Statement and the Plan, the terms of the Plan will control.

6. Except as set forth in this Disclosure Statement, the Plan and the exhibits, no representations concerning the Debtors, their assets and business operations, or the Plan are authorized, nor are any such representations to be relied upon in arriving at a decision with respect to the Plan. Any representations made to secure acceptance or rejection of the Plan other than as contained in this Disclosure Statement should be reported to counsel for the Debtors or the Committee.

B. **Voting**

Pursuant to the provisions of the Bankruptcy Code, generally only those classes of claims or interests that are (i) "impaired" by a chapter 11 plan and (ii) entitled to receive a distribution under such a plan are entitled to vote on a chapter 11 plan. In these Chapter 11 Cases, claims in Class 2 are impaired by the Plan and holders of such claims are therefore entitled to vote on the Plan.

C. **Voting Record Date**

The record date for determining the holders of Claims that may vote on the Plan is January 13, 2010 (the "Voting Record Date").

D. **Ballots**

In certain instances, accompanying this Disclosure Statement is a ballot ("Ballot") for casting your vote(s) on the Plan. A pre-addressed envelope for the return of the Ballot may also be enclosed. As noted above, Ballots for acceptance or rejection of the Plan are being provided only to holders of claims in Class 2. If you are the holder of a Class 2 Claim and did not receive a Ballot, received a damaged or illegible Ballot, or lost your Ballot, or if you have any questions regarding the voting procedures in respect of the Plan, please contact:

Alset Owners, LLC
c/o BMC Group Inc.
P.O. Box 3020
Chanhassen, MN 55317-3010
Attn: Ms. Anne Carter
(888) 909-0100

After carefully reviewing this Disclosure Statement and the exhibits attached hereto, including the Plan, please indicate your vote with respect to the Plan on the enclosed Ballot and return it pursuant to the instructions provided on the Ballot.

E. **Voting Deadline**

In order to be counted, Ballots must be received by the Balloting Agent by **4:00 p.m. Eastern Time on February 15, 2010** (the "Voting Deadline"). Any executed Ballots that are received timely but do not indicate either an acceptance or rejection of the Plan will not be counted.

F. **Confirmation Hearing and Objection Deadline**

By order dated January 13, 2010, the Bankruptcy Court fixed **February 15, 2010, at 10:00 a.m. Eastern Time**, in the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 6th Floor, Wilmington, DE 19801, as the date, time and place of the hearing to consider confirmation of the Plan, and **February 22, 2010, at 4:00 p.m. Eastern Time**, as the deadline for filing objections to confirmation of the Plan. The hearing on confirmation of the Plan may be adjourned from time to time without further notice except for the announcement of

the adjourned date and time at the hearing on confirmation or any adjournment thereof. Any objections to confirmation of the Plan must be served upon:

Counsel for the Debtor:

Blank Rome LLP
Michael Z. Brownstein
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Office of the United States Trustee:

Jane Leamy
Office of the United States Trustee
844 N. King Street, Suite 2207
Lockbox #35
Wilmington, DE 19801

III. UNCLASSIFIED CLAIMS AND CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

THE SUMMARY OF THE PLAN SET FORTH HEREIN IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE FULL TEXT OF THE PLAN. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE PROVISIONS OF THE PLAN AND THE SUMMARY CONTAINED HEREIN, AND REGARDLESS OF WHETHER ANY SUCH INCONSISTENCY IS A STATEMENT OR OMISSION, THE TERMS OF THE PLAN WILL GOVERN. ALL CAPITALIZED TERMS USED HEREIN HAVE THE MEANINGS ASCRIBED TO THEM IN THE PLAN.

A. Summary of Classification and Treatment of Claims and Interests

The Plan proposes to satisfy creditor claims to the extent possible from the disposition of the Debtors' assets which include (i) proceeds of the sale of substantially all of the Debtors' assets to Buyer, (the "**Cash Consideration**"), (ii) other non-core assets not transferred to the Buyer, and (iii) the proceeds of Causes of Action prosecuted by a Liquidation Trustee appointed to prosecute such Causes of Action. The Sale closed on August 31, 2009. The proceeds from the liquidation of the Debtors' assets will be applied to satisfy, (i) Administrative Claims, (ii) Priority Claims, (iii) secured claims in Class 1, and (iv) the general unsecured claims in Class 2. Equity Interests in Class 3 are not expected to receive a distribution under this Plan.

The Plan also contemplates the formation of a Liquidation Trust established for the primary purpose of liquidating its assets, in accordance with Treas. Reg. §301.7701-4(d). The Liquidation Trust will be assigned and take possession of the Liquidation Trust Assets defined to include the Cash Consideration, as well as the Causes of Action and all rights of setoff and recoupment and other defenses that the Debtors and the Estates may have with respect to Allowed Claims. The Liquidation Trust will have the responsibility (i) to investigate, defend or pursue the Causes of Action, (ii) object to the allowance of Claims and Equity Interests Filed with the Bankruptcy Court, and (iii) make the distributions to Beneficiaries required under the Plan in accordance with the Liquidation Trust Agreement.

The following table summarizes the classification and treatment of Claims and Equity Interests under the Plan. This summary is qualified in its entirety by reference to the provisions of the Plan, and the provisions of the Plan will control in the event of any inconsistency (whether by statement or omission) between the summary herein and the Plan.

<u>Class</u>	<u>Claim</u>	<u>Status</u>	<u>Voting Right</u>	<u>Estimated Recovery Percentage</u>
	Administrative Claims	Unimpaired	Deemed to Accept	100%
	Professional Fee Claims	Unimpaired	Deemed to Accept	100%
	United States Trustee Fees	Unimpaired	Deemed to Accept	100%
	Priority Claims	Unimpaired	Deemed to Accept	100%
1	Secured Claims	Unimpaired	Deemed to Accept	100%
2	General Unsecured Claims	Impaired	Entitled to Vote	5% to 25%
3	Equity Interests	Impaired	Deemed to Reject	0%

B. Unclassified Claims Against The Debtors

1. Administrative Claims

(i) Administrative Claims Bar Dates

(a) Any request for allowance of an Administrative Claim that is subject to the Bar Date Order is required to be filed on or before December 15, 2009 as provided in the Bar

Date Order. Any Administrative Claims subject to the Bar Date Order that are filed after December 15, 2009 are invalid and shall not receive any distribution in this case. Any request for allowance of an Administrative Claim that is not subject to the Bar Date Order, including, without limitation, Professional Fee Claims, and Administrative Claims accruing between December 15, 2009 and the Effective Date, shall be Filed no later than thirty (30) days after the Effective Date (the "Administrative Claims Bar Date"). Any holder of an Administrative Claim who fails to file a timely request for the allowance of an Administrative Claim: (i) shall be forever barred, estopped and enjoined from asserting such Administrative Claim against the Debtors, the Liquidation Trust, or the Liquidation Trust Assets (or filing a request for the allowance thereof); and (ii) such holder shall not be permitted to participate in any distribution under the Plan on account of such Administrative Claim. The Liquidation Trustee, or any other person with standing, shall have thirty (30) days from the Administrative Claims Bar Date to object to any timely filed and served Administrative Claim, unless such date is further extended by the Court. Notwithstanding the foregoing, all fees and charges under 28 U.S.C. §1930 will be paid without the need for the filing of a request or claim.

(b) Except as otherwise set forth in this Plan and the Liquidation Trust Agreement, subject to the provisions of Sections 328, 330(a) and 331 of the Bankruptcy Code, each Holder of an Allowed Administrative Claim, who has not been paid prior to the Effective Date, or on such other day as agreed to by the Liquidation Trustee and such Creditor, shall be paid in Cash, as soon as is practicable after the Effective Date, from the proceeds of the Liquidation Trust Assets.

(ii) Final Fee Application Bar Date

Except as otherwise provided herein, in order to receive a distribution on account of a Professional Fee Claim, a holder of a Professional Fee Claim, at a minimum, must file and serve a final fee application requesting payment of such Professional Fee Claim by the Administrative Claim Bar Date. The Liquidation Trust, or any other person with standing, shall have thirty (30) days from the Administrative Claim Bar Date to object to any timely filed and served Professional Fee Claim, unless such date is further extended by the Court.

(iii) Professional Fee Claims

Subject to the additional provisions of this Plan, as soon as practicable after the later of (a) the date a Professional Fee Claim becomes an Allowed Professional Fee Claim or (b) the Professional Fee Claim becomes otherwise payable, an Allowed Professional Fee Claimholder shall receive, in full satisfaction, settlement, release and discharge of and in exchange for such Professional Fee Claim, (x) Cash equal to the unpaid portion of such Allowed Professional Fee Claim or (y) such other treatment as to which the Debtors and such Claimholder prior to the Effective Date, or the Liquidation Trustee and Claimholder subsequent to the Effective Date, shall have agreed upon in writing.

(iv) U.S. Trustee Fees

All fees payable to the Office of the United States Trustee in accordance with 28 U.S.C. §1930 shall be paid on the Effective Date, or as soon thereafter as may be practicable, and will continue to be paid through the date of entry of a Final Decree.

(v) Priority Claims

Except as otherwise set forth in the Plan and the Liquidation Trust Agreement, each Holder of an Allowed Priority Tax Claim and Other Priority Claim, who has not been paid prior to the Initial Distribution Date in the ordinary course of business or by order of the Bankruptcy Court, shall be paid, in full, in Cash, by the Liquidation Trust, on the later of (i) the Initial Distribution Date, (ii) the last Business Day of the month following the month in which such Claim becomes an Allowed Claim, or (iii) such other date as agreed to by the Liquidation Trustee and such Creditor, or otherwise ordered by the Bankruptcy Court.

C. **Summary of Classification and Treatment of Claims and Equity Interests**

The categories of Claims and Equity Interests listed below classify Claims against and Equity Interests in the Debtor for all purposes, including voting, confirmation and distribution pursuant hereto and pursuant to Sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise satisfied prior to the Effective Date. The Classes of Claims and Equity Interests in the Debtors are as follows:

<u>Class</u>	<u>Claim</u>	<u>Status</u>	<u>Voting Right</u>
1	Secured Claims	Unimpaired	Deemed to Accept
2	General Unsecured Claims	Impaired	Entitled to Vote
3	Equity Interests	Impaired	Deemed to Reject

D. **Classification and Treatment of Classified Claims and Equity Interests:**

1. Class 1—Secured Claims

(a) *Classification:* Class 1 comprises the Secured Claims.

(b) *Treatment:* The Plan will not alter any of the legal, equitable and contractual rights of the Holders of Class 1 Claims. Unless otherwise agreed to by the Holder of an Allowed Class 1 Claim and the Liquidation Trustee, each Holder of an Allowed Class 1 Claim shall receive, in full and final satisfaction of such Allowed Class 1 Claim, one of the following treatments, as soon as practicable after the Effective Date in the sole discretion of the Liquidation Trustee:

(i) the return of such Holder's collateral;

(ii) the payment in cash equal to the amount of such Allowed Secured Claim; or

(iii) treatment in any other manner so as to render the Allowed Class 1 Claim otherwise Unimpaired.

(c) *Voting:* Class 1 is Unimpaired and the Holders of Class 1 Claims are conclusively deemed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Claims in Class 1 are not entitled to vote to accept or reject the Plan.

2. Class 2—General Unsecured Claims

(a) *Classification:* Class 2 comprises the General Unsecured Non-Priority Claims against the Debtors.

(b) *Treatment:* Holders of Allowed Class 2 Claims shall receive, in full and final satisfaction of their Allowed Class 2 Claims, through one or more distributions, their respective Pro Rata share of funds on deposit in the Operating Account maintained by the Liquidation Trust, after (i) the payment of all Allowed Class 1 Claims (ii) the payment of all Allowed Administrative Claims (including, without limitation, all Professional Fee Claims incurred prior to and after the Effective Date); (iii) the payment of all Allowed Priority Tax Claims, (iv) the payment of Allowed Other Priority Claims; (v) creation and funding of the Claims Reserve as provided in Paragraph B of Article IX of the Plan, and (vi) the payment of post-Confirmation expenses and fees incurred by the Liquidation Trust, or the Liquidation Trustee in the performance of his duties under the Liquidation Trust Agreement. Further, in accordance with the Pentland Settlement described in Section VIII hereof, Pentland, a holder of a Class 2 Claim, has agreed to receive a distribution of no more than \$50,000 on account of the Unsecured Pentland Loans and will defer any additional distributions until holders of other unsecured creditors in Class 2 have been paid in full. The total amount of Class 2 Claims is anticipated to be in the range of \$1,800,000 to \$7,000,000, without consideration of the Pentland Unsecured Claim that will be settled under the Plan.

(c) *Voting:* Class 2 is Impaired and the Holders of Class 2 Claims are entitled to vote to accept or reject the Plan.

3. Class 3—Equity Interests

(a) *Classification:* Class 3 comprises the Equity Interests in the Debtor.

(b) *Treatment:* On the Effective Date, Class 3 Equity Interests will be cancelled and, unless Holders of Allowed Claims in Classes a through 2 are paid in full with interest, where relevant, the Holders thereof will receive no distribution on account of their Equity Interests. If the Holders of Interests are entitled to receive distributions, any such distributions shall be made on a pro rata basis. Upon termination of the Liquidation Trust, the Class 3 Equity Interests will be cancelled.

(c) *Voting:* Class 3 is Impaired and the Holders of Class 3 Equity Interests are conclusively deemed to have rejected the Plan. Holders of Class 3 Equity Interests shall not be entitled to vote to accept or reject the Plan.

Acceptance Or Rejection Of The Plan

A. Voting Classes

Holders of Claims in each Impaired Class of Claims are entitled to vote as a class to accept or reject the Plan. Therefore, each Holder of an Allowed Class 2 Claim shall be entitled to vote to accept or reject the Plan.

B. Acceptance by Impaired Classes

An Impaired Class of Claims shall be deemed to have accepted the Plan if (a) the Holders (other than any Holder designated under Section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated under Section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

C. Presumed Acceptance of the Plan

Class 1 is Unimpaired under the Plan, and, therefore, is presumed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code.

D. Presumed Rejection of the Plan

Class 3 is deemed to reject the Plan.

E. Non-Consensual Confirmation

To the extent that any Impaired Class rejects this Plan or is deemed to have rejected this Plan, the Proponents will request confirmation of this Plan as it may be modified from time to time, under Section 1129(b) of the Bankruptcy Code. The Proponents reserve the right to alter, amend, modify, revoke or withdraw this Plan, including to amend or modify it to satisfy the requirements of Section 1129(b) of the Bankruptcy Code, if necessary.

F. Effective Date

The Plan may not be consummated, and the Effective Date shall not occur, unless and until the Confirmation Order has been entered by the Bankruptcy Court, and all other actions and documents necessary to implement the Plan shall have been effected or executed, including the Liquidation Trust Agreement.

G. Acceptance of the Plan

An Impaired Class of Claims shall be deemed to have accepted the Plan if (a) the Holders (other than any Holder designated under Section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated under Section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

The votes of insiders are not counted in determining whether at least one class of impaired creditors has accepted the Plan for purposes of Section 1129(a)(10) of the Bankruptcy Code. The requirements for Confirmation of the Plan are discussed in Section XVII of this Disclosure Statement.

IV. VOTING PROCEDURES AND REQUIREMENTS

A. Classes Entitled to Vote Under the Plan

Only holders of Claims in Class 2 as of the Record Date are authorized to vote on the Plan.

B. Voting Requirements

IT IS IMPORTANT THAT HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN EXERCISE THEIR RIGHT TO VOTE TO ACCEPT OR REJECT THE PLAN. All known holders of Claims entitled to vote on the Plan have been sent a Ballot together with this Disclosure Statement. Such holders should read the Ballot carefully and follow the instructions contained therein. Please use only the Ballot that accompanies this Disclosure Statement.

As set forth above, BMC will be acting as the Balloting Agent to assist in the transmission of voting materials and the tabulation of votes with respect to the Plan. **FOR YOUR VOTE TO COUNT, YOUR BALLOT MUST BE RECEIVED BY THE BALLOTING AGENT NO LATER THAN 4:00 P.M. EASTERN TIME, ON FEBRUARY 15, 2010.**

Any Ballot executed and received timely but which does not indicate an acceptance or rejection of the Plan will not be counted. If you have any questions concerning voting procedures, if your Ballot is damaged or lost, or if you need an additional copy of the Disclosure Statement, you may contact Alset Owners, LLC, c/o BMC Group Inc., P.O. Box 3020, Chanhassee, MI 55317-3020, Attn: Anne Carter, (888) 909-0100.

A vote may be disregarded if the Bankruptcy Court determines, after notice and a hearing, that such acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

V. DESCRIPTION OF THE DEBTORS

A. The Debtors And Debtors In Possession

Four separate Debtor entities filed for chapter 11 relief before this Court. Alset Owners, LLC (“**Alset**”) is a holding company for the operating Debtors, Altes, LLC (“**Altes**”) and Setla, LLC (“**Setla**”). Checkers Michigan LLC (“**Checkers Michigan**”) is a subsidiary of Altes.

As of the Petition Date, Altes, a franchisee of the Rally’s restaurant chain, operated several restaurants in various states, while Setla, also a franchisee of the Rally’s restaurant chain, operates several restaurants in Ohio. Checkers Michigan, a franchisee of the Checker’s restaurant chain, operated several restaurants in Michigan but ceased operations at its locations prior to the Petition Date. None of the Debtors are publicly traded companies, nor have they issued any public debt.

B. Overview Of The Debtors’ Business

Prior to the sale of substantially all of their assets, the Debtors were the largest franchisee of Checkers Drive-In Restaurants, Inc. (the “**Franchisor**”), the national franchisor of the Rally’s and Checkers’ restaurant chains. Specifically, Debtors Altes and Setla operated Rally’s restaurants in Arkansas, Missouri, Illinois, and Ohio. Checkers Michigan operated Checkers restaurants in Michigan but ceased operations there as of the Petition Date. Each of the Debtors’ franchise locations was governed by the franchise agreements (the “**Franchise Agreements**”) entered into between the Debtors and the Franchisor requiring, among other things, the Debtors to pay monthly royalties to the Franchisor.

Altes began operating on June 28, 2000 by purchasing 52 Rally’s restaurant locations in Missouri, Illinois, Arkansas, and Virginia directly from the Franchisor. Six additional stores were opened by Altes from 2002 through 2006. Setla was formed approximately fifteen months later on October 15, 2001, when the owners of Altes decided to expand to the Ohio market. Setla acquired 64 Rally’s locations from Snapp’s Restaurants in October 2001. Three additional locations were opened by Setla from 2004 through 2006. Finally, in 2005, Checkers Michigan was formed to operate several stores in Michigan, a new market for the Debtor group. Initially, one Michigan restaurant with the Checkers brand was opened in December 2005, and later five additional Checkers restaurants were opened in 2006 and early 2007.

As a result of these various acquisitions and store openings, at their peak, in 2007, the Debtors collectively operated approximately 120 restaurants with the Rally’s or Checkers brand in six states, and had over 2,500 employees.

The food service industry is highly competitive, with competitors varying in size from very small companies with limited resources to very large companies with significant financial, marketing, and product development resources. The competitive atmosphere, as well as the rise in food and labor costs, among other things, led the Debtors to restructure their operations starting in late 2007. As of the Petition Date, the Debtors operated 77 restaurants, down from their peak of about 120 restaurants in 2007.

C. Debt Structure

As previously described, Altes began operating in June 2000 to operate approximately 52 Rally’s stores. The stores were purchased directly from the Franchisor for approximately \$17.2

million. In October 2001, Setla entered into a transaction to purchase 64 stores from Snapp's Restaurants for approximately \$5.6 million. The transactions were funded as follows:

In connection with the June 2000 transaction involving Altes, Altes borrowed funds from Textron Financial Corporation ("**Textron**") in the form of secured loans of \$15,200,000 (the "**Textron Loans**"). As security, Textron was granted a lien on certain of the Debtors' equipment at approximately fifty restaurants and certain leasehold interests (the "**Textron Collateral**"), and a mortgage on nine real estate properties owned by Altes. The mortgage on the nine real estate properties was satisfied when Altes subsequently entered into sale and leaseback transactions concerning the nine real estate properties. Approximately \$6 million from such transactions was paid to Textron in satisfaction of its mortgage. As of the Petition Date, approximately \$1.5 million in principal was due to Textron on account of the Textron Loans. During the Chapter 11 cases, as will be explained more fully below, the Debtors sold the Textron Collateral to the Buyer for \$500,000 pursuant to a stipulation approved by the Court. Textron waived its claims against the Debtors' estates in connection with the stipulation.

In connection with the June 2000 transaction involving Altes, Altes also received \$2,375,000 from Pentland USA, Inc. ("**Pentland**") in exchange for promissory notes in favor of Pentland (the "**Pentland-Altes Notes**"). In connection with the October 2001 transaction involving Setla, Setla received \$2,484,585 from Pentland in exchange for promissory notes in favor of Pentland (the "**Pentland-Setla Notes**").

After the transactions involving Altes and Setla were consummated, Pentland extended additional loans to Altes and Setla at various times in the total amount of approximately \$2 million (the "**Pentland Operating Loans**", together with the Pentland-Altes Notes, and the Pentland-Setla Notes, the "**Unsecured Pentland Loans**"). Pentland has filed an unsecured claim asserting that \$5,153,365.46, including interest (the "**Pentland Unsecured Claim**") remained outstanding on the Unsecured Pentland Loans on the Petition Date, which amounts are not secured by any assets of the Debtors, except for the pledge of the membership interests of Alset. See Section VIII for a description of the Debtors' settlement with Pentland.

D. Events Leading To Bankruptcy

The Debtors began exploring strategic alternatives for addressing their financial and operational challenges prior to the Petition Date as they were no longer able to operate at margins sufficient to cover expenses at many of their restaurants and struggled with liquidity and working capital demands. The Debtors embarked on a plan to evaluate the companies on a store by store basis and began to close down non-performing locations.

Commencing approximately four months prior to the Petition Date, the Debtors also explored several financing options with various lenders. However, in light of the Debtors' poor EBITDA numbers, none of the prospective lenders issued a commitment for financing.

In light of the continuing slowness in the economy together with increased costs, senior management realized that the Debtors could not sustain operations as a going concern without a substantial infusion of cash or a sale of the enterprise. Having exhausted efforts to raise money and obtain additional investors, the Debtors determined to enter into serious discussions with the

Franchisor and negotiated a sale of the assets as a going concern to preserve jobs, provide a source of recovery for creditors, and maintain the well-established reputation of the brands in the market place.

While sale discussions ensued, the parties entered into a Management Agreement dated March 5, 2009, which allowed the Franchisor to assist the Debtors in managing and stabilizing their operations. Ultimately, after several months of discussions and due diligence by the Franchisor, on June 5, 2009, the Debtors and an affiliate of the Franchisor executed an Asset Purchase Agreement pursuant to which the affiliate of the Franchisor was to purchase substantially all of the Debtors' remaining stores in exchange for cash consideration and the assumption of various liabilities, including under the Franchise Agreement and various leases.

E. The Sale of the Debtor's Assets Pursuant to Section 363 of the Bankruptcy Code

On June 19, 2009, the Debtors filed the Motion For Entry Of Orders Under 11 U.S.C. §§ 105(a), 363, And 365 And Federal Rules Of Bankruptcy Procedure 2002, 6004, 6006 And 9014 (I) (A) Approving Bidding And Auction Procedures, And Bidding Incentives For The Stalking Horse Bidder; (B) Approving Notice Procedures For The Solicitation Of Bids, An Auction, And The Assumption And Assignment Of Executory Contracts And Unexpired Leases; And (C) Scheduling An Auction And Sale Hearing For The Sale Of Substantially All Of Debtors' Assets; (II) Approving The Sale Of Substantially All Of The Debtors' Assets And Approving The Assumption And Assignment Of Executory Contracts And Unexpired Leases; And (III) Granting Related Relief (the "Sale Motion").

On July 7, 2009, the Court entered an order approving the Bidding Procedures Motion and scheduled an auction for August 24, 2009. The hearing to consider the Sale Motion was scheduled for August 26, 2009.

Praetorian Group, the Debtors sales advisor, marketed the Debtors' assets for sale to prospective purchasers. However, no qualified competing bids were received by the Debtors by the bid deadline and therefore no auction was held. The Committee filed an objection to the sale and after discussions between the Debtors, the Committee, and the Buyer, the Buyer agreed to provide additional consideration to the Debtors' estates. On August 31, 2009, the Court entered an order authorizing the sale of assets to Buyer pursuant to the terms of the Asset Purchase Agreement. The sale closed on August 31, 2009, under the following terms: (a) Buyer paid \$1.8 million of Cash Consideration to the Debtors, and (b) certain of the Debtors' real property leases and executory contracts were assigned to Buyer, with Buyer assuming all liabilities, including cure costs, with respect to assumed real property leases and executory contracts. Shortly prior to the closing, a dispute arose concerning whether the Buyer or the Debtors were liable for certain taxes aggregating approximately \$185,000 relating to real property leases that were assumed and assigned to the Buyer. Such monies are presently in an escrow account, pending a resolution or litigation.

The Debtors sold the Textron Collateral to the Buyer for \$500,000 in full and final satisfaction of the Textron Loans. In addition, Textron agreed to waive their claims against the Debtors' estates. The purchase of the Textron Collateral was accomplished by a Stipulation between the parties which was approved on August 27, 2009. Similarly, the Debtors sold certain

equipment of Leaf Funding to the Buyer pursuant to a letter agreement approved by the Sale Order.

On September 11, 2009, the Debtors filed a motion to reject those contracts and leases which were not assumed and assigned to Buyer pursuant to the Sale Motion. On September 29, 2009, the Court entered an order approving the Rejection Motion. By these motions to reject, all executory contracts and real property leases not assumed and assigned to Buyer pursuant to the sale were rejected.

VI. THE CHAPTER 11 CASES

A. Summary of First-Day Motions

The Debtors filed their voluntary petitions commencing the Chapter 11 Cases on June 5, 2009 (the “**Petition Date**”). Simultaneously with their petitions, the Debtors filed various “first day motions” seeking authority to, among other things: (i) consolidate the Debtors’ cases for joint administration purposes; (ii) pay certain pre-petition employee wages and benefits and honor other employee obligations in the ordinary course of the Debtors’ business; (iii) pay pre-petition sales and use tax obligations up to certain limits; (iv) continue the use of their existing cash management system; (v) establish procedures for determining adequate assurance requests from utility companies; and (vi) pay in their discretion, certain critical vendors. A brief description of each motion follows:

1. Employee Wages, Benefits and Other Obligations

On the Petition Date, the Debtors filed a motion (the “**Employee Obligations Motion**”) seeking authority to pay: (a) certain prepetition claims of current employees, including, but not limited to, claims for wages, salaries, commissions, vacation, sick leave, and unpaid reimbursable expenses subject to the limits of the \$10,950 statutory cap set forth in 11 U.S.C. § 507(a)(4) for each employee and (b) prepetition federal and state withholding obligations. The Debtors also sought an order directing all banks to honor the Debtors’ prepetition checks or electronic transfers for payment of any of the foregoing, and prohibiting banks from placing any holds on, or attempting to reverse, any automatic transfers on account of the foregoing.

As of the Petition Date, the Debtors’ aggregate workforce consisted of 1,712 employees. Of these employees, approximately 112 were full time salaried employees and the remaining were full time and part time hourly employees. The Court entered an order approving the Employee Wage Motion on June 9, 2009 which allowed payment of all Employee Obligations covered by the Employee Obligations Motion.

2. Sales and Use Tax Obligations

On the Petition Date, the Debtor filed a motion (the “**Tax Motion**”) seeking authority to pay prepetition sales and use, and other trust fund taxes in the ordinary course of business and authorizing banks and financial institutions to honor and process checks and transfers related to such payments. The Debtor estimated that the aggregate prepetition sales taxes unpaid as of the Petition Date was approximately \$275,000. The Court entered an order approving the Tax

Motion on June 9, 2009 thereby authorizing the payment of all tax obligations referred to in the Tax Motion.

3. Existing Cash Management System

On the Petition Date, the Debtor filed a motion (the "**Cash Management Motion**") seeking authority to (a) continue using its (i) existing bank accounts, (ii) business forms and (iii) cash management system and (b) waiving investment guidelines under Section 345 of the Bankruptcy Code. Prior to the Petition Date, in the ordinary course of its business, each Debtor maintained several bank accounts for its respective operations. The Court entered an order approving the Cash Management Motion on June 9, 2009.

4. Adequate Assurance to Utility Providers

On the Petition Date, the Debtor filed a motion (the "**Utility Motion**") seeking entry of an order (i) prohibiting their utility providers from altering, refusing or discontinuing services on account of prepetition amounts outstanding or on account of any perceived inadequacy of the Debtor's proposed adequate assurance; (ii) deeming the utility providers adequately assured of future performance, and (iii) establishing procedures for resolving requests for additional adequate assurance of future payment to the utility providers. As adequate assurance, the Debtors proposed a deposit equal to two weeks usage.

In the ordinary course of business, the Debtors regularly incurred utility expenses for water, electricity, gas, telephone service and internet service. The Debtors' aggregate average monthly cost for utility services was approximately \$210,000. On June 9, 2009, and July 7, 2009, the Court entered interim and final orders, respectively, approving the Utility Motion.

5. Critical Vendors

On the Petition Date, the Debtors filed a motion (the "**Critical Vendor Motion**") seeking entry of an order (i) authorizing the Debtors to pay, in their discretion, certain prepetition claims of Critical Vendors (as defined in the Critical Vendor Motion), and (ii) authorizing banks and other financial institutions to receive, process, honor, and pay any and all checks and transfer requests evidencing amounts paid by the Debtors under the Motion. The Critical Vendor Motion authorized the payment in the amount of \$1.05 million to certain Critical Vendors who provided essential goods and services to the Debtors who were not easily replaceable. On June 9, 2009, the Court entered an order approving the Critical Vendor Motion.

6. Rejection of Real Property Leases

On the Petition Date, the Debtors filed a motion (the "**Lease Rejection Motion**") seeking to reject certain non-residential real property leases for 27 store locations which had closed as of the Petition Date. On July 28, 2009, the Court entered an order approving the Lease Rejection Motion as it pertained to all non-objecting landlords, effective as of the Petition Date. On September 29, 2009, the Court entered a second order authorizing the rejection of leases of the landlords that had filed objections or who had submitted informal responses to the Lease Rejection Motion.

7. Retention of the Debtors' Professionals

Prior to the commencement of these Chapter 11 Cases, the Debtors retained the law firm Blank Rome LLP ("**Blank Rome**") as bankruptcy counsel for the purpose of advising the Debtors during these Chapter 11 Cases. The Debtors' application to approve the retention of Blank Rome was approved on July 7, 2009, *nunc pro tunc* to June 5, 2009. The Debtors have also retained BMC Group Inc. ("**BMC**") as the claims, balloting and noticing agent. The Court entered an order approving the retention of BMC on June 9, 2009, effective as of June 5, 2009. Also, by orders entered on July 22, 2009 and July 7, 2009 respectively, the Debtors retained CRG Partners Group LLC as their Financial Advisors and Franchise Resale Consultants, LLC d/b/a Praetorian Group as their Sales Advisors.

B. The Official Committee of Unsecured Creditors

On June 24, 2009, the United States Trustee appointed an Official Committee of Unsecured Creditors (the "**Committee**") in these Chapter 11 Cases. The Committee consisted of three (3) members: Musky Checkers LLC, John J. Charleston Trust of 1998, and Marian Patricia Sellers Trust. The Committee retained Klehr Harrison Harvey Branzburg & Ellers, LLP ("**Klehr Harrison**") as counsel, and the Court entered an order approving the retention of Klehr Harrison on July 29, 2009. The Committee also retained Executive Sounding Board Associates Inc. ("**ESBA**") as its financial advisor and the Court entered an order approving the retention of ESBA on August 26, 2009.

C. The Bar Date Order

On September 29, 2009, the Bankruptcy Court entered the Bar Date Order. Pursuant to the Bar Date Order, (i) all proofs of claim not otherwise excluded by the Bar Date Order are required to be filed on or before December 15, 2009; (ii) all proofs of claims filed by governmental units are required to be filed by December 15, 2009; and (iii) all requests for payment of administrative expenses based upon Bankruptcy Code section 503(b)(9) are required to be filed by December 15, 2009. Any request for allowance of an Administrative Claim that is not subject to the Bar Date Order, including, without limitation, Professional Fee Claims and Administrative Claims accruing between December 15, 2009 and the Effective Date, shall be filed no later than thirty (30) days after the Effective Date.

D. The Debtors' Exclusive Right to File a Plan of Reorganization

Pursuant to Section 1121 of the Bankruptcy Code, the Debtors had an exclusive right to file a plan of reorganization for 120 days from the Petition Date, or until October 3, 2009. In light of the extensive efforts expended by the Debtors and their professionals in stabilizing the Debtors' operations and facilitating a sale of their operations and assets to the Franchisor, the Debtors requested additional time to formulate a plan. As such, on October 2, 2009, the Debtors filed a motion seeking an extension of the Debtors' exclusive rights to file and solicit acceptances of the plan. The exclusive period for filing a plan was further extended by Court order dated October 28, 2009 until December 2, 2009. In addition, the exclusive period for solicitation of a plan was extended through January 31, 2010.

VII. DESCRIPTION OF THE PLAN

THE DESCRIPTION OF THE PLAN SET FORTH HEREIN IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE FULL TEXT OF THE PLAN. IN THE EVENT OF ANY INCONSISTENCY BETWEEN THE PROVISIONS OF THE PLAN AND THE DESCRIPTION CONTAINED HEREIN, AND REGARDLESS OF WHETHER ANY SUCH INCONSISTENCY IS A STATEMENT OR OMISSION, THE TERMS OF THE PLAN WILL GOVERN. ALL CAPITALIZED TERMS USED HEREIN HAVE THE MEANINGS ASCRIBED TO THEM IN THE PLAN.

Means For The Implementation Of The Plan

A. Liquidation of Debtors' Assets

The Debtors previously determined, in the discharge of their statutory duties under the Bankruptcy Code, that it was in the best interests of the Debtors, Creditors and Equity Interests that the Debtors' business and substantially all of their assets be liquidated in an orderly fashion, with the net proceeds of such disposition being distributed in accordance with the Bankruptcy Code, prior Orders of the Court and the terms and provisions of this Plan. Accordingly, the Debtors, with Court approval documented by the Sale Order, sold substantially all of their assets, and assumed and assigned or rejected substantially all of their unexpired leases, licenses and other executory contracts pursuant to the terms of the Asset Purchase Agreement. As of the Effective Date, it is anticipated that only a few assets will remain that have not been converted to Cash, including (i) the Causes of Action, (ii) all rights of setoff and recoupment and other defenses that the Debtors and the Estate may have with respect to Allowed Claims, (iii) all of the Debtors' rights under contracts that were not assigned to Buyer pursuant to the Asset Purchase Agreement and the Sale Order or rejected by prior order of the Court, (iv) any and all assets of the Debtors not transferred to the Buyer including but not limited to the Excluded Assets (as defined in the Asset Purchase Agreement), (v) all rights to claims, refunds or adjustments, all other refunds or adjustments with respect to assets not sold to the Buyer pursuant to the Asset Purchase Agreement and Sale Order, (vi) all losses, loss carry forwards and rights to receive refunds, credit and loss carry forwards with respect to any and all taxes of the Debtors, including interest receivable with respect thereto, (vii) all rights of the Debtors arising under the Asset Purchase Agreement and under any other agreement between the Debtors and Buyer entered into in connection with the Asset Purchase Agreement, (viii) all rights of the Debtors under their insurance policies, including, without limitation, to insurance proceeds or other insurance recoveries to the extent they do not relate to damaged goods that have not been fully repaired or replaced, (ix) all of the Debtors' rights to utility deposits paid after the commencement of these Chapter 11 Cases, and (x) only to the extent subject to capitalized leases and similar instruments not constituting contracts assigned to the Buyer, the Debtors' owned equipment, security devices, furniture, fixtures, tools and other personal property and assets that were not transferred to the Buyer. As of the Effective Date, these assets, along with any other Liquidation Trust Assets, shall be transferred to the Liquidation Trust.

As soon as practicable after the Liquidation Trustee has liquidated all of the Liquidation Trust Assets and completed all distributions provided in the Plan, but no later than the 5th anniversary of the Effective Date, the Liquidation Trustee will effectuate the dissolution of the Liquidation Trust.

B. Substantive Consolidation

Solely in connection with voting and distributions to be made to the holders of Allowed Claims, the Plan is predicated upon, and it is a condition precedent to Confirmation of the Plan, that the Bankruptcy Court enter the Confirmation Order which shall provide for the substantive consolidation of the Chapter 11 Cases into a single case for purposes of this Plan and distributions hereunder. Pursuant to such Confirmation Order (i) all assets and liabilities of the Debtors will be deemed to be merged solely for purposes of this Plan and distributions to be made hereunder, (ii) the obligations of each Debtor will be deemed to be obligations of all Debtors solely for purposes of this Plan and distributions hereunder, (iii) any Claims Filed or to be Filed in connection with any such obligations will be deemed Claims against all Debtors, as substantively consolidated, (iv) all transfers, disbursements and distributions made by any Debtor will be deemed to be made by all of the Debtors, (v) any Debtor's guarantees of the obligations of another Debtor shall be deemed eliminated so that any Claim against a Debtor and any guarantee thereof executed by another Debtor shall be deemed to be one obligation of all Debtors; and (vi) intercompany claims between the Debtors will be eliminated. Holders of Allowed Claims in each Class shall be entitled to their share of assets available for distribution of such Class without regard to which Debtor was originally liable for such Claim. The Plan shall serve as, and shall be deemed to be, a motion for entry of an order substantively consolidating the Chapter 11 Cases. If any such objection(s) is timely Filed and served, a hearing with respect to the substantive consolidation of the Estates and the objections thereto shall be scheduled by the Bankruptcy Court, which hearing shall coincide with the Confirmation Hearing.

C. Formation of Liquidation Trust

On or before the Effective Date, the Debtors and the Liquidation Trustee shall execute the Liquidation Trust Agreement and shall take all other steps necessary to establish the Liquidation Trust in accordance with this Plan, thereby allowing the Liquidation Trust to stand in the shoes of the Debtors with respect to all of the Debtors' rights and interest. Notwithstanding any prohibition of assignability under applicable non-bankruptcy law, on the Effective Date and periodically thereafter if additional Liquidation Trust Assets become available, the Debtors shall be deemed to have automatically transferred to the Liquidation Trust all of their right, title, and interest in and to all of the Liquidation Trust Assets, and in accordance with Section 1141 of the Bankruptcy Code, all such assets shall automatically vest in the Liquidation Trust free and clear of all Claims and Liens, subject only to the Allowed Claims of the Beneficiaries and the Allowed Equity Interests of Holders as set forth in the Plan and the expenses of the Liquidation Trust as provided in the Liquidation Trust Agreement.

The Liquidation Trustee shall succeed to the rights of the Debtors under the Asset Purchase Agreement in all respects, including the retrieval of copies of all necessary books and records purchased by the Buyer under the Asset Purchase Agreement, to the extent necessary to administer the Chapter 11 Cases and implement the Plan.

Except as otherwise provided in the Plan or the Liquidation Trust Agreement, the Liquidation Trustee may compromise or settle any Claims, without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules and may pay the charges that it incurs on or after the Effective Date for professionals' fees,

disbursements, expenses or related support services (including fees relating to the preparation of Professional fee applications) without application to the Bankruptcy Court.

To effectively investigate, defend or pursue the Causes of Action, the Debtors and the Liquidation Trust, and all counsel thereto, must be able to exchange information with each other on a confidential basis and cooperate in common interest efforts without waiving any applicable privilege. Given the common interests of the parties and the Liquidation Trust's position as successor to the Causes of Action, sharing such information between the Debtors, and the Liquidation Trust or their counsel shall not waive or limit any applicable privilege or exemption from disclosure or discovery related to such information.

D. Treatment of Liquidation Trust for Federal Income Tax Purposes; No Successor-in-Interest

The Liquidation Trust shall be established for the primary purpose of liquidating its assets, in accordance with Treas. Reg. § 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidation Trust. Accordingly, the Liquidation Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the Liquidation Trust Assets, make timely distributions to the Beneficiaries and not unduly prolong its duration. The Liquidation Trust shall not be deemed a successor-in-interest of the Debtors for any purpose other than as specifically set forth herein or in the Liquidation Trust Agreement.

The Liquidation Trust is intended to qualify as a "grantor trust" for federal income tax purposes with the Beneficiaries treated as grantors and owners of the Liquidation Trust. For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidation Trustee, and the Beneficiaries) shall treat the transfer of the Liquidation Trust Assets by the Debtors to the Liquidation Trust, as set forth in the Liquidation Trust Agreement, as a transfer of such assets by the Debtors to the Holders of Allowed Claims of Beneficiaries entitled to distributions from the Liquidation Trust Assets, followed by a transfer by such Holders to the Liquidation Trust. Thus, the Beneficiaries shall be treated as the grantors and owners of a grantor trust for federal income tax purposes.

The right and power of the Liquidation Trustee to invest the Liquidation Trust Assets transferred to the Liquidation Trust, the proceeds thereof, or any income earned by the Liquidation Trust, shall be limited to the right and power to (i) invest such Liquidation Trust Assets (pending distributions in accordance with the Plan) in (a) short-term direct obligations of, or obligations guaranteed by, the United States of America, (b) short-term obligations of any agency or corporation which is or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof or (c) such other investments as the Bankruptcy Court may approve from time to time, including under § 345 of the Bankruptcy Code; or (ii) deposit such assets in demand deposits or certificates of deposit at any bank or trust company, which has, at the time of the deposit, a capital stock and surplus aggregating at least \$1,000,000,000 (collectively, the "**Permissible Investments**"); *provided, however*, that the scope of any such Permissible Investments shall be limited to include only those investments that a liquidating trust, within the meaning of Treas. Reg. § 301.7701-4(d),

may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise.

Subject to the provisions of this Plan, the Liquidation Trustee shall distribute to the Beneficiaries all net cash income plus all net cash proceeds from the liquidation of the Liquidation Trust Assets (including as Cash for this purpose, all cash equivalents) at such time intervals as decided by the Liquidation Trustee in its discretion, pursuant to the terms of the Plan. The Liquidation Trustee may, in its sole discretion, cause the Liquidation Trust to retain an amount of net cash proceeds or net cash income reasonably necessary to maintain the value of its assets or to meet Claims and contingent liabilities (including Disputed Claims).

The Liquidation Trustee shall require any Beneficiary or other distributee to furnish to the Liquidation Trustee in writing his or its Employer or Taxpayer Identification Number as assigned by the Internal Revenue Service and the Liquidation Trustee may condition any distribution to any Beneficiary or other distributee upon receipt of such identification number.

E. Appointment of the Liquidation Trustee

The Trustee for the Liquidation Trust shall be designated by the Committee. The Committee shall designate the Liquidation Trustee five days prior to the Confirmation Hearing.

On the Effective Date, the Liquidation Trustee shall serve as trustee of the Liquidation Trust, and shall have all powers, rights and duties of a trustee. Among other things, the Liquidation Trustee shall (i) hold and administer the Liquidation Trust Assets, (ii) have the power and authority to retain, as an expense of the Liquidation Trust, attorneys, advisors, other professionals and employees as may be appropriate to perform the duties required of the Liquidation Trustee hereunder or in the Liquidation Trust Agreement, (iii) make distributions to the Beneficiaries as provided in the Liquidation Trust Agreement, (iv) have the right to receive reasonable compensation for performing services as Liquidation Trustee and to pay the reasonable fees, costs and expenses of any counsel, professionals, advisors or employees as may be necessary to assist the Liquidation Trustee in performing the duties and responsibilities required under the Plan and the Liquidation Trust Agreement, and (v) provide periodic reports and updates to the Adversary Board regarding the status of the administration of the Liquidation Trust. In the event the Liquidation Trustee is no longer willing or able to serve as trustee, or is otherwise removed pursuant to the terms of the Liquidation Trust Agreement, then the successor shall be appointed by a majority vote of the members of the Creditors Committee as of the Effective Date, or as otherwise determined by the Bankruptcy Court or the Liquidation Trust Agreement, and notice of the appointment of such Liquidation Trustee shall be filed with the Bankruptcy Court.

F. Appointment of the Advisory Board

No later than the Effective Date, the Committee may select up to three persons to serve as an Advisory Board to the Trustee (the "Advisory Board"). The Advisory Board shall have general oversight powers over the Liquidation Trustee and the Liquidation Trust. Each member of the Advisory Board will serve until death, resignation, or removal pursuant to the Liquidation Trust or applicable law.

G. Retention of Professionals and Other Persons

The Liquidation Trustee shall be authorized to retain and pay professionals and such other Persons the Liquidation Trustee determines in his sole discretion to be necessary to carry out his duties and responsibilities, or otherwise to accomplish the purposes of the Plan, the Confirmation Order and the Liquidation Trust Agreement, provided however, that the retention of legal counsel to pursue Causes of Action shall be compensated in the discretion of the Liquidation Trustee. The Liquidation Trustee shall have the right to pay the professionals from the Liquidation Trust Assets without further order of the Bankruptcy Court.

H. Liquidation Trustee Standard of Care; Exculpation

Neither the Liquidation Trustee, nor any director, officer, affiliate, employee, employer, professional, attorney, agent or representative of the Liquidation Trust shall be personally liable, in connection with affairs of the Liquidation Trust, to any claimholder or Beneficiary of the Liquidation Trust, or any other Person, except for such acts or omissions which shall constitute willful misconduct or gross negligence. The Liquidation Trustee is entitled to rely upon and shall have no liability in relying upon the advice of professionals retained by the Liquidation Trust. Any Person asserting a claim against the Liquidation Trust for the expenses of the Liquidation Trust, shall look only to the Liquidation Trust Assets to satisfy any such expense incurred by the Liquidation Trust, the Liquidation Trustee, or other Persons employed or retained by the Liquidation Trust to carry out the terms of the Plan, the Confirmation Order, and the Liquidation Trust Agreement.

I. Termination of the Liquidation Trust

The Liquidation Trust will terminate as soon as practicable, but in no event later than the fifth (5th) anniversary of the Effective Date; provided, however, that, on or prior to the date of such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Liquidation Trust for a finite period, if such an extension is necessary to liquidate the Liquidation Trust Assets or for other good cause. Notwithstanding the foregoing, multiple extensions may be obtained so long as Bankruptcy Court approval is requested prior to the expiration of each extended term; provided, however, that the Liquidation Trustee determines that any further extension would not adversely affect the status of the Liquidation Trust as a grantor trust for federal income tax purposes.

The Liquidation Trustee and the Liquidation Trust shall be discharged or dissolved, as the case may be, at such time as (a) all Disputed Claims have been resolved, (b) all Liquidation Trust Assets have been liquidated, and (c) all distributions required to be made and all claims and fees required to be paid by the Liquidation Trustee under the Plan have been made.

J. Termination of Liquidation Trustee and Advisory Board

The duties, responsibilities and powers of the Liquidation Trustee, and the Advisory Board shall terminate in accordance with the terms of the Liquidation Trust Agreement.

K. Indemnification

With respect to the Liquidation Trustee, the Trust shall (i) reimburse the Liquidation Trustee for all reasonable expenses incurred by him in connection with the execution and performance of his rights and duties hereunder (including reasonable fees and expenses of counsel and other experts); (ii) indemnify, defend and hold harmless the Liquidation Trustee (in both his individual and trustee capacities) and the officers, directors, employees and agents of the Liquidation Trustee (collectively, including the Liquidation Trustee in its individual capacity, the "Indemnified Persons") from and against any and all losses, damages, liabilities, claims, actions, suits, costs, expenses, disbursements (including the reasonable fees and expenses of counsel), taxes and penalties of any kind and nature whatsoever, to the extent that such expenses arise out of or are imposed upon or asserted at any time against one or more Indemnified Persons with respect to the performance of this Agreement, the creation, operation, administration or termination of the Liquidation Trust, or the transactions contemplated hereby (collectively, "Indemnified Expenses"); and (iii) advance to each Indemnified Person Indemnified Expenses (including reasonable legal fees) incurred by such Indemnified Person in defending any claim, demand, action, suit or proceeding, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Liquidation Trust of a written request therefor and of an undertaking by or on behalf of the Indemnified Person to repay such amount if it shall ultimately be determined that the Indemnified Person is not entitled to be indemnified therefor; provided however, that notwithstanding anything in the Liquidation Trust to the contrary, the Liquidation Trust shall not be required to reimburse the Liquidation Trustee for any expenses, indemnify an Indemnified Person for Indemnified Expenses, or advance any Indemnified Expenses to an Indemnified Person, to the extent any such obligation arose or was the result of the willful misconduct or gross negligence of such Indemnified Person.

L. Preservation of Records and Documents

Pursuant to the Asset Purchase Agreement, Buyer is required to preserve and provide access to the business records of the Debtors covering the period prior to the closing of the Asset Purchase Agreement. Buyer shall preserve and provide access to the business records of the Liquidation Trustee or his agents as required under the Asset Purchase Agreement.

M. Corporate Action

Upon the entry of the Confirmation Order by the Bankruptcy Court, all matters provided under the Plan involving the corporate structure of the Debtors shall be deemed authorized and approved without any requirement of further action by the Debtors, the Debtors' shareholders or the Debtors' boards of directors. After the Effective Date, the Debtors shall dissolve or otherwise terminate their existence in accordance with applicable law.

N. Cancellation of Notes, Instruments, Debentures and Equity Securities

On the Effective Date, except to the extent provided otherwise in the Plan, all notes, instruments, certificates and other documents evidencing Claims and all Equity Interests in the Debtor shall be canceled and deemed terminated.

O. Effect of Appeals

Unless the Confirmation Order is stayed pending appeal, at the option of the Debtors, in consultation with the Committee, this Plan may be consummated notwithstanding the pendency of an appeal from the Confirmation Order or the timely service or filing of a motion under Bankruptcy Rule 7052, 8002, 8003, 8015, 9023, or 9024.

VIII. SETTLEMENT WITH PENTLAND

Pentland is a member of Alset Owners and an unsecured creditor in the Debtors' estates. Pentland has filed the Pentland Unsecured Claim asserting unsecured claims against the Debtors in the amount of \$5,153,365.46, including interest. As more fully set forth in a stipulation between the Debtors, the Committee and Pentland, annexed to the Plan as Exhibit 2 thereto (the "**Pentland Settlement**"), in an effort to resolve any issues related to the Pentland Unsecured Claim, the Unsecured Pentland Notes, and Pentland's investment in the Debtors, Pentland will receive \$50,000 on account of the Pentland Unsecured Claim, provided however that Pentland shall receive additional distributions only in the event that holders of other Class 2 Claims are paid in full. The Pentland Settlement will allow other general unsecured creditors in Class 2 to receive a greater distribution in these Chapter 11 Cases.

Pursuant to Bankruptcy Rule 9019 and in consideration for the classification, distribution, releases and other benefits provided under the Plan, the provisions of this Plan shall constitute a good faith compromise and settlement of the Unsecured Pentland Loans and the Pentland Unsecured Claim and all Claims brought, or that could have been brought by Pentland, which shall be deemed settled pursuant to section 1123(b)(3)(A) of the Bankruptcy Code pursuant to the Pentland Settlement. The entry of the Confirmation Order shall constitute the Court's approval of the Pentland Settlement and the Court's findings shall constitute its determination that the Pentland Settlement is in the best interest of the Debtors, the Estates, the creditors and other parties in interest, and is fair, equitable and within the range of reasonableness. As set forth in the Pentland Settlement, upon the Court's entry of the Confirmation Order, subject to achievement of the Effective Date, the Debtors, the Liquidation Trust, the Committee, any holder of any Claim or Interest or any other party in interest shall be permanently enjoined from raising or asserting any claim brought, or that could have been brought against Pentland.

IX. EFFECT OF PLAN CONFIRMATION

A. Binding Effect

The Plan shall be binding upon and inure to the benefit of the Debtors, all present and former holders of Claims and Interests, and their respective successors and assigns, including, but not limited to, the Liquidation Trust.

B. Releases and Exculpation

On the Effective Date, the Debtors, the Committee and, solely in their respective capacities as members or representatives of the Committee, the Committee Members and (ii) each of the respective representatives, officers, directors, members, employees, advisors, accountants, investment bankers, consultants, attorneys and other representatives of the Debtors and Committee, solely in their respective capacities as such (collectively, the "Exculpated Parties"), and only with respect to their activities and conduct in connection with

the Chapter 11 Cases, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are based in whole or in part on any act or omission, transaction, event or other occurrence up to the Effective Date, shall have or incur any liability to any Person, and each Exculpated Party is hereby released from, any claim, cause of action or liability to any Person or entity or to any Holder of a Claim or Equity Interest, for any act or omission in connection with or arising out of their participation in the Chapter 11 Cases, including without limitation in the formulation, confirmation, consummation, and/or administration of this Plan or the property to be distributed under this Plan, except if such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct, and in all respects, each of such Persons shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities and shall be fully protected in acting or in refraining from action in accordance with such advice.

C. Injunction Related to Releases/Exculpation

The Confirmation Order will permanently enjoin the commencement or prosecution by any entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities released pursuant to the Plan.

D. Discharge of Claims and Termination of Interests

Pursuant to section 1141(d)(3) of the Bankruptcy Code, Confirmation will not discharge Claims against the Debtor; provided, however, that a holder of a Claim against the Debtor may not, on account of such Claim, seek or receive payment or other distribution from, or seek recourse against, the Debtor, the Liquidation Trust, or any of their affiliates, respective successors or their respective property, except as expressly provided herein.

E. Injunction

Except as otherwise provided in the Plan, the Confirmation Order shall provide, among other things, that from and after the Confirmation Date, all Persons who have held, hold, or may hold Claims against or Interests in the Debtors are (i) Permanently enjoined from taking any of the following actions against the estate, the Debtor, the Committee (or any of its members), the Liquidation Trust, the Liquidation Trustee, and any of the respective representatives, officers, directors, members, employees, advisors, accountants, investment bankers, consultants, attorneys and other representatives of any of the foregoing Debtor, Committee, Committee Members, Liquidation Trust and Liquidation Trustee, or any of their property on account of any such Claims or Interests and (ii) preliminarily enjoined from taking any of the following actions against the Debtor, the Committee (or any of its members), the Liquidation Trust, the Liquidation Trustee, and any of the respective representatives, officers, directors, members, employees, advisors, accountants, investment bankers, consultants, attorneys and other representatives of the foregoing Debtor, Committee, Committee Members, Liquidation Trust, Liquidation Trustee, or their property on account of such Claims or Interests: (A) commencing or continuing, in any manner or in any place, any action or other proceeding; (B) enforcing, attaching, collecting or recovering in any manner

any judgment, award, decree or order; (C) creating, perfecting or enforcing any lien or encumbrance; and (D) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan; provided, however, that (w) nothing contained herein shall preclude such Persons from exercising their rights pursuant to and consistent with the terms of the Plan, and (x) the preliminary injunction of actions against the Debtor, the Liquidation Trust, the Liquidation Trustee and their property (if any) shall be dissolved and terminate one (1) day following the termination of the Liquidation Trust Agreement in accordance with the terms of such agreement. By voting in favor of the Plan, each holder of an Allowed Claim voting in favor of the Plan will be deemed to have specifically consented to the injunctions set forth in the Plan, to the extent that such consent is necessary. Notwithstanding the foregoing, nothing herein shall be construed to enjoin the Liquidation Trust, and its representatives including the Liquidation Trustee from, among other things, pursuing Causes of Action and provided further that individual creditors are not enjoined from pursuing claims against parties other than the Debtors that are independent of such creditors' Claims against the Debtors.

X. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption of Executory Contracts and Unexpired Leases

Pursuant to the Sale Order, certain leases of real property and other executory contracts were assumed and assigned to Buyer. A list of the leases that were assumed and assigned to Buyer is attached to the Sale Order as Exhibit B thereto.

B. Rejection of Executory Contracts and Unexpired Leases

Any executory contracts or unexpired leases that have not expired by their own terms on or prior to the Effective Date, which the Debtors have not assumed and assigned or rejected with the approval of the Bankruptcy Court or that have not been assumed or rejected by Motion and Order prior to Effective Date, shall be deemed rejected by the Debtors on the Effective Date and the entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such rejections pursuant to Sections 365(a) and 1123 of the Bankruptcy Code.

C. Rejection Claims; Cure of Defaults

Except to the extent contrary to the Bar Date Order, if the rejection of an executory contract or unexpired lease results in damages to the other party or parties to such contract or lease, any Claim for such damages, if not heretofore evidenced by a Proof of Claim that has been Filed, shall be forever barred and shall not be enforceable against the Debtors, the Liquidation Trust, or their properties, successors or assigns, unless a Proof of Claim is Filed and served upon (i) the Liquidation Trustee, and (ii) any counsel for the Liquidation Trustee, on or before thirty (30) days after the later to occur of (i) the Effective Date; and (ii) the date of entry of an order by the Bankruptcy Court authorizing rejection of the particular executory contract or unexpired lease.

XI. PROVISIONS REGARDING DISTRIBUTIONS

A. Time and Method of Distributions

Except as otherwise stated in the Plan, the Liquidation Trustee, on behalf of the Liquidation Trust, or such other Entity as may be designated in accordance with the Liquidation Trust Agreement, will make the distributions required under the Plan in accordance with Section 3.5 of the Liquidation Trust Agreement. Whenever any distribution to be made under the Plan or the Liquidation Trust Agreement is due on a day other than a Business Day, such distribution shall be made, without interest, on the immediately succeeding Business Day, but any such distribution will have been deemed to have been made on the date due.

B. Reserve for Disputed Claims

The Liquidation Trustee shall maintain a reserve for any distributable amounts required to be set aside on account of Disputed Claims and shall distribute such amounts (net of any expenses, including any taxes relating thereto), as provided herein and in the Liquidation Trust Agreement, as such Disputed Claims are resolved by Final Order, and such amounts shall be distributable in respect of such Disputed Claims as such amounts would have been distributable had the Disputed Claims been Allowed Claims as of the Effective Date.

C. Manner of Payment under the Plan and Liquidation Trust

Any payment in Cash to be issued hereunder shall, at the election of the issuer, be made by check drawn on a domestic bank or by wire transfer from a domestic bank.

D. Delivery of Distributions

Subject to the provisions of Bankruptcy Rule 2002(g), and except as otherwise provided herein, distributions and deliveries to Holders of record of Allowed Claims shall be made at the address of each such Holder set forth on the Debtor's books and records unless superseded by the address set forth on proofs of claim filed by any such Holders. By no later than the Effective Date, the Debtors and the Buyer shall provide the Liquidation Trustee with the addresses and other books and records relating to the Beneficiaries, including, without limitation, all taxpayer identification information.

E. Undeliverable Distributions

1. Holding of Undeliverable Distributions:

If any distribution hereunder to any Holder is returned as undeliverable, no further distributions shall be made to such Holder unless and until the issuer of the distribution is notified in writing of such Holder's then-current address. All Entities ultimately receiving undeliverable Cash shall not be entitled to any interest or other accruals of any kind. Nothing contained in the Plan or Liquidation Trust Agreement shall require the issuer of any distribution to attempt to locate any Holder of an Allowed Claim or an Allowed Interest.

2. Failure to Claim Undeliverable Distributions:

Any holder of an Allowed Claim that does not assert its rights pursuant to the Plan or Liquidation Trust Agreement to receive a distribution within ninety (90) days from and after the date such distribution is returned as undeliverable shall have such holder's Claim for such

undeliverable distribution discharged and shall be forever barred from asserting any such Claim against the Debtor, Liquidation Trust, the Liquidation Trustee and their respective professionals, or the Liquidation Trust Assets. In such case, any consideration held for distribution on account of such Claim or Interest shall belong to the Liquidation Trust for distribution by the Liquidation Trustee to the Beneficiaries in accordance with the terms of the Plan and Liquidation Trust Agreement.

F. Compliance with Tax Requirements/Allocation

The issuer of any distribution under the Plan or Liquidation Trust shall comply with all applicable tax withholding and reporting requirements imposed by any Governmental Unit, and all distributions pursuant to the Plan and Liquidation Trust shall be subject to any such applicable withholding and reporting requirements. For tax purposes, distributions received in respect of Allowed Claims will be allocated first to the principal amount of such Claims, with any excess allocated to unpaid accrued interest.

G. Time Bar to Cash Payments

Checks issued on account of Allowed Claims shall be null and void if not negotiated within ninety (90) days from and after the date of issuance thereof. Requests for reissuance of any check shall be made directly to the issuer of the check by the holder of the Allowed Claim with respect to which such check originally was issued. Any claim in respect of such a voided check shall be made within ninety (90) days from and after the date of issuance of such check. After such date, all Claims in respect of voided checks shall be discharged and forever barred and the Liquidation Trust shall be entitled to retain all monies related thereto for distribution to the Beneficiaries in accordance with the terms of the Plan and the Liquidation Trust Agreement.

H. Distributions After Effective Date

Distributions made after the Effective Date to Holders of Claims that are not Allowed Claims as of the Effective Date, but which later become Allowed Claims, shall be deemed to have been made on the Effective Date. Unless otherwise specifically provided in the Plan or the Liquidation Trust Agreement, no interest shall be payable on account of any Claim not paid on the Effective Date.

I. Fractional Dollars; De Minimis Distributions

Notwithstanding anything contained herein to the contrary, payments of fractions of dollars will not be made. Whenever any payment of a fraction of a dollar under the Plan or Liquidation Trust would otherwise be called for, the actual payment made will reflect a rounding of such fraction to the nearest dollar (up or down), with half dollars being rounded down. No payment shall be made on account of any distribution less than Fifty Dollars (\$50) with respect to any Allowed Claim unless a request therefor is made in writing to the issuer of such payment on or before ninety (90) days after the Effective Date.

J. Setoffs

The Liquidation Trustee may, pursuant to Sections 502(d) or 553 of the Bankruptcy Code or applicable nonbankruptcy law, set off against any Allowed Claim or Allowed Administrative Claim and the distributions to be made pursuant to the Liquidation Trust Agreement on account thereof (before any distribution is made on account of such Claim), the Claims, rights and Causes of Action of any nature that it may hold against the Holder of such Allowed Claim or Allowed Administrative Claim; provided, however, that neither the failure to effect such a set-off nor the allowance of any Claim hereunder shall constitute a waiver or release of any such claims, rights and Causes of Action that the Liquidation Trust may possess against such Holder.

K. Preservation of Subordination Rights

Except as otherwise provided herein or in the Stipulation, all subordination rights and claims relating to the subordination by the Debtors or the Liquidation Trustee of any Allowed Claim shall remain valid, enforceable and unimpaired in accordance with Section 510 of the Bankruptcy Code or otherwise.

L. Settlement of Claims and Controversies

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided under the Plan, the provisions of this Plan shall constitute a good faith compromise and settlement of claims or controversies relating to the contractual, legal and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim, or any distribution to be made on account of any such Allowed Claim.

XII. PROCEDURES FOR RESOLUTION OF DISPUTED, CONTINGENT AND UNLIQUIDATED CLAIMS OR EQUITY INTERESTS

A. Objections to Claims; Prosecution of Disputed Claims

1. The Debtors or the Committee, prior to the Effective Date, and thereafter the Liquidation Trustee in accordance with the Liquidation Trust Agreement, shall have the right to object to the allowance of Claims or Equity Interests Filed with the Bankruptcy Court with respect to which they dispute liability or allowance in whole or in part. The Liquidation Trustee (within any parameters as may be established by the Liquidation Trust Agreement) shall have the authority to file, settle, compromise or withdraw any objections to Claims, without approval of the Bankruptcy Court.

2. Notwithstanding the foregoing, the Liquidation Trustee, on behalf of the Liquidation Trust, shall have the right to object to the allowance of any Administrative Claims, Priority Claims, Class 1 and Class 2 Claims, and any other Claims asserted against the Liquidation Trust or the Liquidation Trust Assets, by no later than the Claims Objection Deadline.

B. Estimation of Claims

The Debtors or the Committee, prior to the Effective Date, and thereafter the Liquidation Trustee in accordance with the Liquidation Trust Agreement, may at any time request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to Section 502(c) of

the Bankruptcy Code regardless of whether the Debtors, the Committee or the Liquidation Trustee previously have objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. Subject to the provisions of Section 502(j) of the Bankruptcy Code, in the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, the amount so estimated shall constitute the maximum allowed amount of such Claim. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors, the Committee or the Liquidation Trustee may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

C. Payments and Distributions on Disputed Claims

1. Notwithstanding any provision hereof to the contrary, any issuer of a distribution hereunder may, in its discretion, pay the undisputed portion of a Disputed Claim. Notwithstanding the foregoing, the issuer of a distribution hereunder will set aside for each Holder of a Disputed Claim such portion of Cash as may be necessary to provide required distributions if that Claim were an Allowed Claim, either based upon the amount of the Claim as filed with the Bankruptcy Court or the amount of the Claim as estimated by the Bankruptcy Court.

2. At such time as a Disputed Claim becomes, in whole or in part an Allowed Claim, the issuer of a distribution hereunder shall distribute to the Holder thereof the distributions, if any, to which such Holder is then entitled under the Plan or the Liquidation Trust. Such distribution, if any, will be made as soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing such Disputed Claim becomes a Final Order. No interest will be paid on Disputed Claims that later become Allowed or with respect to any distribution in satisfaction thereof to a Holder.

D. Tort Claims

All Claims against the Debtors arising after the Petition Date asserting damages for personal injuries or property damage, are Disputed Claims unless and until Allowed by a Final Order. Any other claim asserting damages for personal injuries or property damage shall be determined and liquidated by a court of competent jurisdiction. Nothing contained in the Plan shall be deemed a waiver of any Cause of Action that the Debtors or the Liquidation Trust may hold against any entity, including, without limitation, in connection with or arising out of any tort claim.

**XIII. RETENTION AND PRESERVATION OF CAUSES
OF ACTION NOT EXPRESSLY SETTLED OR RELEASED**

1. On the Effective Date, all Causes of Action shall vest in the Liquidation Trust, which shall hold and possess all rights on behalf of the Debtors, the Estates and the Liquidation

Trust and shall have the exclusive right, authority and discretion to commence, prosecute, abandon, settle or compromise any such Cause of Action not otherwise settled or released prior to the Effective Date.

2. The Debtors and the Committee, and, after the Effective Date, the Liquidation Trustee, on behalf of the Liquidation Trust, reserve all rights to pursue any and all Causes of Action. The Debtors hereby reserve the rights of the Liquidation Trust and the Liquidation Trustee, on behalf of the Liquidation Trust, to pursue, administer, settle, litigate, enforce and liquidate:

(a) Any and all actions arising under the Bankruptcy Code, including, without limitation, Sections 544, 545, 547, 548, 549, 550, 551, 553(b) and/or 724(a) of the Bankruptcy Code; and

(b) Any other Causes of Action that currently exist or may subsequently arise and which have not been otherwise set forth herein, because the facts upon which such Causes of Action are based are not currently or fully known by the Debtors (collectively, the **"Unknown Causes of Action"**). The failure to list or describe any such Unknown Cause of Action herein is not intended to limit the rights of the Liquidation Trustee, on behalf of the Liquidation Trust, to pursue any unknown Cause of Action.

3. Unless Causes of Action against a Person or Entity are expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order of the Bankruptcy Court, the Debtors (before the Effective Date) and the Liquidation Trustee, on behalf of the Liquidation Trust (post-Effective Date), expressly reserve all Causes of Action (including the Unknown Causes of Action) for later adjudication and therefore, no preclusion doctrine or other rule of law, including, without limitation, 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 result of the confirmation or Effective Date of the Plan, or the Confirmation Order. In addition, the Debtors and the Liquidation Trustee, on behalf of the Liquidation Trust, and any successors-in-interest thereto, expressly reserve the right to pursue or adopt any Claims not so waived, relinquished, released, compromised or settled that are alleged in any lawsuit in which any of the Debtors is a defendant or an interested party, against any Person or Entity, including, without limitation, the plaintiffs and co-defendants in such lawsuits.

XIV. CRAM DOWN

If necessary, the Proponents intend to request the Bankruptcy Court to confirm the Plan in accordance with Section 1129(b) of the Bankruptcy Code.

XV. MISCELLANEOUS PROVISIONS

A. Dissolution of Committee

Upon the Effective Date, the Committee shall dissolve, except with respect to any appeal of an order or other pending matter in the Chapter 11 Cases, and any applications for

Professional Fee Claims, and the Committee Members and the Committee's Professionals shall be relieved and discharged of all duties related to the Chapter 11 Cases.

B. Payment of Statutory Fees

After the Effective Date, all fees payable pursuant to Section 1930(a) of title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing pursuant to Section 1128 of the Bankruptcy Code, shall be paid for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first.

C. Modification of Plan

Subject to the limitations contained in the Plan:

1. The Plan may be amended or modified in the manner provided for under Code § 1127(a) or (b). The Debtors or the Liquidation Trustee shall give notice of any proposed modification to the Office of the United States Trustee, the Committee, and any other parties designated by the Court. The Debtors and the Liquidation Trustee also reserve the right to make such modifications at any hearings on Confirmation as are necessary to permit this Plan to be confirmed under Code § 1129(b).

2. After the entry of the Confirmation Order, the Debtors or the Liquidation Trustee may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with Section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

XVI. CERTAIN FACTORS TO BE CONSIDERED

HOLDERS OF CLAIMS AGAINST THE DEBTORS SHOULD READ AND CONSIDER CAREFULLY THE FACTORS SET FORTH BELOW, AS WELL AS OTHER INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT AND THE DOCUMENTS DELIVERED TOGETHER HERewith AND/OR INCORPORATED BY REFERENCE HEREIN, PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN.

A. Certain Bankruptcy Considerations

Although the Debtors and the Committee believe that the Plan will satisfy all requirements necessary for confirmation by the Bankruptcy Court, there can be no assurance that the Bankruptcy Court will reach the same conclusion. Moreover, there can be no assurance that modifications of the Plan will not be required for confirmation or that such modifications would not necessitate the resolicitation of votes.

B. Risks Relating to Plan

Although the Plan provides for a liquidation of the Debtors and the remaining assets of their estates, there are risks associated with the Plan. Holders of Claims should consider that the timing and amount of distributions under the Plan can be affected by (among other things): (i)

the costs and expenses incurred by the Debtors and the Liquidation Trustee and their professionals, agents or employees with respect to implementation of the Plan, including, without limitation, the costs and expenses of making Distributions pursuant to the Plan, and the costs and expenses of complying with applicable tax laws and other reporting requirements; (ii) litigation costs and expenses incurred by or on behalf of the Debtors; and (iii) the success in objecting to Disputed Claims.

XVII. CONFIRMATION OF THE PLAN

Under the Bankruptcy Code, the following steps must be taken to confirm the Plan.

A. Classification

The Debtors are required under Section 1122 of the Bankruptcy Code to classify the Claims and Equity Interests of the Debtors' Creditors and Interest holders into Classes that contain Claims and Interests that are substantially similar to the other Claims or Equity Interests in such Classes. The Plan can be confirmed so long as there is one consenting Class of Impaired Claims (not including the votes of insiders), and so long as the other requirements for Confirmation that do not involve voting are met.

B. Disclosure and Solicitation

This Disclosure Statement is presented to the holders of Claims in Impaired Classes that receive or retain property pursuant to the Plan to satisfy the requirements of Bankruptcy Code Sections 1125 and 1126. Bankruptcy Code Section 1125 requires that full disclosure be made to all holders of Claims and Equity Interests in Impaired Classes that receive or retain property pursuant to a plan at the time, or before, solicitation of acceptances of such plan is commenced.

C. Confirmation Hearing

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a hearing on confirmation of a plan. As set forth above, by order of the Bankruptcy Court, the Confirmation Hearing has been scheduled for **February 22, 2010, at 10:00 a.m. Eastern Time**, in the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 6th Floor, Wilmington, DE 19801. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement made at the Confirmation Hearing or any adjournment thereof.

Section 1128(b) of the Bankruptcy Code provides that any party in interest may object to confirmation of a plan. Any objection to Confirmation of the Plan must be in writing, conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, set forth the name of the objecting party, the nature and amount of Claim or interest held or asserted by the objecting party against the Debtors' estates or property, the basis for the objection and the specific grounds therefor, and be filed with the Bankruptcy Court, with a copy to chambers, together with proof of service thereof, and served upon counsel for the Debtors, the Committee and the Office of the U.S. Trustee at the addresses set forth in Section II.F. hereof, so as to be received no later than **4:00 p.m. (Eastern Time), on February 15, 2010**.

Objections to Confirmation of the Plan are governed by Federal Rule of Bankruptcy Procedure 9014. **UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

D. Requirements for Confirmation of the Plan

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the requirements of Section 1129 of the Bankruptcy Code are met. Among the requirements for confirmation are that the Plan (a) is accepted by all impaired Classes of Claims and Equity Interests or, if rejected by an impaired Class, that the Plan "does not discriminate unfairly" and is "fair and equitable" as to such Class, (b) is feasible and (c) is in the "best interests" of holders of Claims and Equity Interests impaired under the Plan.

1. Fair and Equitable Test

The Debtors may seek to confirm the Plan notwithstanding the non-acceptance of the Plan by any impaired Class of Claims or Equity Interests entitled to vote on the Plan. To obtain such confirmation, the Debtors must demonstrate to the Bankruptcy Court that the Plan "does not discriminate unfairly" and is "fair and equitable" with respect to each dissenting impaired Class. The Debtors believe that Claims in Class 2 are Impaired under the Plan. A plan does not discriminate unfairly if the legal rights of a dissenting impaired class are treated in a manner consistent with the treatment of other classes whose legal rights are substantially similar to those of the dissenting impaired class and if no class receives more than it is entitled to for its claims or equity interests. The Debtors believe that the Plan satisfies this requirement.

The Bankruptcy Code establishes different "fair and equitable" tests for secured claims, unsecured claims and equity interests, as follows:

(a) Secured Claims

Either (i) each holder of an impaired Secured Claim (a) retains the Liens securing such Claim to the extent of the Allowed amount of such Claim and (b) receives on account of such Claim deferred Cash payments totaling at least the Allowed amount of such Claim with a present value as of the effective date at least equal to the value of such holder's interest in the estate's interest in the property securing its Liens; (ii) property subject to the Lien of the impaired creditor is sold free and clear of that Lien, with the Lien attaching to the proceeds of the sale, and the Lien proceeds treated in accordance with clauses (i) or (iii) hereof, or (iii) the impaired secured creditor realizes the "indubitable equivalent" of its Claim under the Plan.

(b) Unsecured Claims

Either (i) each holder of an impaired Unsecured Claim receives or retains under the Plan property of a value equal to the amount of its Allowed Claim or (ii) the holders of Claims and Equity Interests that are junior to the Claims of the dissenting Class will not receive or retain any property under the Plan on account of such junior Claims or Equity Interests.

(c) Equity Interests

Either (i) each Interest holder will receive or retain under the Plan property of a value equal to the greater of (a) the fixed liquidation preference or redemption price, if any, of such Equity Interest or (b) the value of the Equity Interest, or (ii) the holders of Equity Interests that are junior to the dissenting class of Equity Interests will not receive or retain any property under the Plan on account of such junior Interest.

2. Feasibility and Best Interests Test

The Bankruptcy Code requires that in order to confirm the Plan, the Bankruptcy Court must find that confirmation of the Plan is not likely to be followed by liquidation or the need for further financial reorganization of the Debtors (the "**Feasibility Test**"), except as otherwise provided for under the Plan. In addition, the Bankruptcy Court must determine that the values of the distributions to be made under the Plan to each Class will equal or exceed the values which would be allocated to such Class in a liquidation under Chapter 7 of the Bankruptcy Code (the "**Best Interest Test**"). The Best Interest Test with respect to each impaired Class requires that each holder of a Claim or Equity Interest in such Class either (i) accept the Plan, or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive or retain if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code.

The Debtors and the Committee believe that the Plan meets the requirements of the Feasibility Test and of the Best Interest Test by providing for the liquidation of all of its assets and the Cash proceeds being distributed in accordance with the priority scheme set forth in the Bankruptcy Code.

XVIII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN OF LIQUIDATION

If the Plan is not confirmed and consummated, the alternatives include: (i) preparation and presentation of an alternative plan of liquidation; or (ii) liquidation of the Debtors under Chapter 7 of the Bankruptcy Code.

A. Alternative Plans of Liquidation

The Debtors and the Committee believe that failure to confirm the Plan will inevitably result in additional administrative expenses being incurred which will reduce and delay the likelihood of distributions to holders of General Unsecured Claims. The Debtor and the Committee believe that the Plan, as described herein, fairly adjusts the rights of various Classes of Creditors consistent with the distribution scheme embodied in the Bankruptcy Code and enables Creditors to realize the most possible under the circumstances.

B. Liquidation Under Chapter 7

The Debtors and the Committee believe that a liquidation under Chapter 7 would result in a reduced recovery of funds by the Debtors' estates because of the additional administrative expenses involved in the appointment of a trustee for the Debtors and the employment of attorneys and other professionals to assist such trustee. Further, the Plan contemplates approval of the Pentland Settlement which will allow beneficiaries holding claims in Class 2 to receive a

greater distribution under the Plan than would otherwise be received under Chapter 7 of the Bankruptcy Code. Accordingly, the Debtors and the Committee believe that if holders of Claims could or would receive anything in a Chapter 7 liquidation, such holders of Claims may be expected to receive smaller distributions pursuant to a Chapter 7 liquidation than under the Plan. See Exhibit D for the Liquidation Analysis.

To determine what holders of Claims and Equity Interests in each impaired Class would receive if the Debtors were liquidated, the Bankruptcy Court must determine what funds could be generated from the liquidation of the Debtors' assets and property in the context of a Chapter 7 liquidation case, which would consist of the proceeds resulting from the disposition of the unencumbered assets of the Debtors, augmented by the Cash held by the Debtor at the time of the commencement of the liquidation case. Such Cash amounts would be reduced by post-petition Chapter 11 administrative costs, and costs incurred by the Chapter 7 trustee and any professional retained by the Chapter 7 trustee. To determine if the Plan is in the best interest of each impaired Class, the present value of the distributions from the proceeds of the liquidation of the Debtors' assets and property (after subtracting the amounts attributable to the aforesaid Claims) are then compared with the present value offered to such Classes of Claims under the Plan.

In applying the Best Interest Test, the Claims in the Chapter 7 case would be classified according to the same seniority of such Claims as provided in the Plan, in the absence of a contrary determination by the Bankruptcy Court, all pre-Chapter 11 general unsecured creditor Claims that have the same rights upon liquidation would be treated as one Class for the purposes of determining the potential distribution of the liquidation proceeds resulting from the Chapter 7 case of the Debtors. The distributions from the liquidation proceeds would be calculated ratably according to the amount of the aggregate Claims held by each Creditor. The Debtors believe that the most likely outcome of liquidation proceedings under Chapter 7 would be the application of the rule of absolute priority of distributions. Under that rule, no junior Creditor may receive any distribution until all senior Creditors are paid in full with interest.

The Debtors and the Committee believe that Confirmation of the Plan will provide each Creditor with a greater recovery than it would receive if the Debtors were liquidated under Chapter 7. This determination is based primarily upon the fact that (i) a Chapter 7 liquidation would increase the administrative costs that must be paid prior to the payment of distributions to Creditors, and (ii) Beneficiaries of allowed claims in Class 2 would receive reduced distributions absent the Pentland Settlement.

XIX. RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain such jurisdiction over any matter arising under the Bankruptcy Code, or arising in or related to the Chapter 11 Cases or the Plan after Confirmation and after the Effective Date, and any other matter or proceeding that is within the Bankruptcy Court's jurisdiction pursuant to 28 U.S.C. §1334 or 28 U.S.C. §157, including, without limitation, jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Equity Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of Claims or Equity Interests;

2. Grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

3. Resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract and unexpired lease to which any of the Debtors is party or with respect to which any of the Debtors may be liable and to hear, determine and, if necessary, liquidate, any Claims arising therefrom;

4. Ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions hereof;

5. Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters, including all Causes of Action and objections or estimations to Claims or Equity Interests, and grant or deny any applications involving the Debtors that may be pending on the Effective Date, or that, pursuant to the Plan, may be instituted by the Liquidation Trustee, or the Liquidation Trust or any other Person or Entity after the Effective Date; provided, however that the Liquidation Trustee and the Liquidation Trust shall reserve the right to prosecute the Causes of Action in all proper jurisdictions;

6. Enter such orders as may be necessary or appropriate to implement or consummate the provisions hereof and all contracts, instruments, releases and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Liquidation Trust Agreement;

7. Resolve any case, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan, the Liquidation Trust Agreement, the Confirmation Order, or any Person's or Entity's obligations incurred in connection with the Plan, the Liquidation Trust Agreement, or the Confirmation Order, including, relating to determining the scope and extent of the Liquidation Trust Assets;

8. Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person or Entity with consummation or enforcement of the Plan, except as otherwise provided herein;

9. Resolve any case, controversies, suits or disputes with respect to the provisions contained in Articles XII and XIII of the Plan and enter any orders that may be necessary or appropriate to implement such provisions;

10. Enter and implement any orders that are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

11. Determine any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Liquidation Trust Agreement or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan or the Disclosure Statement or the Liquidation Trust Agreement; and

12. Enter an order and/or final decree concluding the Chapter 11 Cases.

XX. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN OF LIQUIDATION

A. Introduction

The following discussion summarizes certain U.S. federal income tax consequences of the transactions that are described herein and in the Plan that affect holders of certain Claims. This summary is based upon the Internal Revenue Code of 1986, as amended ("**Tax Code**"), the Treasury Department regulations promulgated thereunder ("**Treasury Regulations**"), judicial authority and current administrative rulings and practice now in effect. These authorities are all subject to change at any time by legislative, judicial or administrative action, and such change may be applied retroactively in a manner that could adversely affect holders of Claims or Equity Interests and the Debtors. The federal income tax consequences to any particular holder of a Claim or Equity Interest may be affected by matters not discussed below. For example, neither the impact of the Plan on foreign holders of Claims or Equity Interests nor the impact under any state or local law is discussed herein. Further, this summary generally does not address the tax consequences to Creditors who may have acquired their Claims from the initial holders nor does it address the tax considerations applicable to Creditors or Interest holders that may be subject to special tax rules such as financial institutions, insurance companies, dealers in securities or currencies, tax-exempt organizations or taxpayers subject to the alternative minimum tax. To the extent that the summary of payments to Creditors in this Section conflicts with other parts of this Disclosure Statement or the Plan, the discussion in such other parts of the Disclosure Statement or the Plan shall govern.

NO RULING WILL BE SOUGHT FROM THE INTERNAL REVENUE SERVICE ("**IRS**"), AND NO OPINION OF COUNSEL HAS BEEN OR WILL BE SOUGHT, WITH RESPECT TO ANY OF THE TAX ASPECTS OF THE PLAN. THE DISCUSSION SET FORTH BELOW IS FOR GENERAL INFORMATION ONLY. THIS DESCRIPTION DOES NOT COVER ALL ASPECTS OF FEDERAL INCOME TAXATION THAT MAY BE RELEVANT. EACH CREDITOR AND INTEREST HOLDER IS URGED TO CONSULT WITH ITS OWN TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE PLAN.

IRS CIRCULAR 230 NOTICE: TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, PLEASE BE ADVISED THAT ANY WRITTEN U.S. TAX ADVICE CONTAINED IN THIS DISCLOSURE STATEMENT (INCLUDING ANY ATTACHMENT) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF (1) AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE OR (2) PROMOTING, MARKETING OR

RECOMMENDING TO ANOTHER PARTY ANY TRANSACTION OR MATTER ADDRESSED HEREIN.

B. Consequences to Holders of Allowed Unsecured Claims

Pursuant to the Plan, holders of Allowed Unsecured Claims will receive one or more distributions in satisfaction of their Claims (depending upon, among other things, the resolution of Disputed Claims).

1. Gain or Loss

In general, each holder of an Allowed Unsecured Claim will recognize gain or loss in an amount equal to the difference between (i) the amount of Cash received by such Creditor in satisfaction of its Claim (other than any Claim representing accrued but unpaid interest, and any amount required to be treated as imputed interest in respect of Distributions made after the Effective Date) and (ii) such Creditor's adjusted tax basis in such Claim (other than any Claim representing accrued but unpaid interest). For a discussion of the treatment of any Claim for accrued but unpaid interest, see "Distributions in Discharge of Accrued but Unpaid Interest" below.

Except as otherwise provided in the Plan, holders of Allowed Unsecured Claims may receive additional Distributions as provided in the Plan, as Disputed Claims are resolved. As a consequence, Creditors' ability to recognize a loss in respect of an Allowed Unsecured Claim may be limited if a reasonable prospect exists of recovering additional amounts in further satisfaction of the Allowed Unsecured Claim. Any loss, and a portion of any gain, realized by holders of Allowed Unsecured Claims may be deferred until the Final Distribution is made in respect of such Allowed Unsecured Claims. Creditors who are planning to take a bad debt deduction with respect to their unpaid Claims should consult their tax advisor in light of the Debtor's belief that there is a reasonable prospect that holders of Allowed Unsecured Claims will receive a Distribution on said Allowed Claim. Where gain or loss is recognized by a Creditor in respect of its Allowed Claim, the character of such gain or loss (i.e., long-term or short-term capital, or ordinary) will be determined by a number of factors, including the tax status of the Creditor, whether the Claim in respect of which Cash was received constituted a capital asset in the hands of the Creditor and how long it has been held, whether such Claim was originally issued at a discount or acquired at a market discount, and whether and to what extent the Creditor had previously claimed a bad debt deduction in respect of such Claim. A Creditor that purchased its Claim from a prior holder at a market discount may be subject to the market discount rules of the Internal Revenue Code. Under those rules, assuming that the Creditor had not made an election to amortize the market discount into income on a current basis with respect to any market discount instrument, any gain recognized on the exchange of such Claim (subject to a *de minimis* rule) would generally be characterized as ordinary income to the extent of the accrued market discount on such Claim as of the date of the exchange.

2. Distributions in Discharge of Accrued but Unpaid Interest

Pursuant to the Plan, all Distributions in respect of an Allowed Claim will be allocated first to the original principal amount of such Claim as determined for federal income tax

purposes to the extent thereof and thereafter to the remaining portion of such Claim. However, there is no assurance that such allocation will be respected by the IRS for federal income tax purposes. In general, to the extent that any amount received by a Creditor is received in satisfaction of accrued interest during its holding period, such amount will be taxable to the Creditor as interest income (if not previously included in the holder's gross income). Conversely, a Creditor generally recognizes a deductible loss to the extent any accrued interest claimed was previously included in its gross income and is not paid in full. Each Creditor is urged to consult its tax advisor regarding the allocation of consideration and the deductibility of unpaid interest for tax purposes.

3. Information Reporting and Withholding

All payments to Creditors are subject to any applicable withholding (including employment tax withholding). Under the Internal Revenue Code, interest, dividends and other "reportable payments" may, under certain circumstances, be subject to "backup withholding" at up to a 28% rate. Backup withholding generally applies if the Creditor (a) fails to furnish its social security number or taxpayer identification number ("TIN"), (b) furnishes an incorrect TIN, (c) fails properly to report interest or dividends or (d) under certain circumstances, fails to provide a certified statement, signed under penalty of perjury, that the TIN provided is its correct number and that it is not subject to backup withholding. Backup withholding is not an additional tax but merely an advance payment, which may be refunded to the extent it results in an overpayment of tax. Certain Persons are exempt from backup withholding, including, in certain circumstances, corporations and financial institutions.

XXI. CONCLUSION AND RECOMMENDATION

The Debtors and the Committee believe that the Plan is in the best interests of all Creditors and urges the holders of all Claims who receive Ballots to vote to accept the Plan and to evidence such acceptance by returning their Ballots so that they will be actually received on or before **4:00 p.m. Eastern Time, on February 15, 2010.**

Dated: December 2, 2009

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Debtors and Debtors in Possession

EXHIBIT A TO DISCLOSURE STATEMENT

**JOINT PLAN OF LIQUIDATION OF
DEBTORS AND DEBTORS IN POSSESSION**

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

In re : Chapter 11
:
ALSET OWNERS, LLC, *et al.*,¹ : Case No. 09-11960 (BLS)
:
: (Jointly Administered)
Debtors. :

**JOINT PLAN OF LIQUIDATION OF THE
DEBTORS AND DEBTORS IN POSSESSION**

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Debtors and Debtors in Possession

Dated: December 2, 2009

¹ The Debtors and the last four digits of their respective tax identification numbers are: Alset Owners, LLC, a Delaware limited liability company (7520); Altes, LLC, a Delaware limited liability company (6927); Setla, LLC, a Delaware limited liability company (6752); and Checkers Michigan, LLC, a Delaware limited liability company (8016). The Debtors' service address is Altes, LLC/Setla, LLC, 1200 North Federal Highway, Boca Raton, FL 33432.

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Pursuant to Title 11 of the United States Code, 11 U.S.C. §§ 101 – 1532, as amended (the “Bankruptcy Code”), Alset Owners, LLC, Altes, LLC, Setla, LLC, and Checkers Michigan, LLC (the “Debtors” or the “Proponents”) respectfully propose the following Plan of Liquidation under chapter 11 of the Bankruptcy Code (the “Plan”).

ARTICLE I

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

A. Rules of Interpretation, Computation of Time and Governing Law

1. For purposes herein: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, instrument, release, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) any reference herein to an existing document or exhibit Filed, or to be Filed, shall mean such document or exhibit, as it may have been or may be amended, modified or supplemented; (d) unless otherwise specified, all references herein to Sections and Articles are references to Sections and Articles hereof or hereto; (e) the words “herein,” “hereof” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in Section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

2. In computing any period of time prescribed or allowed hereby, the provisions of Rule 9006(a) of the Federal Rules of Bankruptcy Procedure shall apply.

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

B. Proponents of Plan

The Debtors are the proponents of the Plan. Article III contains the classification and treatment of Claims and Equity Interests against the Debtors.

C. Defined Terms

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein. The Bankruptcy Code also defines many terms

and those definitions are incorporated herein by reference. Additional terms used herein are defined in the Asset Purchase Agreement and have the meaning ascribed to them in the Asset Purchase Agreement.

1. “**Administrative Claim**” means a Claim that has been timely filed, pursuant to the Bar Date Order or the procedures set forth in the Confirmation Order, for costs and expenses of administration under Sections 503(b), or 507(a)(2) of the Bankruptcy Code, including, but not limited to: (i) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estate and operating the businesses of the Debtors; (ii) Allowed Professional Fee Claims and all other Claims for compensation for legal, financial advisory, accounting and other services and reimbursement of expenses awarded or allowed under Sections 328, 330(a), 331 or 363 of the Bankruptcy Code or otherwise for the period commencing on the Petition Date and ending on the Effective Date; and (iii) all fees and charges assessed against the Estate under 28 U.S.C. §1930. Notwithstanding the foregoing, all fees and charges under 28 U.S.C. §1930 will be paid without the need for the filing of a request or claim.

2. “**Administrative Claims Bar Date**” means that date by which all Administrative Claims that are not subject to the Bar Date Order shall be filed, which is the first Business Day that is thirty (30) days after the Effective Date. The last date to file all Administrative Claims that are subject to the Bar Date Order is December 15, 2009.

3. “**Affiliate**” means, with respect to the Debtors or any other Entity, an affiliate as defined in Section 101(2) of the Bankruptcy Code.

4. “**Allowed**” means, with respect to Claims or Equity Interests, (i) any Claim against or Equity Interest in the Debtors, proof of which is timely Filed, or by order of the Bankruptcy Court is not or will not be required to be Filed, (ii) any Claim or Equity Interest that has been or is hereafter listed in the Schedules as neither disputed, contingent or unliquidated, and for which no timely proof of Claim has been Filed, or (iii) any Claim Allowed pursuant to the Plan or by a Final Order of the Bankruptcy Court; provided, however, with respect to any Claim or Equity Interest described in clauses (i) or (ii) immediately above, such Claim or Equity Interest shall be Allowed only if (w) no objection to the allowance thereof has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules or the Bankruptcy Court or (x) such an objection is so interposed and the Claim or Equity Interest shall have been Allowed by a Final Order (but only if such allowance was not solely for the purpose of voting to accept or reject the Plan); and further provided that (y) no Administrative Claim, Claim or Equity Interest that is an Assumed Liability shall be Allowed for purposes of voting or distribution under the Plan or Liquidation Trust, and (z) no Administrative Claim, Claim or Equity Interest shall be Allowed to the extent that the Holder thereof either possesses property recoverable by the Estate or the Liquidation Trust under section 542, 543, 550, or 553 of the Bankruptcy Code or is the transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code until such time as such Holder has paid the amount or turned over any such property for which the Holder is liable. Except as otherwise specified in the Plan or a Final Order of the Bankruptcy Court, the amount of an Allowed Claim shall not include interest on such Claim from and after the Petition Date. Nothing herein shall prejudice the ability of the Debtors, the Committee or the Liquidation Trustee to object to any claim.

5. **"Asset Purchase Agreement"** means that certain Asset Purchase Agreement, dated as of June 5, 2009 between the Debtors and Checkerco, Inc., as amended from time to time, and authorized and approved by the Sale Order (as hereinafter defined).

6. **"Assumed Liabilities"** means all Administrative Expenses and any other liabilities that the Buyer agreed to assume under the Asset Purchase Agreement.

7. **"Ballot"** or **"Ballots"** mean the ballots accompanying the Disclosure Statement upon which Holders of Impaired Claims entitled to vote shall indicate their acceptance or rejection of the Plan in accordance with the Plan and the Voting Instructions.

8. **"Balloting Agent"** means BMC Group Inc. whose offices are maintained at 18750 Lake Drive East, Chanhassen, MN 55317.

9. **"Bankruptcy Code"** means Title 11 of the United States Code, 11 U.S.C. §§ 101-1532, and applicable portions of Titles 18 and 28 of the United States Code.

10. **"Bankruptcy Court" or "Court"** means the United States Bankruptcy Court for the District of Delaware, or any other court having jurisdiction over the Chapter 11 Cases.

11. **"Bankruptcy Rules"** means the Federal Rules of Bankruptcy Procedure, as amended from time to time, as applicable to the Chapter 11 Case, promulgated under 28 U.S.C. § 2075 and the General, Local and Chambers Rules of the Bankruptcy Court, as amended from time to time.

12. **"Bar Date Order"** means that certain Order (A) Fixing The Procedures And Deadlines To Proofs Of Claim Pursuant To Fed.R.Bankr.P. 2002 and 3003 and Del.Bankr.L.R. 2002-1(e) And To Make Requests For Payment Of Administrative Expense Claims, and (B) Approving The Form And Manner Of Notice Of The Bar Date, which was entered by the Bankruptcy Court on September 29, 2009.

13. **"Beneficial Holder"** means the Person or Entity holding the beneficial interest in a Claim or Equity Interest.

14. **"Beneficiaries"** means the Holders of the Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, and Allowed General Unsecured Claims.

15. **"Business Day"** means any day, other than a Saturday, Sunday, or a "legal holiday" (as defined in Bankruptcy Rule 9006(a)) as applicable in the State of Delaware.

16. **"Buyer"** means, collectively, Checkerco, Inc. and Checkers Drive-In Restaurants, Inc.

17. **"Cash"** means legal tender of the United States of America or the equivalent thereof, including bank deposit and checks.

18. **"Cash Consideration"** means the Cash paid by the Buyer for substantially all of the assets of the Debtors, pursuant to that certain (a) "Asset Purchase Agreement, dated as of June 5, 2009 between Buyer and the Debtors, and (b) Sale Order.

19. **"Causes of Action"** means all Claims, actions, causes of action, chooses in action, suit, debts, dues, damages, judgments, third-party claims, counterclaims, and cross claims (including, but not limited to, all claims arising under state, federal or other non-bankruptcy law, and any avoidance, recovery, subordination or other actions against insiders and/or any other Persons or Entities under the Bankruptcy Code, including any and all claims and causes of action under Sections 506, 510, 542, 543, 544, 545, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code) and those actions described in Article XII hereof of the Debtors and the Estate that are or may be pending or existing on the Effective Date against any Person or Entity, based in law or equity, including, but not limited to, under the Bankruptcy Code, whether direct, indirect, known or unknown, derivative, or otherwise and whether asserted or unasserted as of the date of entry of the Confirmation Order, and including the Unknown Causes of Action, as defined in Paragraph B(2)(b) of Article XIII of this Plan.

20. **"Chapter 11 Cases"** means the chapter 11 cases styled *In re Alset Owners, LLC, et al.*, Case Number 09-11960 (BLS), pending in the Bankruptcy Court.

21. **"Claim(s)"** means a claim(s) (as defined in Section 101(5) of the Bankruptcy Code) against the Debtors.

22. **"Claims Objection Deadline"** means one year after the Effective Date, or such later date as may be ordered by the Bankruptcy Court, provided however, that the Liquidation Trustee may seek additional extensions of this date from the Bankruptcy Court.

23. **"Claims Reserve"** means one or more segregated, interest-bearing accounts in which Cash shall be held in accordance with Paragraph B of Article IX of this Plan.

24. **"Class"** means a category of Holders of Claims or Equity Interests as set forth in Article III herein.

25. **"Committee"** means the Official Committee of Unsecured Creditors constituted in the Chapter 11 Cases.

26. **"Committee Members"** means the current and former members of the Committee, each in their capacity as a member of the Committee.

27. **"Confirmation"** means the date upon which the Confirmation Order is entered by the Bankruptcy Court, subject to all conditions specified in Article XI.A herein having been satisfied or waived pursuant to Article XI.C herein.

28. **"Confirmation Date"** means the date upon which the Confirmation Order is entered by the Bankruptcy Court on the Debtors' docket, within the meaning of Bankruptcy Rules 5003 and 9021.

29. **"Confirmation Hearing"** means the hearing at which the Bankruptcy Court considers entry of the Confirmation Order.

30. **"Confirmation Order"** means the order of the Bankruptcy Court confirming the Plan pursuant to Section 1129 of the Bankruptcy Code.

31. **"Creditor"** means any Holder of an Allowed Claim.

32. **"Debtors" or "Debtors-in-Possession"** means Alset Owners, LLC, Atles, LLC, Setla, LLC, and Checkers Michigan, LLC.

33. **"Disclosure Statement"** means the Disclosure Statement for the Plan dated December 2, 2009, as amended, supplemented, or modified from time to time, describing the Plan, that is prepared and distributed in accordance with Sections 1125, 1126(b) and/or 1145 of the Bankruptcy Code and Bankruptcy Rule 3018 and/or other applicable law.

34. **"Disputed"** means, with respect to any Claim or Equity Interest, a Claim or Equity Interest: (a) as to which the Debtors or any other party-in-interest has Filed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules, which objection or request for estimation has not been withdrawn or determined by a Final Order; or (b) that is held by a Holder that either possesses property recoverably by the Estate or the Liquidation Trust under sections 542, 543, 550, or 553 of the Bankruptcy Code or is the transferee of a transfer avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, of 724(a) of the Bankruptcy Code until such time as such Holder has paid the amount or turned over any such property for which the Holder is liable.

35. **"Effective Date"** means the date which is the first Business Day after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect, and (b) all conditions specified in Article XI.B herein have been (x) satisfied or (y) waived pursuant to Article XI.C herein.

36. **"Entity"** means an entity as defined in Section 101(15) of the Bankruptcy Code.

37. **"Equity Interest"** means all equity interests in the Debtors, including, but not limited to, all Membership Interests.

38. **"Estate"** means the Estate of each Debtor created by Section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case for the Debtors.

39. **"File" or "Filed"** means file or filed with the Bankruptcy Court in the Chapter 11 Cases.

40. **"Final Decree"** means the decree contemplated under Bankruptcy Rule 3022.

41. **"Final Order"** means an order or judgment of the Bankruptcy Court (i) as to which the time to appeal, petition for certiorari or move for reargument, reconsideration or rehearing has expired and as to which no appeal, petition for certiorari or other proceedings for reargument, reconsideration or rehearing is pending; or (ii) if an appeal, writ of certiorari,

reargument or rehearing thereof has been sought, such order has been affirmed by the highest court to which such order was appealed or from which certiorari was sought, reargument, reconsideration or rehearing has been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for reargument, reconsideration or rehearing has expired; provided, however, that the possibility of a motion under Rule 59 or 60 of the Federal Rules of Civil Procedure or any analogous Bankruptcy Rule being Filed with respect to such order, shall not cause such order to be deemed a non-Final Order.

42. **"General Unsecured Claim"** means any Claim against the Debtors, but not including any Claim that is a/an (i) Administrative Claim, (ii) Priority Tax Claim, (iii) Secured Claim, and (iv) Other Priority Claim.

43. **"Governmental Unit"** has the meaning ascribed to it in Section 101(27) of the Bankruptcy Code.

44. **"Holder"** means the Beneficial Holder of an Equity Interest or Claim.

45. **"Impaired"** means with respect to any Class of Claims or Equity Interests, a Claim or Equity Interest that is impaired within the meaning of Section 1124 of the Bankruptcy Code.

46. **"Impaired Claim"** means a Claim classified in an Impaired Class.

47. **"Initial Distribution Date"** means a date selected by the Liquidation Trustee in his sole and absolute discretion, provided however, such date shall be no sooner than the 60th day after the Effective Date.

48. **"Lien"** means any charge, lien, or encumbrance against, or interest in, property to secure payment of a debt or performance of an obligation, including a right of set off to secure payment of a debt or performance of an obligation.

49. **"Liquidation Trust"** means the trust to be created on the Effective Date in accordance with the Plan and the Liquidation Trust Agreement for the benefit of the Beneficiaries and Holders.

50. **"Liquidation Trust Agreement"** means that trust agreement that, among other things, creates and establishes the Liquidation Trust, describes the powers, duties and responsibilities of the Liquidation Trustee, provides for the liquidation and distribution of proceeds of the Liquidation Trust Assets in form and substance consistent with the attached Exhibit I.

51. **"Liquidation Trust Assets"** means (i) Cash held by the Debtors as of the Confirmation Date, (ii) the Causes of Action, (iii) all rights of setoff and recoupment and other defenses that the Debtors and the Estates may have with respect to Allowed Claims (iv) any and all assets of the Debtors not transferred to the Buyer, including but not limited to the Excluded Assets as defined in the Asset Purchase Agreement, (v) all of the Debtors' rights under contracts that were not assigned to Buyer pursuant to the Asset Purchase Agreement and the Sale Order, (vi) all rights to claims, refunds or adjustments, all other refunds or adjustments with respect to

assets not sold to the Buyer pursuant to the Asset Purchase Agreement and Sale Order, (vii) all losses, loss carry forwards and rights to receive refunds, credit and loss carry forwards with respect to any and all Taxes of the Debtors, including interest receivable with respect thereto, (viii) all rights of the Debtors arising under the Asset Purchase Agreement and under any other agreement between the Debtors and Buyer entered into in connection with the Asset Purchase Agreement, (ix) all rights of the Debtors under their insurance policies, including, without limitation, to insurance proceeds or other insurance recoveries to the extent they do not relate to damaged goods that have not been fully repaired or replaced, (x) all of the Debtors' rights to utility deposits paid after the commencement of these Chapter 11 Cases, and (xi) only to the extent subject to capitalized leases and similar instruments not constituting contracts assigned to the Buyer, the Debtors' owned equipment, security devices, furniture, fixtures, tools and other personal property and assets that were not transferred to the Buyer.

52. **"Liquidation Trustee"** means _____, or such other Person appointed by the Committee within five days prior to the Confirmation Hearing.

53. **"Membership Interests"** means membership interests in each of the Debtors.

54. **"Other Priority Claims"** means any and all Claims accorded priority in right of payment under Section 507(a) of the Bankruptcy Code, other than a Priority Tax Claim or an Administrative Claim.

55. **"Operating Account"** means a segregated, interest-bearing account established and maintained by the Liquidation Trustee pursuant to Article VII of the Plan.

56. **"Pentland"** means Pentland USA, Inc.

57. **"Pentland Settlement"** means the settlement described in Article VI of the Plan.

58. **"Pentland Unsecured Claim"** means an unsecured claim in the amount of \$5,153,365.46.

59. **"Pentland Unsecured Loans"** means the unsecured loans provided to the Debtors from time to time from June 2000 until prior to the Petition Date.

60. **"Person"** means a person as defined in Section 101(41) of the Bankruptcy Code.

61. **"Permissible Investments"** shall have the meaning ascribed to it in Section V.E.3 of the Plan.

62. **"Petition Date"** means June 5, 2009.

63. **"Plan"** means this Joint Plan of Liquidation of the Debtors, together with all exhibits hereto, either in their present form or as it may be altered, amended, modified or supplemented from time to time in accordance with the terms hereof, the Bankruptcy Code and the Bankruptcy Rules.

64. **"Priority Tax Claim"** means a Claim of a Governmental Unit of the kind specified in Section 507(a)(8) of the Bankruptcy Code.

65. **"Professional"** or collectively **"Professionals"** means a Person or Entity employed pursuant to a Final Order in accordance with Sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Confirmation Date, pursuant to Sections 327, 328, 329, 330 and 331 of the Bankruptcy Code, or for which compensation and reimbursement has been allowed by the Bankruptcy Court pursuant to Section 503(b)(4) of the Bankruptcy Code.

66. **"Professional Fee Claims"** means all fees and expenses for services rendered by Professionals in the Chapter 11 Cases, as allowed by the Bankruptcy Court in a Final Order.

67. **"Pro Rata"** means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in such Class.

68. **"Proof of Claim"** has the meaning ascribed to it in Bankruptcy Rule 3001.

69. **"Proponents"** means the Debtors.

70. **"Record Date"** means the date to be established under the order allowing the Disclosure Statement for the purpose of determining those Holders of Allowed Claims and Equity Interests that are entitled to vote to accept or reject this Plan.

71. **"Rejected Contracts"** means those executory contracts and unexpired leases the Debtors previously rejected under Section 365 of the Bankruptcy Code or in accordance with this Plan.

72. **"Sale Order"** means that certain Order (I) Approving Sale Of Substantially All Of The Debtors' Assets Free And Clear Of All Liens, Claims, Encumbrances And Other Interests Pursuant To Bankruptcy Code Sections 105 and 363(b); (II) Authorizing The Assumption And Assignment Of Certain Executory Contracts And Unexpired Leases Pursuant To Bankruptcy Code Sections 363 and 365; And (III) Granting Related Relief, dated August 31, 2009.

73. **"Schedules"** means the schedules of assets and liabilities, schedules of executory contracts, and the statement of financial affairs that the Debtors filed on July 31, 2009 pursuant to Section 521 of the Bankruptcy Code, the Official Bankruptcy Forms and the Bankruptcy Rules, as they may be amended and supplemented from time to time.

74. **"Secured Claim"** means (a) a Claim that is secured by a lien on property in which the Estate has an interest, which lien is valid, perfected and enforceable under applicable law or by reason of a Final Order, or that is subject to setoff under Section 553 of the Bankruptcy Code, to the extent of the value of the Creditor's interest in the Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to Section 506(a) of the Bankruptcy Code, or (b) a Claim Allowed under this Plan as a Secured Claim.

75. “*Unimpaired*” means, with respect to a Class of Claims or Equity Interests, a Claim or Equity Interest that is unimpaired within the meaning of Section 1124 of the Bankruptcy Code.

76. “*Unimpaired Class*” means Class 1, which is not an impaired Class within the meaning of Section 1124 of the Bankruptcy Code.

77. “*Voting Deadline*” means the deadline for submitting Ballots to accept or reject the Plan in accordance with Section 1126 of the Bankruptcy Code, which deadline is specified in the Disclosure Statement, the Ballots or related solicitation documents approved by the Bankruptcy Court.

78. “*Voting Instructions*” means the instructions for voting on the Plan contained in the Disclosure Statement and the Ballots approved by the Bankruptcy Court.

ARTICLE II

UNCLASSIFIED CLAIMS AGAINST THE DEBTORS

A. *Administrative Claims*

1. Administrative Claims Bar Dates

(a) Any request for allowance of an Administrative Claim that is subject to the Bar Date Order is required to be filed on or before December 15, 2009 as provided in the Bar Date Order. Any Administrative Claims subject to the Bar Date Order that are filed after December 15, 2009 are invalid and shall not receive any distribution in this case. Any request for allowance of an Administrative Claim that is not subject to the Bar Date Order, including, without limitation, Professional Fee Claims, and Administrative Claims accruing between December 15, 2009 and the Effective Date, shall be Filed no later than thirty (30) days after the Effective Date (the “Administrative Claims Bar Date”). Any holder of an Administrative Claim who fails to file a timely request for the allowance of an Administrative Claim: (i) shall be forever barred, estopped and enjoined from asserting such Administrative Claim against the Debtors, the Liquidation Trust, or the Liquidation Trust Assets (or filing a request for the allowance thereof); and (ii) such holder shall not be permitted to participate in any distribution under the Plan on account of such Administrative Claim. The Liquidation Trustee, or any other person with standing, shall have thirty (30) days from the Administrative Claims Bar Date to object to any timely filed and served Administrative Claim, unless such date is further extended the Court. Notwithstanding the foregoing, all fees and charges under 28 U.S.C. §1930 will be paid without the need for the filing of a request or claim.

(b) Except as otherwise set forth in this Plan and the Liquidation Trust Agreement, subject to the provisions of Sections 328, 330(a) and 331 of the Bankruptcy Code, each Holder of an Allowed Administrative Claim, who has not been paid prior to the Effective Date, or on such other day as agreed to by the Liquidation Trustee and such Creditor, shall be paid in Cash, as soon as is practicable after the Effective Date, from the proceeds of the Liquidation Trust Assets.

2. Final Fee Application Bar Date

Except as otherwise provided herein, in order to receive a distribution on account of a Professional Fee Claim, a holder of a Professional Fee Claim, at minimum, must file and serve a final fee application requesting payment of such Professional Fee Claim by the Administrative Claim Bar Date. The Liquidation Trust, or any other person with standing, shall have thirty (30) days from the Administrative Claim Bar Date to object to any timely filed and served Professional Fee Claim, unless such date is further extended by the Court.

3. Professional Fee Claims

Subject to the additional provisions of this Plan, as soon as practicable after the later of (a) the date a Professional Fee Claim becomes an Allowed Professional Fee Claim or (b) the Professional Fee Claim becomes otherwise payable, an Allowed Professional Fee Claimholder shall receive, in full satisfaction, settlement, release and discharge of and in exchange for such Professional Fee Claim, (x) Cash equal to the unpaid portion of such Allowed Professional Fee Claim or (y) such other treatment as to which the Debtors and such Claimholder prior to the Effective Date, or the Liquidation Trustee and Claimholder subsequent to the Effective Date, shall have agreed upon in writing.

4. U.S. Trustee Fees

All fees payable to the Office of the United States Trustee in accordance with 28 U.S.C. §1930 shall be paid on the Effective Date, or as soon thereafter as may be practicable, and will continue to be paid through the date of entry of a Final Decree.

B. *Priority Claims*

Except as otherwise set forth in the Plan and the Liquidation Trust Agreement, each Holder of an Allowed Priority Tax Claim and Other Priority Claim, who has not been paid prior to the Initial Distribution Date in the ordinary course of business or by order of the Bankruptcy Court, shall be paid, in full, in Cash, by the Liquidation Trust, on the later of (i) the Initial Distribution Date, (ii) the last Business Day of the month following the month in which such Claim becomes an Allowed Claim, or (iii) such other date as agreed to by the Liquidation Trustee and such Creditor, or otherwise ordered by the Bankruptcy Court.

ARTICLE III

CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS

A. *Summary*

The categories of Claims and Equity Interests listed below classify Claims against and Equity Interests in the Debtors for all purposes, including voting, confirmation and distribution pursuant hereto and pursuant to Sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed

classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise satisfied prior to the Effective Date.

Summary of Classification and Treatment of Claims and Equity Interests

<u>Class</u>	<u>Claim</u>	<u>Status</u>	<u>Voting Right</u>
1	Secured Claims	Unimpaired	Deemed to Accept
2	General Unsecured Claims	Impaired	Entitled to Vote
3	Equity Interests	Impaired	Deemed to Reject

B. *Classification and Treatment of Classified Claims and Equity Interests:*

1. Class 1—Secured Claims

(a) *Classification:* Class 1 comprises the Secured Claims.

(b) *Treatment:* The Plan will not alter any of the legal, equitable and contractual rights of the Holders of Class 1 Claims. Unless otherwise agreed to by the Holder of an Allowed Class 1 Claim and the Debtors or the Liquidation Trustee, or as otherwise addressed in prior Court orders, each Holder of an Allowed Class 1 Claim shall receive, in full and final satisfaction of such Allowed Class 1 Claim, one of the following treatments, as soon as practicable after the Effective Date in the sole discretion of the Liquidation Trustee:

- (i) the return of such Holder's collateral;
- (ii) the payment in cash equal to the amount of such Allowed Other Secured Claim; or
- (iii) treatment in any other manner so as to render the Allowed Class 1 Claim otherwise Unimpaired.

(c) *Voting:* Class 1 is Unimpaired and the Holders of Class 1 Claims are conclusively deemed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Claims in Class 1 are not entitled to vote to accept or reject the Plan.

2. Class 2—General Unsecured Claims

(a) *Classification:* Class 2 comprises the General Unsecured Non-Priority Claims against the Debtors.

(b) *Treatment:* Holders of Allowed Class 2 Claims shall receive, in full and final satisfaction of their Allowed Class 2 Claims, through one or more distributions, their respective Pro Rata share of funds on deposit in the Operating Account maintained by the

Liquidation Trust, after (i) the payment of all Allowed Class 1 Claims (ii) the payment of all Allowed Administrative Claims (including, without limitation, all Professional Fee Claims incurred prior to and after the Effective Date); (iii) the payment of all Allowed Priority Tax Claims, (iv) the payment of Allowed Other Priority Claims; (v) creation and funding of the Claims Reserve as provided in Paragraph B of Article VIII of this Plan, and (vi) the payment of post-Confirmation expenses and fees incurred by the Liquidation Trust, or the Liquidation Trustee in his performance of the duties under the Liquidation Trust Agreement. Further, in accordance with the Pentland Settlement described in Article VI of the Plan, Pentland, a holder of a Class 2 Claim, has agreed to receive a distribution of no more than \$50,000 on account of the Pentland Unsecured Loans and will defer any additional distributions until holders of other unsecured claims in Class 2 have been paid in full. The total amount of Class 2 Claims is anticipated to be in the range of \$1,800,000 to \$7,000,000, without consideration of the Pentland Unsecured Claim that will be settled under the Plan.

(c) *Voting:* Class 2 is Impaired and the Holders of Class 2 Claims are entitled to vote to accept or reject the Plan.

3. Class 3—Equity Interests

(a) *Classification:* Class 3 comprises the Equity Interests in the Debtors.

(b) *Treatment:* On the Effective Date, unless Holders of Allowed Claims in Classes 1 through 2 are paid in full with interest, where relevant, the Holders of Class 3 Equity Interests thereof will receive no distribution on account of their Equity Interests. If the Holders of Equity Interests are entitled to receive distributions, any such distributions shall be made on a pro rata basis. Upon termination of the Liquidation Trust, the Class 3 Equity Interests will be cancelled.

(c) *Voting:* Holders of Class 3 Equity Interests shall not be entitled to vote to accept or reject the Plan. Class 3 is Impaired and the Holders of Class 3 Equity Interests are conclusively deemed to have rejected the Plan.

ARTICLE IV

ACCEPTANCE OR REJECTION OF THE PLAN

A. *Voting Classes*

Holders of Claims in each Impaired Class of Claims are entitled to vote as a class to accept or reject the Plan. Therefore, each Holder of an Allowed Class 2 shall be entitled to vote to accept or reject the Plan.

B. *Acceptance by Impaired Classes*

An Impaired Class of Claims shall be deemed to have accepted the Plan if (a) the Holders (other than any Holder designated under Section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (b) the Holders (other than any Holder designated under Section 1126(e) of the

Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

C. *Presumed Acceptance of the Plan*

Class 1 is Unimpaired under the Plan, and, therefore, holders in Class 1 are presumed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code.

D. *Presumed Rejection of the Plan*

Class 3 is deemed to reject the Plan.

E. *Non-Consensual Confirmation*

To the extent that any Impaired Class rejects this Plan or is deemed to have rejected this Plan, the Proponents will request confirmation of this Plan as it may be modified from time to time, under Section 1129(b) of the Bankruptcy Code. The Proponents reserve the right to alter, amend, modify, revoke or withdraw this Plan, including to amend or modify it to satisfy the requirements of Section 1129(b) of the Bankruptcy Code, if necessary.

ARTICLE V

MEANS FOR THE IMPLEMENTATION OF THE PLAN

A. *Liquidation of Debtors' Assets*

1. The Debtors previously determined, in the discharge of their statutory duties under the Bankruptcy Code, that it was in the best interests of the Debtors, Creditors and Equity Interests that the Debtors' business and substantially all of their assets be liquidated in an orderly fashion, with the net proceeds of such disposition being distributed in accordance with the Bankruptcy Code, prior Orders of the Court and the terms and provisions of this Plan. Accordingly, the Debtors, with Court approval documented by the Sale Order, sold substantially all of their assets, and assumed and assigned or rejected substantially all of their unexpired leases, licenses and other executory contracts pursuant to the terms of the Asset Purchase Agreement. As of the Effective Date, it is anticipated that only a few assets will remain that have not been converted to Cash, including (i) the Causes of Action, (ii) all rights of setoff and recoupment and other defenses that the Debtors and the Estate may have with respect to Allowed Claims, (iii) all of the Debtors' rights under contracts that were not assigned to Buyer pursuant to the Asset Purchase Agreement and the Sale Order or rejected by prior order of the Court, (iv) any and all assets of the Debtors not transferred to the Buyer including but not limited to the Excluded Assets (as defined in the Asset Purchase Agreement), (v) all rights to claims, refunds or adjustments, all other refunds or adjustments with respect to assets not sold to the Buyer pursuant to the Asset Purchase Agreement and Sale Order, (vi) all losses, loss carry forwards and rights to receive refunds, credit and loss carry forwards with respect to any and all taxes of the Debtors, including interest receivable with respect thereto, (vii) all rights of the Debtors arising under the Asset Purchase Agreement and under any other agreement between the Debtors and Buyer entered into in connection with the Asset Purchase Agreement, (viii) all rights of the Debtors under their insurance policies, including, without limitation, to insurance proceeds or

other insurance recoveries to the extent they do not relate to damaged goods that have not been fully repaired or replaced, (ix) all of the Debtors' rights to utility deposits paid after the commencement of these Chapter 11 Cases, and (x) only to the extent subject to capitalized leases and similar instruments not constituting contracts assigned to the Buyer, the Debtors' owned equipment, security devices, furniture, fixtures, tools and other personal property and assets that were not transferred to the Buyer. As of the Effective Date, these assets, along with any other Liquidation Trust Assets, shall be transferred to the Liquidation Trust.

2. As soon as practicable after the Liquidation Trustee has liquidated all of the Liquidation Trust Assets and completed all distributions provided in the Plan, but no later than the 5th anniversary of the Effective Date, the Liquidation Trustee will effectuate the dissolution of the Liquidation Trust.

B. *Substantive Consolidation*

Solely in connection with voting and distributions to be made to the holders of Allowed Claims, the Plan is predicated upon, and it is a condition precedent to Confirmation of the Plan, that the Bankruptcy Court enter the Confirmation Order which shall provide for the substantive consolidation of the Chapter 11 Cases into a single case for purposes of this Plan and distributions hereunder. Pursuant to such Confirmation Order (i) all assets and liabilities of the Debtors will be deemed to be merged solely for purposes of this Plan and distributions to be made hereunder, (ii) the obligations of each Debtor will be deemed to be obligations of all Debtors solely for purposes of this Plan and distributions hereunder, (iii) any Claims Filed or to be Filed in connection with any such obligations will be deemed Claims against all Debtors, as substantively consolidated, (iv) all transfers, disbursements and distributions made by any Debtor will be deemed to be made by all of the Debtors, (v) any Debtor's guarantees of the obligations of another Debtor shall be deemed eliminated so that any Claim against a Debtor and any guarantee thereof executed by another Debtor shall be deemed to be one obligation of all Debtors; and (vi) intercompany claims between the Debtors will be eliminated. Holders of Allowed Claims in each Class shall be entitled to their share of assets available for distribution of such Class without regard to which Debtor was originally liable for such Claim. The Plan shall serve as, and shall be deemed to be, a motion for entry of an order substantively consolidating the Chapter 11 Cases. If any such objection(s) is timely Filed and served, a hearing with respect to the substantive consolidation of the Estates and the objections thereto shall be scheduled by the Bankruptcy Court, which hearing shall coincide with the Confirmation Hearing.

C. *Officers and Directors of the Debtors*

Immediately after the Effective Date, all officers and directors of the Debtors shall be deemed to have resigned.

D. *Formation of Liquidation Trust*

1. On or before the Effective Date, the Debtors and the Liquidation Trustee shall execute the Liquidation Trust Agreement and shall take all other steps necessary to establish the Liquidation Trust in accordance with this Plan, thereby allowing the Liquidation trust to stand in the shoes of the Debtors with respect to all of the Debtors' rights and interests. Notwithstanding

any prohibition of assignability under applicable non-bankruptcy law, on the Effective Date and periodically thereafter if additional Liquidation Trust Assets become available, the Debtors shall be deemed to have automatically transferred to the Liquidation Trust all of their right, title, and interest in and to all of the Liquidation Trust Assets, and in accordance with Section 1141 of the Bankruptcy Code, all such assets shall automatically vest in the Liquidation Trust free and clear of all Claims and Liens, subject only to the Allowed Claims of the Beneficiaries and the Allowed Equity Interests of the Holders as set forth in the Plan and the expenses of the Liquidation Trust as provided in the Liquidation Trust Agreement.

2. The Liquidation Trustee shall succeed to the rights of the Debtors under the Asset Purchase Agreement in all respects, including the retrieval of copies of all necessary books and records purchased by the Buyer under the Asset Purchase Agreement, to the extent necessary to administer the Chapter 11 Cases and implement the Plan.

3. Except as otherwise provided in the Plan or the Liquidation Trust Agreement, the Liquidation Trustee may compromise or settle any Claims, without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules and may pay the charges that it incurs on or after the Effective Date for professionals' fees, disbursements, expenses or related support services (including fees relating to the preparation of Professional fee applications) without application to the Bankruptcy Court.

4. To effectively investigate, defend or pursue the Causes of Action, the Debtors and the Liquidation Trust, and all counsel thereto, must be able to exchange information with each other on a confidential basis and cooperate in common interest efforts without waiving any applicable privilege. Given the common interests of the parties and the Liquidation Trust's position as successor to the Causes of Action, sharing such information between the Debtors and the Liquidation Trust or their counsel shall not waive or limit any applicable privilege or exemption from disclosure or discovery related to such information.

E. Treatment of Liquidation Trust for Federal Income Tax Purposes; No Successor-in-Interest

1. The Liquidation Trust shall be established for the primary purpose of liquidating their assets, in accordance with Treas. Reg. § 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidation Trust. Accordingly, the Liquidation Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the Liquidation Trust Assets, make timely distributions to the Beneficiaries and not unduly prolong their duration. The Liquidation Trust shall not be deemed a successor-in-interest of the Debtors for any purpose other than as specifically set forth herein or in the Liquidation Trust Agreement.

2. The Liquidation Trust is intended to qualify as a "grantor trust" for federal income tax purposes with the Beneficiaries treated as grantors and owners of the Liquidation Trust. For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidation Trustee, and the Beneficiaries) shall treat the transfer of the Liquidation Trust Assets by the Debtors to the Liquidation Trust, as set forth in the Liquidation Trust Agreement, as a transfer of such assets by the Debtors to the Holders of Allowed Claims of Beneficiaries

entitled to distributions from the Liquidation Trust Assets, followed by a transfer by such Holders to the Liquidation Trust. Thus, the Beneficiaries shall be treated as the grantors and owners of a grantor trust for federal income tax purposes.

3. The right and power of the Liquidation Trustee to invest the Liquidation Trust Assets transferred to the Liquidation Trust, the proceeds thereof, or any income earned by the Liquidation Trust, shall be limited to the right and power to (i) invest such Liquidation Trust Assets (pending distributions in accordance with the Plan) in (a) short-term direct obligations of, or obligations guaranteed by, the United States of America, (b) short-term obligations of any agency or corporation which is or may hereafter be created by or pursuant to an act of the Congress of the United States as an agency or instrumentality thereof or (c) such other investments as the Bankruptcy Court may approve from time to time, including under Section 345 of the Bankruptcy Code; or (ii) deposit such assets in demand deposit or certificates of deposit at any bank or trust company, which has, at the time of the deposit, a capital stock and surplus aggregating at least \$1,000,000,000 (collectively, the "*Permissible Investments*"); provided, however, that the scope of any such Permissible Investments shall be limited to include only those investments that a liquidating trust, within the meaning of Treas. Reg. § 301.7701-4(d), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise.

4. Subject to the provisions of this Plan, the Liquidation Trustee shall distribute to the Beneficiaries all net cash income plus all net cash proceeds from the liquidation of the Liquidation Trust Assets (including as Cash for this purpose, all cash equivalents) at such time intervals as decided by the Liquidation Trustee in their discretion, pursuant to the terms of the Plan. The Liquidation Trustee may, in their sole discretion, cause the Liquidation Trust to retain an amount of net cash proceeds or net cash income reasonably necessary to maintain the value of their assets or to meet Claims and contingent liabilities (including Disputed Claims).

5. The Liquidation Trustee shall require any Beneficiary or other distributee to furnish to the Liquidation Trustee in writing his or their Employer or Taxpayer Identification Number as assigned by the Internal Revenue Service and the Liquidation Trustee may condition any distribution to any Beneficiary or other distributee upon receipt of such identification number.

F. *Appointment of the Liquidation Trustee*

The Trustee for the Liquidation Trust shall be designated by the Committee. The Committee will designate the Liquidation Trustee within 5 days of the Confirmation Hearing.

On the Effective Date, the Liquidation Trustee shall serve as trustee of the Liquidation Trust, and shall have all powers, rights and duties of a trustee. Among other things, the Liquidation Trustee shall (i) hold and administer the Liquidation Trust Assets, (ii) have the power and authority to retain, as an expense of the Liquidation Trust, attorneys, advisors, other professionals and employees as may be appropriate to perform the duties required of the Liquidation Trustee hereunder or in the Liquidation Trust Agreement, (iii) make distributions to the Beneficiaries as provided in the Liquidation Trust Agreement, (iv) have the right to receive reasonable compensation for performing services as Liquidation Trustee and to pay the

reasonable fees, costs and expenses of any counsel, professionals, advisors or employees as may be necessary to assist the Liquidation Trustee in performing the duties and responsibilities required under the Plan and the Liquidation Trust Agreement, (v) provide periodic reports and updates to the Advisory Board regarding the status of the administration of the Liquidation Trust. Some of these duties, including the retention of counsel to pursue preference actions under Section 547 of the Bankruptcy Code and the approval of settlements of these actions, shall be subject to certain approval as set forth herein. In the event the Liquidation Trustee is no longer willing or able to serve as trustee, or is otherwise removed pursuant to the terms of the Liquidation Trust Agreement, then the successor shall be appointed by the majority vote of the members of the Committee as of the Effective Date, or as otherwise determined by the Bankruptcy Court or the Liquidated Trust Agreement, and notice of the appointment of such Liquidation Trustee shall be filed with the Bankruptcy Court.

G. *Appointment of the Advisory Board*

No later than the Effective Date, the Committee may select up to three persons to serve as an "Advisory Board to the Trustee". The Advisory Board shall have general oversight powers over the Liquidation Trustee and the Liquidation Trust. Each member of the Advisory Board will serve until death, resignation, or removal pursuant to the Liquidation Trust or applicable law.

H. *Retention of Professionals and Other Persons*

The Liquidation Trustee shall be authorized to retain and pay professionals and such other Persons the Liquidation Trustee determines in his sole discretion to be necessary to carry out his duties and responsibilities, or otherwise to accomplish the purposes of the Plan, the Confirmation Order and the Liquidation Trust Agreement, provided however, that the retention of legal counsel to pursue Causes of Action shall be compensated in the discretion of the Liquidation Trustee. The Liquidation Trustee shall have the right to pay the professionals from the Liquidation Trust Assets without further order of the Bankruptcy Court.

I. *Liquidation Trustee Standard of Care; Exculpation*

Neither the Liquidation Trustee, nor any director, officer, affiliate, employee, employer, professional, attorney, agent or representative of the Liquidation Trust shall be personally liable, in connection with affairs of the Liquidation Trust, to any claimholder or Beneficiary of the Liquidation Trust, or any other Person, except for such acts or omissions which shall constitute willful misconduct or gross negligence. The Liquidation Trustee is entitled to rely upon and shall have no liability in relying upon the advice of professionals retained by the Liquidation Trust. Any Person asserting a claim against the Liquidation Trust for the expenses of the Liquidation Trust, shall look only to the Liquidation Trust Assets to satisfy any such expense incurred by the Liquidation Trust, the Liquidation Trustee, or other Persons employed or retained by the Liquidation Trust to carry out the terms of the Plan, the Confirmation Order, and the Liquidation Trust Agreement.

J. *Termination of the Liquidation Trust*

The Liquidation Trust will terminate as soon as practicable, but in no event later than the fifth (5th) anniversary of the Effective Date; provided, however, that, on or prior to the date of such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Liquidation Trust for a finite period, if such an extension is necessary to liquidate the Liquidation Trust Assets or for other good cause. Notwithstanding the foregoing, multiple extensions may be obtained so long as Bankruptcy Court approval is requested prior to the expiration of each extended term; provided, however, that the Liquidation Trustee determines that any further extension would not adversely affect the status of the Liquidation Trust as a grantor trust for federal income tax purposes.

The Liquidation Trustee and the Liquidation Trust shall be discharged or dissolved, as the case may be, at such time as (a) all Disputed Claims have been resolved, (b) all Liquidation Trust Assets have been liquidated, and (c) all distributions required to be made and all claims and fees required to be paid by the Liquidation Trustee under the Plan have been made and paid.

K. *Termination of Liquidation Trustee and Advisory Board*

The duties, responsibilities and powers of the Liquidation Trustee and the Advisory Board shall terminate in accordance with the terms of the Liquidation Trust Agreement.

L. *Indemnification*

With respect to the Liquidation Trustee, the Trust shall (i) reimburse the Liquidation Trustee for all reasonable expenses incurred by him in connection with the execution and performance of his rights and duties hereunder (including reasonable fees and expenses of counsel and other experts); (ii) indemnify, defend and hold harmless the Liquidation Trustee (in both his individual and trustee capacities) and the officers, directors, employees and agents of the Liquidation Trustee (collectively, including the Liquidation Trustee in their individual capacity, the "Indemnified Persons") from and against any and all losses, damages, liabilities, claims, actions, suit, costs, expenses, disbursements (including the reasonable fees and expenses of counsel), taxes and penalties of any kind and nature whatsoever, to the extent that such expenses arise out of or are imposed upon or asserted at any time against one or more Indemnified Persons with respect to the performance of this Agreement, the creation, operation, administration or termination of the Liquidation Trust, or the transactions contemplated hereby (collectively, "Indemnified Expenses"); and (iii) advance to each Indemnified Person Indemnified Expenses (including reasonable legal fees) incurred by such Indemnified Person in defending any claim, demand, action, suit or proceeding, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Liquidation Trust of a written request therefor and of an undertaking by or on behalf of the Indemnified Person to repay such amount if it shall ultimately be determined that the Indemnified Person is not entitled to be indemnified therefor; provided however, that notwithstanding anything in the Liquidation Trust to the contrary, the Liquidation Trust shall not be required to reimburse the Liquidation Trustee for any expenses, indemnify an Indemnified Person for Indemnified Expenses, or advance any Indemnified Expenses to an

Indemnified Person, to the extent any such obligation arose or was the result of the willful misconduct or gross negligence of such Indemnified Person.

M. *Preservation of Records and Documents*

Pursuant to the Asset Purchase Agreement, Buyer is required to preserve and provide access to the business records of the Debtors covering the period prior to the closing on the Asset Purchase Agreement. Buyer shall preserve and provide access to the business records to the Liquidation Trustee or his agents as required under the Asset Purchase Agreement.

N. *Corporate Action*

Upon the entry of the Confirmation Order by the Bankruptcy Court, all matters provided under the Plan involving the corporate structure of the Debtors shall be deemed authorized and approved without any requirement of further action by the Debtors, the Debtors' shareholders or the Debtors' boards of directors. After the Effective Date, the Debtors shall dissolve or otherwise terminate their existence in accordance with applicable law.

O. *Cancellation of Notes, Instruments, Debentures and Equity Securities*

On the Effective Date, except to the extent provided otherwise in the Plan, all notes, instruments, certificates and other documents evidencing Claims and all Equity Interests in the Debtors shall be canceled and deemed terminated.

P. *Effect of Appeals*

Unless the Confirmation Order is stayed pending appeal, at the option of the Proponents, this Plan may be consummated notwithstanding the pendency of an appeal from the Confirmation Order or the timely service or filing of a motion under Bankruptcy Rule 7052, 8002, 8003, 8015, 9023, or 9024.

ARTICLE VI

SETTLEMENT WITH PENTLAND

Pentland is a member of Alset Owners and an unsecured creditor in the Debtors' estates. Pentland has filed the Pentland Unsecured Claim asserting unsecured claims against the Debtors in the amount of \$5,153,365.46, including interest. As more fully set forth in a stipulation between the Debtors, the Committee and Pentland, annexed to the Plan as Exhibit 2 hereto (the "**Pentland Settlement**"), in an effort to resolve any issues related to the Pentland Unsecured Claim, the Unsecured Pentland Notes, and Pentland's membership interest and investment in the Debtors, Pentland will receive \$50,000 on account of the Pentland Unsecured Claim, provided however that Pentland shall receive additional distributions only in the event that holders of other Class 2 Claims are paid in full. The Pentland Settlement will allow other general unsecured creditors in Class 2 to receive a greater distribution in these Chapter 11 Cases.

Pursuant to Bankruptcy Rule 9019 and in consideration for the classification, distribution, releases and other benefits provided under the Plan, the provisions of this Plan shall constitute a

good faith compromise and settlement of the Unsecured Pentland Loans and the Pentland Unsecured Claim and all Claims brought, or that could have been brought by Pentland, which shall be deemed settled pursuant to section 1123(b)(3)(A) of the Bankruptcy Code pursuant to the Pentland Settlement. The entry of the Confirmation Order shall constitute the Court's approval of the Pentland Settlement and the Court's findings shall constitute its determination that the Pentland Settlement is in the best interest of the Debtors, the Estates, the creditors and other parties in interest, and is fair, equitable and within the range of reasonableness. As set forth in the Pentland Settlement, upon the Court's entry of the Confirmation Order, subject to achievement of the Effective Date, the Debtors, the Liquidation Trust, the Committee, any holder of any Claim or Interest or any other party in interest shall be permanently enjoined from raising or asserting any claim brought, or that could have been brought against Pentland.

ARTICLE VII

FUNDS ON DEPOSIT IN THE OPERATING ACCOUNTS

On the Effective Date, the Debtors shall transmit to the Liquidation Trustee all Cash in their accounts for deposit by the Liquidation Trustee into the Operating Account. Proceeds in the Operating Account and funds thereafter deposited into the Operating Account from the collection of any Causes of Action, shall be used by the Liquidation Trustee to make the distributions as specified in Section 3.5 of the Liquidation Trust Agreement. Payments to Beneficiaries of the Trust should be made in the following order of priority:

A. First, for the payment, in full, of all Allowed Administrative claims and the payment of costs and expenses incurred in connection with the Chapter 11 Case, Confirmation of the Plan, and effectuation of all of the transaction contemplated under the Plan, including, without limitation, payment of Professional Fee Claims, the preparation, copying, and mailing of the Disclosure Statement and Plan, the fees and expenses of the Liquidation Trustee and the Liquidation Trustee, and the United States Trustee's quarterly fees (until a Final Decree is entered by the Bankruptcy Court);

B. After payment of all Allowed Administrative Claims, then for the payment, in full, in Cash, of all Allowed Secured Claims.

C. After payment of all Allowed Administrative Claims and Allowed Secured Claims, then for the payment, in full, in Cash, of all Allowed Priority Claims;

D. If funds exist after payment of all Allowed Administrative Claims, all Allowed Secured Claims and all Allowed Priority Claims, then Pro Rata to the Holders of Allowed General Unsecured Claims; and

E. If funds exist after payment of all Allowed Administrative Claims, all Allowed Secured Claims, all Allowed Priority Claims and all Allowed General Unsecured Claims (including applicable interest) then Pro Rata to the holders of all Equity Interests.

ARTICLE VIII

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. *Rejection of Executory Contracts and Unexpired Leases*

Any executory contracts or unexpired leases that have not expired by their own terms on or prior to the Effective Date, which the Debtors have not assumed and assigned or previously rejected with the approval of the Bankruptcy Court, or that are not the subject of a motion to assume or reject the same pending as of the Effective Date, shall be deemed rejected by the Debtors on the Effective Date and the entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such rejections pursuant to Sections 365(a) and 1123 of the Bankruptcy Code.

B. *Rejection Claims; Cure of Defaults*

If the rejection of an executory contract or unexpired lease under this Plan results in damages to the other party or parties to such contract or lease, any Claim for such damages, if not heretofore evidenced by a Proof of Claim that has been Filed, shall be forever barred and shall not be enforceable against the Debtors, the Liquidation Trust, or their properties, successors or assigns, unless a Proof of Claim is Filed and served upon (i) the Liquidation Trustee, and (ii) any counsel for the Liquidation Trustee, on or before thirty (30) days after the later to occur of (i) the Effective Date; and (ii) the date of entry of an order by the Bankruptcy Court authorizing rejection of the particular executory contract or unexpired lease.

ARTICLE IX

PROVISIONS REGARDING DISTRIBUTIONS

A. *Time and Method of Distributions*

Except as otherwise stated in the Plan, the Liquidation Trustee, on behalf of the Liquidation Trust, or such other Entity as may be designated in accordance with the Liquidation Trust Agreement, will make the distributions required under the Plan in accordance with Section 3.5 of the Liquidation Trust Agreement. Whenever any distribution to be made under the Plan or the Liquidation Trust Agreement is due on a day other than a Business Day, such distribution shall be made, without interest, on the immediately succeeding Business Day, but any such distribution will have been deemed to have been made on the date due.

B. *Reserve for Disputed Claims*

The Liquidation Trustee shall maintain a reserve for any distributable amounts required to be set aside on account of Disputed Claims and shall distribute such amounts (net of any expenses, including any taxes relating thereto), as provided herein and in the Liquidation Trust Agreement, as such Disputed Claims are resolved by Final Order, and such amounts shall be distributable in respect of such Disputed Claims as such amounts would have been distributable had the Disputed Claims been Allowed Claims as of the Effective Date.

C. *Manner of Payment under the Plan and Liquidation Trust*

Any payment in Cash to be issued hereunder shall, at the election of the issuer, be made by check drawn on a domestic bank or by wire transfer from a domestic bank.

D. *Delivery of Distributions*

Subject to the provisions of Bankruptcy Rule 2002(g), and except as otherwise provided herein, distributions and deliveries to Holders of record of Allowed Claims shall be made at the address of each such Holder set forth on the Debtors' books and records unless superseded by the address set forth on proofs of claim filed by any such Holders. By no later than the Effective Date, the Buyer, as may be required under the Asset Purchase Agreement, and the Debtors shall provide the Liquidation Trustee with the addresses and other books and records relating to the Beneficiaries, including, without limitation, all taxpayer identification information.

E. *Undeliverable Distributions*

1. Holding of Undeliverable Distributions:

If any distribution hereunder to any Holder is returned as undeliverable, no further distributions shall be made to such Holder unless and until the issuer of the distribution is notified in writing of such Holder's then-current address. All Entities ultimately receiving undeliverable Cash shall not be entitled to any interest or other accruals of any kind. Nothing contained in the Plan or Liquidation Trust Agreement shall require the issuer of any distribution to attempt to locate any Holder of an Allowed Claim or an Allowed Interest.

2. Failure to Claim Undeliverable Distributions:

Except as set forth in Article IX.G, any holder of an Allowed Claim that does not assert their rights pursuant to the Plan or Liquidation Trust Agreement to receive a distribution within ninety (90) days from and after the date such distribution is returned as undeliverable shall have such holder's Claim for such undeliverable distribution discharged and shall be forever barred from asserting any such Claim against the Debtors, Liquidation Trust, the Liquidation Trustee and their respective professionals, or the Liquidation Trust Assets. In such case, any consideration held for distribution on account of such Claim or Interest shall belong to the Liquidation Trust for distribution by the Liquidation Trustee to the Beneficiaries in accordance with the terms of the Plan and Liquidation Trust Agreement.

F. *Compliance with Tax Requirements/Allocation*

The issuer of any distribution under the Plan or Liquidation Trust shall comply with all applicable tax withholding and reporting requirements imposed by any Governmental Unit, and all distributions pursuant to the Plan and Liquidation Trust shall be subject to any such applicable withholding and reporting requirements. For tax purposes, distributions received in respect of Allowed Claims will be allocated first to the principal amount of such Claims, with any excess allocated to unpaid accrued interest.

G. *Time Bar to Cash Payments*

Checks issued on account of Allowed Claims shall be null and void if not negotiated within ninety (90) days from and after the date of issuance thereof. Requests for reissuance of any check shall be made directly to the issuer of the check by the holder of the Allowed Claim with respect to which such check originally was issued. Any claim in respect of such a voided check shall be made within ninety (90) days from and after the date of issuance of such check. After such date, all Claims in respect of voided checks shall be discharged and forever barred and the Liquidation Trust shall be entitled to retain all monies related thereto for distribution to the Beneficiaries in accordance with the terms of the Plan and the Liquidation Trust Agreement.

H. *Distributions after Effective Date*

Distributions made after the Effective Date to Holders of Claims that are not Allowed Claims as of the Effective Date, but which later become Allowed Claims, shall be deemed to have been made on the Effective Date. Unless otherwise specifically provided in the Plan or the Liquidation Trust Agreement, no interest shall be payable on account of any Claim not paid on the Effective Date.

I. *Fractional Dollars; De Minimis Distributions*

Notwithstanding anything contained herein to the contrary, payments of fractions of dollars will not be made. Whenever any payment of a fraction of a dollar under the Plan or Liquidation Trust would otherwise be called for, the actual payment made will reflect a rounding of such fraction to the nearest dollar (up or down), with half dollars being rounded down. No payment shall be made on account of any distribution less than Twenty Five Dollars (\$25) with respect to any Allowed Claim unless a request therefor is made in writing to the issuer of such payment on or before ninety (90) days after the Effective Date.

J. *Setoffs*

The Liquidation Trustee may, pursuant to Sections 502(d) or 553 of the Bankruptcy Code or applicable nonbankruptcy law, set off against any Allowed Claim or Allowed Administrative Claim and the distributions to be made pursuant to the Liquidation Trust Agreement on account thereof (before any distribution is made on account of such Claim), the Claims, rights and Causes of Action of any nature that it may hold against the Holder of such Allowed Claim or Allowed Administrative Claim; provided, however, that neither the failure to effect such a set-off nor the allowance of any Claim hereunder shall constitute a waiver or release of any such claims, rights and Causes of Action that the Liquidation Trust may possess against such Holder.

K. *Preservation of Subordination Rights*

Except as otherwise provided herein or in the Stipulation, all subordination rights and claims relating to the subordination by the Debtors or the Liquidation Trustee of any Allowed Claim shall remain valid, enforceable and unimpaired in accordance with Section 510 of the Bankruptcy Code or otherwise.

L. *Settlement of Claims and Controversies*

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefit provided under the Plan, the provisions of this Plan shall constitute a good faith compromise and settlement of claims or controversies relating to the contractual, legal and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim, or any distribution to be made on account of any such Allowed Claim.

ARTICLE X

**PROCEDURES FOR RESOLUTION OF DISPUTED, CONTINGENT
AND UNLIQUIDATED CLAIMS OR EQUITY INTERESTS**

A. *Objections to Claims; Prosecution of Disputed Claims*

1. The Debtors or the Committee, prior to the Effective Date, and thereafter the Liquidation Trustee in accordance with the Liquidation Trust Agreement, shall have the right to object to the allowance of Claims or Equity Interests Filed with the Bankruptcy Court with respect to which they dispute liability or allowance in whole or in part. The Liquidation Trustee (within any parameters as may be established by the Liquidation Trust Agreement) shall have the authority to file, settle, compromise or withdraw any objections to Claims, without approval of the Bankruptcy Court.

2. Notwithstanding the foregoing, the Liquidation Trustee, on behalf of the Liquidation Trust, shall have the right to object to the allowance of any Administrative Claims, Priority Claims, Class 1 and Class 2 Claims, and any other Claims asserted against the Liquidation Trust or the Liquidation Trust Assets, by no later than the Claims Objection Deadline.

B. *Estimation of Claims*

The Debtors or the Committee, prior to the Effective Date, and thereafter the Liquidation Trustee in accordance with the Liquidation Trust Agreement, may at any time request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether the Debtors, the Committee or the Liquidation Trustee previously have objected to such Claim or whether the Bankruptcy Court has ruled on any such objection. The Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. Subject to the provisions of Section 502(j) of the Bankruptcy Code, in the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, the amount so estimated shall constitute the maximum allowed amount of such Claim. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors, the Committee or the Liquidation Trustee may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

C. *Payments and Distributions on Disputed Claims*

1. Notwithstanding any provision hereof to the contrary, any issuer of a distribution hereunder may, in their discretion, pay the undisputed portion of a Disputed Claim. Notwithstanding the foregoing, the issuer of a distribution hereunder will set aside for each Holder of a Disputed Claim such portion of Cash as may be necessary to provide required distributions if that Claim were an Allowed Claim, either based upon the amount of the Claim as filed with the Bankruptcy Court or the amount of the Claim as estimated by the Bankruptcy Court.

2. At such time as a Disputed Claim becomes, in whole or in part an Allowed Claim, the issuer of a distribution hereunder shall distribute to the Holder thereof the distributions, if any, to which such Holder is then entitled under the Plan or the Liquidation Trust. Such distribution, if any, will be made as soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing such Disputed Claim becomes a Final Order. No interest will be paid on Disputed Claims that later become Allowed or with respect to any distribution in satisfaction thereof to a Holder.

D. *Tort Claims*

All Claims against the Debtors arising after the Petition Date asserting damages for personal injuries or property damage, are Disputed Claims unless and until Allowed by a Final Order. Any other claim asserting damages for personal injuries or property damage shall be determined and liquidated by a court of competent jurisdiction. Nothing contained in the Plan shall be deemed a waiver of any Cause of Action that the Debtors or the Liquidation Trust may hold against any entity, including, without limitation, in connection with or arising out of any tort claim.

ARTICLE XI

**CONDITIONS PRECEDENT TO CONFIRMATION
AND EFFECTIVE DATE OF THE PLAN**

A. *Conditions Precedent to Confirmation*

The following are conditions precedent to confirmation of this Plan that must be (i) satisfied or (ii) waived in accordance with Article XI.C below.

1. The entry of the Confirmation Order in form and substance satisfactory to the Proponents.

2. The Liquidation Trust Agreement, Plan Supplement and all of the schedules, documents, and exhibits contained therein shall have been filed in form and substance reasonably acceptable to the Proponents.

B. *Conditions Precedent to Effective Date of the Plan*

The following are conditions precedent to the Effective Date of the Plan that must be (i) satisfied or (ii) waived in accordance with Article XI.C below:

1. The Confirmation Order has been entered by the Bankruptcy Court.
2. The Bankruptcy Court authorizes the transactions contemplated by the Plan.
3. All other actions and documents necessary to implement the Plan shall have been effected or executed, including the Liquidation Trust Agreement.

C. *Waiver of Conditions Precedent*

The Proponents and the Liquidation Trustee may waive the conditions listed in Article XI.A and XI.B of the Plan without notice to or order of the Bankruptcy Court, except that the condition in Article XI.B.3 may not be waived.

D. *Effect of Non-Occurrence of the Effective Date*

If the Confirmation Order is vacated, this Plan shall be null and void in all respects and nothing contained in this Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtors; (2) prejudice in any manner the rights of the Debtors or any other party; or (3) constitute an admission, acknowledgment, offer or undertaking by the Debtors in any respect.

ARTICLE XII

EFFECT OF PLAN CONFIRMATION

A. *Binding Effect.*

The Plan shall be binding upon and inure to the benefit of the Debtors, all present and former holders of Claims and Interests, and their respective successors and assigns, including, but not limited to, the Liquidation Trust.

B. *Releases and Exculpation.*

On the Effective Date, the Debtors, the Committee and, solely in their respective capacities as members or representatives of the Committee, the Committee Members and (ii) each of the respective representatives, officers, directors, members, employees, advisors, accountants, investment bankers, consultants, attorneys and other representatives of the Debtors and Committee, solely in their respective capacities as such (collectively, the "Exculpated Parties"), and only with respect to their activities and conduct in connection with the Chapter 11 Cases, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are based in whole or in part on any act or omission, transaction, event or other occurrence up to the Effective Date, shall have or incur any liability to any

Person, and each Exculpated Party is hereby released from, any claim, cause of action or liability to any Person or entity or to any Holder of a Claim or Equity Interest, for any act or omission in connection with or arising out of their participation in the Chapter 11 Cases, including without limitation in the formulation, confirmation, consummation, and/or administration of this Plan or the property to be distributed under this Plan, except if such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct, and in all respects, each of such Persons shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities and shall be fully protected in acting or in refraining from action in accordance with such advice.

C. Injunction Related to Releases/Exculpation

The Confirmation Order will permanently enjoin the commencement or prosecution by any entity, whether directly, derivatively or otherwise, of any claims, obligations, suit, judgments, damages, demands, debts, rights, causes of action or liabilities released pursuant to the Plan.

D. Discharge of Claims and Termination of Interests.

Pursuant to section 1141(d)(3) of the Bankruptcy Code, Confirmation will not discharge Claims against the Debtors; provided, however, that a holder of a Claim against the Debtors may not, on account of such Claim, seek or receive payment or other distribution from, or seek recourse against, the Debtors or the Liquidation Trust, or any of their affiliates, respective successors or their respective property, except as expressly provided herein.

E. Injunction

Except as otherwise provided in the Plan, the Confirmation Order shall provide, among other things, that from and after the Confirmation Date, all Persons who have held, hold, or may hold Claims against or Interests in the Debtors are (i) Permanently enjoined from taking any of the following actions against the estate, the Debtors, the Committee (or any of their members), the Liquidation Trust, the Liquidation Trustee, and any of the respective representatives, officers, directors, members, employees, advisors, accountants, investment bankers, consultants, attorneys and other representatives of any of the foregoing Debtors, Committee, Committee Members, Liquidation Trust and Liquidation Trustee, or any of their property on account of any such Claims or Interests and (ii) preliminarily enjoined from taking any of the following actions against the Debtors, the Committee (or any of their members), the Liquidation Trust, the Liquidation Trustee, and any of the respective representatives, officers, directors, members, employees, advisors, accountants, investment bankers, consultants, attorneys and other representatives of the foregoing Debtors, Committee, Committee Members, Liquidation Trust, Liquidation Trustee, or their property on account of such Claims or Interests: (A) commencing or continuing, in any manner or in any place, any action or other proceeding; (B) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (C) creating, perfecting or enforcing any lien or encumbrance; and (D) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan; provided, however, that (w) nothing contained herein shall preclude such Persons from exercising their rights

pursuant to and consistent with the terms of the Plan, and (x) the preliminary injunction of actions against the Debtors, the Liquidation Trust, the Liquidation Trustee and their property (if any) shall be dissolved and terminate one (1) day following the termination of the Liquidation Trust Agreement in accordance with the terms of such agreement. By voting in favor of the Plan, each holder of an Allowed Claim voting in favor of the Plan will be deemed to have specifically consented to the injunctions set forth in the Plan, to the extent that such consent is necessary. Notwithstanding the foregoing, nothing herein shall be construed to enjoin the Liquidation Trust and its representatives, including the Liquidation Trustee, from, among other things, pursuing the Causes of Action and provided further that individual creditors are not enjoined from pursuing claims against parties other than the Debtors that are independent of such creditors' Claims against the Debtors.

ARTICLE XIII

RETENTION AND PRESERVATION OF CAUSES OF ACTION

A. *Retention of Causes of Action*

Except as otherwise provided in the Plan, all Causes of Action that the Debtors and their Estates may hold against any Person or Entity shall automatically vest in the Liquidation Trust. The Liquidation Trust shall have the exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise any and all such Causes of Action without the consent or approval of any third party and without any further order of the Bankruptcy Court, except as otherwise provided herein or in the Liquidation Trust Agreement. On the Effective Date, the Liquidation Trustee, in accordance with Section 1123(b)(3) of the Bankruptcy Code and on behalf of the Liquidation Trust, shall serve as a representative of the estate and shall retain and possess the sole and exclusive right to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, in any court or other tribunal.

B. *Preservation of All Causes of Action Not Expressly Settled or Released*

1. On the Effective Date, all Causes of Action shall vest in the Liquidation Trust, which shall hold and possess all rights on behalf of the Debtors, the Estates and the Liquidation Trust and shall have the exclusive right, authority and discretion to commence, prosecute, abandon, settle or compromise any such Cause of Action not otherwise settled or released prior to the Effective Date.

2. The Debtors and the Committee and, after the Effective Date, the Liquidation Trustee, on behalf of the Liquidation Trust, reserve all rights to pursue any and all Causes of Action. The Debtors hereby reserve the rights of the Liquidation Trust and the Liquidation Trustee, on behalf of the Liquidation Trust, to pursue, administer, settle, litigate, enforce and liquidate:

(a) Any and all actions arising under the Bankruptcy Code, including, without limitation, Sections 544, 545, 547, 548, 549, 550, 551, 553(b) and/or 724(a) of the Bankruptcy Code; and

(b) Any other Causes of Action that currently exist or may subsequently arise and which have not been otherwise set forth herein, because the facts upon which such Causes of Action are based are not currently or fully known by the Debtors (collectively, the "**Unknown Causes of Action**"). The failure to list or describe any such Unknown Cause of Action herein is not intended to limit the rights of the Liquidation Trustee, on behalf of the Liquidation Trust, to pursue any Unknown Cause of Action.

3. Unless Causes of Action against a Person or Entity are expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order of the Bankruptcy Court, the Debtors (before the Effective Date) and the Liquidation Trustee, on behalf of the Liquidation Trust (post-Effective Date), expressly reserve all Causes of Action (including the Unknown Causes of Action) for later adjudication and therefore, no preclusion doctrine or other rule of law, including, without limitation, 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 result of the confirmation or Effective Date of the Plan, or the Confirmation Order. In addition, the Debtors and the Liquidation Trustee, on behalf of the Liquidation Trust, and any successors-in-interest thereto, expressly reserve the right to pursue or adopt any Claims not so waived, relinquished, released, compromised or settled that are alleged in any lawsuit in which any of the Debtors are a defendant or an interested party, against any Person or Entity, including, without limitation, the plaintiffs and co-defendants in such lawsuit.

ARTICLE XIV

RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain such jurisdiction over any matter arising under the Bankruptcy Code, or arising in or related to the Chapter 11 Cases or the Plan after Confirmation and after the Effective Date, and any other matter or proceeding that is within the Bankruptcy Court's jurisdiction pursuant to 28 U.S.C. §1334 or 28 U.S.C. §157, including, without limitation, jurisdiction to:

A. Allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured or unsecured status of any Claim or Equity Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of Claims or Equity Interests;

B. Grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

C. Resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract and unexpired lease to which a Debtor is a party or with respect to which a Debtor may be liable and to hear, determine and, if necessary, liquidate, any Claims arising therefrom;

D. Ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions hereof;

E. Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters, including all Causes of Action and objections or estimations to Claims or Equity Interests, and grant or deny any applications involving a Debtor that may be pending on the Effective Date, or that, pursuant to the Plan, may be instituted by the Liquidation Trustee, or the Liquidation Trust or any other Person or Entity after the Effective Date; provided, however that the Liquidation Trustee and the Liquidation Trust shall reserve the right to prosecute the Causes of Action in all proper jurisdictions;

F. Enter such orders as may be necessary or appropriate to implement or consummate the provisions hereof and all contracts, instruments, releases and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Liquidation Trust Agreement;

G. Resolve any cases, controversies, suit or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan, the Liquidation Trust Agreement, the Confirmation Order, or any Person's or Entity's obligations incurred in connection with the Plan, the Liquidation Trust Agreement, or the Confirmation Order, including, relating to determining the scope and extent of the Liquidation Trust Assets;

H. Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person or Entity with consummation or enforcement of the Plan, except as otherwise provided herein;

I. Resolve any case, controversies, suits or disputes with respect to the provisions contained in Articles XII and XIII hereof and enter any orders that may be necessary or appropriate to implement such provisions;

J. Enter and implement any orders that 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 this Plan, the Disclosure Statement, the Confirmation Order, the Liquidation Trust Agreement or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Disclosure Statement, or the Liquidation Trust Agreement; and

L. Enter an order and/or final decree concluding the Chapter 11 Cases.

ARTICLE XV

CRAM DOWN

If necessary, the Proponents intend to request the Bankruptcy Court to confirm the Plan in accordance with Section 1129(b) of the Bankruptcy Code.

ARTICLE XVI

MISCELLANEOUS PROVISIONS

A. *Plan Modification*

1. This Plan may be amended or modified in the manner provided for under Code § 1127(a) or (b). The Debtors or the Liquidation Trustee shall give notice of any proposed modification to the Office of the United States Trustee and to any other parties designated by the Court. The Debtors and the Liquidation Trustee also reserve the right to make such modifications at any hearings on Confirmation as are necessary to permit this Plan to be confirmed under Code § 1129(b).

2. After the entry of the Confirmation Order, the Debtors or the Liquidation Trustee may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with Section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

B. *Effectuating Documents, Further Transactions and Corporate Action*

1. The Debtors are authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions hereof.

2. Prior to, on or after the Effective Date (as appropriate), all matters provided for hereunder that would otherwise require approval of the shareholders of the Debtors shall be deemed to have occurred and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to the general laws of the applicable States without any requirement of further action by the shareholders of the Debtors.

C. *Dissolution of Committee*

Upon the Effective Date, the Committee shall dissolve, except with respect to any appeal of an order or other pending matter in the Chapter 11 Cases, and any applications for Professional Fee Claims, and the Committee Members and the Committee's Professionals shall be relieved and discharged of all duties related to the Chapter 11 Cases.

D. *Payment of Statutory Fees*

After the Effective Date, all fees payable pursuant to Section 1930(a) of title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing pursuant to Section 1128 of the Bankruptcy Code, shall be paid for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first.

E. *Revocation of Plan*

The Proponents reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent plans of liquidation. If the Proponents revoke or withdraw the Plan, or if Confirmation or the Effective Date does not occur, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Equity Interest or Class of Claims or Equity Interests), assumption or rejection of executory contracts or leases affected by the Plan, and any document or agreement executed pursuant hereto, shall be deemed null and void, and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claims by or against, or any Equity Interests in, such Debtors or any other Person, (ii) prejudice in any manner the rights of such Debtors or any other Person, or (iii) constitute an admission of any sort by such Debtors or any other Person.

F. *Successors and Assigns*

The rights, benefits and obligations of any Person or Entity named or referred to herein shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign of such Person or Entity.

G. *Reservation of Rights*

Except as expressly set forth herein, this Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of this Plan, any statement or provision contained herein, or the taking of any action by any of the Debtors with respect to this Plan, the Disclosure Statement or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of any of the Debtors with respect to the Holders of Claims or Equity Interests prior to the Effective Date.

H. *Section 1146 Exemption*

1. Pursuant to Section 1146(a) of the Bankruptcy Code, under this Plan, (i) the issuance, distribution, transfer or exchange of any debt, equity security or other interest in the Debtors; (ii) the creation, modification, consolidation or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (iii) the making, assignment or recording of any lease or sublease; or (iv) the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, this Plan, including any deeds, bills of sale, assignments or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to this Plan shall not be subject to any document recording tax, mortgage recording tax, stamp tax or similar government assessment, and the Confirmation Order shall direct the appropriate state or local government official or agent to forego the collection of any such tax or government assessment and to accept for filing and recording any of the foregoing instruments or other documents without the payment of any such tax or government assessment.

2. All subsequent issuances, transfers or exchanges of securities, or the making or delivery of any instrument of transfer by the Debtors in the Chapter 11 Cases, whether in

connection with a sale under Section 363 of the Bankruptcy Code or otherwise, shall be deemed to be or have been done in furtherance of this Plan.

I. *Section 1125(e) Good Faith Compliance*

The Debtors, Reorganized Debtors, Buyer, Committee, Liquidation Trustee, and each of their respective representatives, shall be deemed to have acted in "good faith" under Section 1125(e) of the Bankruptcy Code.

J. *Further Assurances*

The Holders of Claims or Equity Interests receiving distributions hereunder and all other parties in interest shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Liquidation Trust Agreement.

K. *Service of Documents*

Any pleading, notice or other document required by the Plan to be served on or delivered upon the Debtors and the Committee shall be sent by first class U.S. mail, postage prepaid, as follows:

To the Debtors:

Michael Z. Brownstein
Rocco A. Cavaliere
BLANK ROME LLP
The Chrysler Building
405 Lexington Avenue
New York, New York 10174

Bonnie Glantz Fatell
David W. Carickhoff
Victoria Guilfoyle
BLANK ROME LLP
1201 North Market Street, Suite 800
Wilmington, DE 19801

To the Committee:

Joanne B. Wills
Richard M. Beck
KLEHR, HARRISON, HARVEY,
BRANZBURG & ELLERS
919 Market St., Suite 1000
Wilmington, Delaware 19801

L. *Transactions on Business Days*

If the date on which a transaction may occur under this Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

M. *Filing of Additional Documents*

On or before the Effective Date, the Debtors may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

N. *Post-Effective Date Fees and Expenses*

From and after the Effective Date, the Liquidation Trustee, on behalf of the Liquidation Trust, shall, in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, pay the reasonable professional fees and expenses incurred by the Liquidation Trust related to the consummation and to the implementation of this Plan, except as otherwise provided in the Liquidation Trust Agreement.

O. *Severability*

The provisions of this Plan shall not be severable unless such severance is agreed to by the Proponents or, if after the Effective Date, by the Liquidation Trustee, on behalf of the Liquidation Trust, and such severance would constitute a permissible modification of this Plan pursuant to Section 1127 of the Bankruptcy Code.

P. *Conflicts*

To the extent any provision of the Liquidation Trust Agreement, the Disclosure Statement, or any document executed in connection therewith or any documents executed in connection with the Confirmation Order (or any exhibit, schedules, appendices, supplements or amendments to any of the foregoing) conflicts with, or is in any way inconsistent with, the terms of this Plan, the terms and provisions of this Plan shall govern and control, provided however that nothing in this Plan shall be deemed to modify or supersede the Confirmation Order.

Q. *Term of Injunctions or Stays*

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

R. *Governing Law*

The laws of the State of Delaware, giving effect to the conflicts of laws' principles thereof, shall govern the construction of the Plan and any agreements, documents, and instruments executed in connection with the Plan; including, without limitation, any rule of law or procedure supplied by federal law as interpreted under the decisions in the State of Delaware (including the Bankruptcy Code and the Bankruptcy Rules), except as otherwise expressly provided in such instruments, agreements or documents.

S. *Entire Agreement*

This Plan and the Plan Supplement (as amended) 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.

T. *Closing of the Chapter 11 Cases*

The Liquidation Trustee shall promptly, upon the full administration of the Chapter 11 Cases, File with the Bankruptcy Court all documents required by the Bankruptcy Rules and any applicable order of the Bankruptcy Court to close the Chapter 11 Cases.

Dated: December 2, 2009

BLANK ROME LLP

Michael Z. Brownstein
Rocco A. Cavaliere
The Chrysler Building
405 Lexington Avenue
New York, NY 10174
Telephone: (212) 885-5000
Facsimile: (212) 885-5001

-and-

Bonnie Glantz Fatell (No. 3809)
David W. Carickhoff (No. 3715)
Victoria Guilfoyle (No. 5183)
1201 North Market Street, Suite 800
Wilmington, DE 19801
Telephone: (302) 425-6400
Facsimile: (302) 425-6464

Counsel to Alset Owners, LLC, *et al.*,
Debtors and Debtors in Possession

EXHIBIT 1 TO PLAN

LIQUIDATION TRUST AGREEMENT

**LIQUIDATION TRUST AGREEMENT BY AND BETWEEN ALSET OWNERS, LLC,
ALTES, LLC, SETLA, LLC AND CHECKERS MICHIGAN, LLC**

THIS LIQUIDATION TRUST AGREEMENT (this "Agreement") by and between Alset Owners, LLC, Altes, LLC, Setla, LLC and Checkers Michigan, LLC (collectively, the "Debtors") (this "Agreement"), is made as of the ____ day of February, 2010 by and between the Debtors and _____ as trustee (the "Trustee") for the Beneficiaries (defined below) in connection with the Joint Plan of Liquidation of the Debtors and Debtors in Possession (the "Plan") (as defined below). Capitalized terms used herein and not otherwise defined in Article I or when first used shall have the meanings set forth in the Plan.

RECITALS:

A. On June 5, 2009 the Debtors filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

B. On _____, 2010 the Bankruptcy Court entered an order confirming the Plan.

C. The Plan provides for the creation of a post confirmation liquidation trust (the "Trust") to hold and administer the Trust Assets, in accordance with the terms of this Agreement and the Plan. This Agreement is executed to establish the Trust and to facilitate the Plan.

D. The primary purpose of the Trust is to liquidate and administer the Trust Assets for the benefit of the Beneficiaries in accordance with Treasury Regulation Section 301.77014(d). The Trust will not be operated with the objective of continuing or engaging in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the purpose of the Trust.

E. The Trust is intended to qualify as a trust that is treated as a “grantor trust” for federal income tax purposes and the Trustee shall operate and maintain the Trust in compliance with Internal Revenue Service Revenue Procedure 94-45, 1994-2 C.B. 684, and Treasury Regulation Sections 1.671-4(a) and 301.7701-4(d) and all subsequent guidelines regarding grantor trusts issued by the Internal Revenue Service.

NOW, THEREFORE, in consideration of the premises and the mutual covenants agreements and undertakings contained herein:

ARTICLE I

Definitions

“Allowed Claims” shall have the meaning given to it in the Plan.

“Administrative Claim” shall have the meaning given to it in the Plan.

“Advisory Board” means up to three persons selected by the Committee which shall have general oversight powers over the Liquidation Trustee and the Liquidation Trust.

“Assets” means any and all real or personal property of any nature, including, without limitation, any real estate, buildings, structures, improvements, privileges, rights, easements, leases, subleases, licenses, goods, materials, supplies, furniture, fixtures, equipment, work in process, accounts, chattel paper, cash, deposit accounts, reserves, deposits, contractual rights, intellectual property rights, claims and Causes of Action.

“Bankruptcy Code” means United States Bankruptcy Code, 11 U.S.C. 101, et seq.

“Beneficiaries” means the holders of Allowed Claims.

“Cash” shall have the meaning given to it in the Plan.

“Causes of Action” shall have the meaning given to it in the Plan.

“Claim” shall have the meaning given to it in the Plan.

“Confirmation Order” means the order confirming the Plan, entered by the Bankruptcy Court on _____, 2010 and attached hereto as Schedule B.

“Disputed Claims” shall have the meaning given to it in the Plan.

“Distributions” shall have the meaning given to it in the Plan.

“Effective Date” means the effective date of the Plan.

“Estate” shall mean the bankruptcy estate of the Debtors created pursuant to Section 541 of the Bankruptcy Code.

“Liquidation Trust Assets” shall have the meaning given to it in the Plan.

“Plan” means the Joint Plan of Liquidation of the Debtors and Debtors in Possession which was confirmed on _____, 2010 and any amendments or modifications.

“Liquidation Trust Assets” shall have the meaning set forth in the Plan and in Section 3.1 of this Agreement.

For purposes of this Agreement, except as otherwise expressly provided herein or unless the context otherwise requires: (a) references to “Articles”, “Sections”, and other subdivisions, without reference to a particular document, are to be designated Articles, Sections, and other subdivisions of this Agreement; (b) the use of the term “including” means “including but not limited to”; and (c) the words “herein”, “hereunder”, and other words of similar import refer to this Agreement as a whole and not to any particular provision (unless otherwise specified). The enumeration and headings contained in this Agreement are for convenience of reference only and are not intended to have any substantive significance in interpreting this Agreement. The singular shall include the plural and the plural the singular, when the context so requires, and the feminine, the masculine, and the neuter genders shall be mutually inclusive.

ARTICLE II

Organization

2.1 *Trust Name.* The trust created hereby shall be known as the Liquidation Trust of Alset Owners, LLC, *et al.* in which name the Trustee may, among other things, conduct the business of the Trust, make and execute contracts on behalf of the Trust, sue and be sued on behalf of the Trust, and take such other actions as the Trustee is authorized hereunder to take.

2.2 *Declaration of Trust.* For good and valuable consideration, the receipt of which is hereby acknowledged by the undersigned, and pursuant to the terms of the Plan and the Confirmation Order, the Debtors and the Trustee have executed this Agreement and, subject to the provisions of Section 2.5, the Debtors irrevocably and absolutely transfers, assigns, conveys, sets over and delivers free and clear of all liens, claims, encumbrances and interests, of any kind and nature the Liquidation Trust Assets to the Trustee, and such transfer is in trust pursuant to the provisions hereof, with such conveyance transferring all of the Debtors' right, title and interest in, to and under the Liquidation Trust Assets.

(a) The Debtors shall, as needed and as reasonably requested by the Trustee, execute and deliver or cause to be executed and delivered to or upon the order of the Trustee all such further documents and instruments as may be reasonably necessary to carry out the purposes and intent of this Agreement; and the Debtors shall take or cause to be taken such other action as the Trustee may reasonably deem necessary or appropriate, in order to vest, perfect or confer title to and possession of all the Liquidation Trust Assets to the Trustee.

(b) The Trustee hereby accepts the trust created by this Agreement and agrees to hold the Liquidation Trust Assets in trust for the use and benefit of the Beneficiaries, subject to the conditions set forth in this Agreement, the Plan and the Confirmation Order. Effective as of the date hereof, the Trustee shall have all of the rights, powers and duties set forth herein, in the

Plan, in the Confirmation Order and in the Act with respect to accomplishing the purpose of the Trust.

2.3 *Tax Treatment of Grantor Trust.* For United States federal and applicable state income tax purposes, the transfer of the Liquidation Trust Assets to the Trust pursuant to and in accordance with the Plan and Confirmation Order shall be treated as a disposition of the Liquidation Trust Assets directly to and for the benefit of the Beneficiaries immediately followed by a contribution of the Liquidation Trust Assets by the Beneficiaries to the Trust for the benefit of the Beneficiaries. The Beneficiaries will be treated as the grantors and owners of the Trust. The Trust is intended to qualify as a liquidating trust that is treated as a “grantor trust” for federal income tax purposes, and the Trustee shall use his best efforts to operate and maintain the Trust in substantial compliance with Internal Revenue Service Revenue Procedure 94-45, 1994-2 C.B. 684, and Treasury Regulation Sections 1.671-4(a) and 301.770 1-4(d) and all subsequent guidelines regarding grantor trusts issued by the Internal Revenue Service. The Trust shall obtain a taxpayer ID number and file tax returns.

2.4 *Transfer to and Vesting of Liquidation Trust Assets in Trust.* On the Effective Date, all Liquidation Trust Assets shall be transferred to and vest in the Trust. The Liquidation Trust Assets shall be deposited with the Trust free and clear of all Claims, Liens and Equity Interests. The Liquidation Trust Assets shall be managed and used by the Trustee for the sole purpose of carrying out the Plan and effectuating the Distributions provided for in the Plan. The Trust shall be deemed the successor in interest to the Debtors solely for purposes of maintaining, preserving, collecting, liquidating and distributing the Liquidation Trust Assets vested in the Trust.

2.5 *Payment of Liabilities.* Payment of costs and expenses associated with the Trust shall be paid from the Liquidation Trust Assets.

2.6 *Office.* The principal office of the Trustee shall be located at _____, Attn: _____, or at such other address as the Trustee may designate by written notice to the parties hereto.

2.7 *Situs of the Trust.* The Trust shall be located in the State of Delaware.

2.8 *Appointment of Trustee.* _____ is hereby appointed Trustee, to have all of the rights, powers and duties set forth herein and in the Plan and Confirmation Order.

2.9 *Title to Trust Property.* From and after the Effective Date, legal title to all of the Trust property shall be vested at all times in the Trust as a separate legal entity except where applicable law in any jurisdiction in which the Trust property may be located requires title to any part of the Trust property to be vested in a trustee, in which case title shall be deemed vested in the Trustee. No Beneficiary shall have legal title to any part of the assets of the Trust.

2.10 *Incorporation of Plan.* The Plan is hereby incorporated into this Agreement and made a part hereof by this reference. To the extent of any conflict between the Plan and this Agreement, the Plan shall control.

2.11 *Purpose of the Trust.* The Trust is formed for the purpose of (i) holding and liquidating the Liquidation Trust Assets on behalf of the Beneficiaries, (ii) resolving any issues regarding the amount of the Claims of the Beneficiaries, (iii) prosecuting, abandoning, settling and/or defending any claims or Causes of Action (including, without limitation, avoidance actions and rights of action), (iv) enforcing the rights of the Beneficiaries, (v) collecting income on the Liquidation Trust Assets, (vi) providing for the orderly investment, conservation, and distribution of any and all of the Liquidation Trust Assets, (vii) making distributions to the

Beneficiaries pursuant to the Plan and this Agreement, (viii) filing final tax returns and dissolving the Debtors, and (ix) undertaking all actions required under this Agreement, the Plan and the Confirmation Order. The Trustee shall reduce to Cash or otherwise liquidate the Liquidation Trust Assets and distribute such liquidated Assets to the Beneficiaries in accordance with and subject to the terms and provisions of the Plan.

(a) As of the Effective Date, (A) the Trustee shall be responsible for (i) liquidating or otherwise reducing to Cash the Liquidation Trust Assets in accordance with this Agreement, (ii) filing, prosecuting, abandoning or settling the Causes of Action, (iii) making Distributions to holders of Allowed Claims, (iv) filing claim objections, settling, or otherwise resolving Disputed Claims, (v) complying with and carrying out the provisions of the Plan to the extent applicable to the Trust.

(b) In accordance with the Plan, the Trustee on behalf of the Trust and for the benefit of the Trust shall be authorized and empowered to pursue and prosecute, to settle, or to decline to pursue or abandon, the Causes of Action, including all pending adversary proceedings and contested matters involving assigned actions, whether or not such Causes of Action have been commenced prior to the Effective Date or after the Effective Date by the Trustee, and shall be substituted as the real party in interest in any such action, commenced by or against the Debtors, the Debtors' estate or the Creditors' Committee. The Trustee may settle, release, sell, assign, otherwise transfer or compromise such Causes of Action, in the Trustee's business judgment, subject to the provisions of the Plan, without Bankruptcy Court approval.

(c) Except as otherwise set forth In the Plan, the Trustee may, but shall not be required to, set-off against any Claim and the Distributions to be made pursuant to the Plan with respect to such Claim, any Causes of Action the Debtors' estate may have against the holder of

the Claim, but neither the failure to do so nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Trustee of any such Causes of Action, set-off or recoupment which the Debtors may have against such holder.

2.12 *Status of Trustee.* The Trustee shall be a “representative of the estate” as that phrase is used in Section 1123(b)(3)(B) of the Bankruptcy Code with respect to the rights and powers granted in this Agreement, the Plan and the Confirmation Order. Except as otherwise set forth in the Plan, the Trustee shall be the successor-in-interest to the (i) Debtors with respect to the Liquidation Trust Assets, including any Causes of Action which were or could have been commenced by the Debtors prior to the Effective Date and shall be deemed substituted for the same as the party in such action, and (ii) the Creditors Committee with respect to any Causes of Action which were or could have been commenced by the Creditors Committee prior to the Effective Date and shall be deemed substituted for the same as the party in such action. All actions, claims, rights or interests constituting Liquidation Trust Assets are preserved and retained and may be enforced by the Trustee as the representative of the Debtors’ estate pursuant to 11 U.S.C. § 1123(b)(3)(B).

Beneficiaries

2.13 *Identification of Beneficiaries.* The Trust is created for the benefit of the Beneficiaries. The Beneficiaries shall each have an undivided beneficial interest in the assets of the Trust. The initial Beneficiaries are those parties holding Claims (other than Claims that have been disallowed, extinguished or expunged by Final Order) against the Debtors as of the Effective Date.

2.14 *Rights of Beneficiaries.* Each Beneficiary shall be entitled to participate in the rights due to a Beneficiary hereunder. Each Beneficiary shall take and hold its beneficial interest

in the Trust ("Beneficial Interest") subject to all of the terms and provisions of this Agreement, the Plan and the Confirmation Order, and any Beneficial Interest shall only include interests that are identified in an Allowed Claim. The Beneficial Interests shall not be certificated. The interest of a Beneficiary of the Trust is in all respects personal property, and upon the death, insolvency or incapacity of an individual Beneficiary, such Beneficiary's Beneficial Interest shall pass to the legal representative of such Beneficiary. A Beneficiary shall have no title to, or any right to possess, manage or control the Trust, the Liquidation Trust Assets or any portion thereof or interest therein, except as expressly provided herein or in the Plan. No surviving spouse, heir or devisee of any deceased Beneficiary shall have any right of dower, homestead or inheritance, or of partition, or any other right, statutory or otherwise, in the Trust, but the whole title to all the Liquidation Trust Assets shall be vested in the Trustee, and the sole interest of the Beneficiaries shall be the rights and benefits provided to such persons under this Agreement, the Plan and the Confirmation Order.

2.15 *Transfer of Interests of Beneficiaries.* The Beneficial Interest of a Beneficiary of the Trust may not be transferred or assigned in whole or in part except by applicable laws of descent and distribution (in the case of a deceased individual Beneficiary); by operation of law, in accordance with applicable Bankruptcy law; or as otherwise approved by the Bankruptcy Court. The Trust shall not be required to recognize any equitable or other claims to such interest by the transferee thereof, and the named Beneficiary shall remain as such for all purposes hereunder. No transfer of the right, title and interest of any Beneficiary in and to the Trust or hereunder, by operation of law or otherwise, shall operate to terminate this Trust or affect the validity of this Agreement or entitle any successor or transferee of such Beneficiary to an accounting or to the transfer to it of legal title to any part of the Trust.

2.16 *Standing of Beneficiary.* Except as expressly provided in this Agreement, the Plan or the Confirmation Order, a Beneficiary does not have standing to direct the Trustee to do or not to do any action or to institute any action or proceeding at law or in equity against any person (other than the Trustee) upon or with respect to the Trust Assets.

2.17 *Release of Liability Beneficiary.* A Beneficiary shall not relieve the Trustee from any duty, responsibility, restriction or liability as to such Beneficiary that would otherwise be imposed under this Agreement, Plan or Confirmation Order.

ARTICLE III

Distributions

3.1 *Establishment of Trust Account.* The Trustee, for the benefit of the Beneficiaries, shall establish or cause to be established and maintained any accounts needed in connection with the purposes of the Trust (the "Trust Account"). Such accounts shall be maintained only at FDIC insured financial institutions and shall bear a designation clearly indicating that the funds deposited therein are held for the benefit of the Trust.

3.2 *Investment of Cash.* Cash in the Trust Account and any other amounts contemplated by this Agreement shall be maintained in United States dollars or shall be invested by the Trustee in (i) direct obligations of, or obligations guaranteed by, the United States of America, (ii) obligations of any agency or corporation that is or may hereafter be created by or pursuant to an act of Congress of the United States of America as an agency or instrumentality thereof, or (iii) such other obligations or instruments as may from time to time be permitted under section 345 of the Bankruptcy Code; *provided* that the Trustee may, to the extent necessary to implement the provisions of the Plan and this Agreement, deposit moneys in demand deposits at any banking institution or trust company having combined capital stock and surplus in excess of \$100,000,000 based upon its most recently available audited financial

statements, regardless of whether such investments and deposits are insured. Such investments shall mature in such amounts and at such times as the Trustee, in his discretion, shall deem appropriate to provide funds when needed to transfer funds in accordance with the Plan, make payments to the Trust Account or make Distributions in accordance with this Agreement, the Plan and the Confirmation Order.

(a) Any investments made by the Trustee with Cash that is part of the Liquidation Trust Assets shall remain a part of the Liquidation Trust Assets. All interest and income received by the Trustee with respect to investments of the Liquidation Trust Assets shall constitute part of the Liquidation Trust Assets.

3.3 *Liquidation of Trust Property.* The Trustee shall liquidate the Trust property pursuant to the Plan and Confirmation Order.

3.4 *No Payment to the Debtors.* In no event shall the Trustee or the Trust distribute any Trust property to the Debtors.

3.5 *Distributions.*

(a) Trust Administration Expenses.

(1) The cost and expenses of the Trust, including, without limitation, the compensation to and reimbursement of expense to the Trustee and the fees, costs and expenses of all professionals retained by the Trustee in connection with the performance of the Trustee's duties in connection with this Agreement, shall be paid in full. Any funds remaining after completion of the Trustee's activities and full payment of all costs and expenses of the Trust including, without limitation, the fees, costs and expenses of the Trustee and the professionals retained by the Trustee, shall be paid to the Beneficiaries under the terms of the Plan and this Agreement.

(b) Payments /Order of Priority. The Trustee shall first pay any unpaid Allowed Administrative Claims and Allowed Priority Claims in accordance with the provisions of the Plan (provided that Allowed Professional Fees payable to professionals holding retainers shall first be satisfied from such retainers) before any distributions are made from the Trust to the Beneficiaries. A schedule of Trustee's fees is attached as Schedule B.

(c) Distributions to the Beneficiaries shall be made at the discretion of the Trustee from all net cash derived from the Liquidation Trust Assets, including all net cash income and all other cash received by the Trust in accordance with the terms of the Plan and Confirmation Order, after making due provision for the payment of the costs, expenses, contingent liabilities, amounts necessary to maintain the value of the Liquidation Trust Assets and claims of the Trust, and, if proceeds of the Trust are insufficient to pay a class of Beneficial Interests in full, then Distributions shall be pro rata based on the amount of the Beneficial Interest of a holder compared with the aggregate amount of Beneficial Interests outstanding, and shall be governed by the terms of the Plan and this Agreement.

(d) Disputed Claims. Any Distribution to a holder of a Disputed Unsecured Claim that has not been resolved by Final Order as of the Effective Date shall be made by the Trustee as soon as reasonably practicable when and if an order resolving such claim has been entered and has become a Final Order, and such Claim, if allowed, shall be treated as if it had been an Allowed Claim as of the Effective Date.

(e) Method of Payment. All amounts payable to a Beneficiary pursuant to this Agreement shall be paid by the Trustee to or for the benefit of such Beneficiary in the manner provided in the Plan.

3.6 *Undeliverable Distributions.*

Any Distribution of Cash under the Plan to the holder of an Allowed Claim which remains unclaimed for a period of ninety (90) days after it has been delivered (or attempted to be delivered) in accordance with the Plan shall be transferred to and become property of the Trust, notwithstanding state or other escheat or similar laws to the contrary, and any and all entitlement by the holder of such an Allowed Claim to such Distribution shall be extinguished and forever barred.

ARTICLE IV

The Trustee

4.1 *Standard of Care.* The Trustee shall exercise the rights and powers vested in it by this Agreement and use reasonable business judgment in such exercise. Subject to applicable law, the Trustee shall not be liable to the Trust or any Beneficiary for any act or omission by the Trustee while acting in good faith and in the exercise of his reasonable business judgment.

4.2 Neither the Liquidation Trustee, nor any director, officer, affiliate, employee, employer, professional, attorney, agent or representative of the Liquidation Trust shall be personally liable, in connection with affairs of the Liquidation Trust, to any claimholder or Beneficiary of the Liquidation Trust, or any other Person, except for such acts or omissions which shall constitute willful misconduct or gross negligence. Persons dealing with the Liquidation Trustee, or seeking to assert claims against the Liquidation Trust, shall look only to the Liquidation Trust Assets to satisfy any liability incurred by the Liquidation Trust, the Liquidation Trustee, or other Persons employed or retained by the Liquidation Trust to carry out the terms of the Plan, the Confirmation Order, and the Liquidation Trust Agreement. The Liquidation Trustee is entitled to rely upon and shall have no liability in relying upon the advice of professionals retained by the Liquidation Trust.

4.3 *Bond.* The Trustee shall not be required to provide any bond, surety or security for the performance of his duties hereunder.

4.4 *Duties of the Trustee.*

(a) The Trustee accepts the trust hereby created and agrees to perform his duties hereunder with respect to the same, but only upon the terms of this Agreement, the Plan and the Confirmation Order. No implied covenants or obligations shall be read into this Agreement. The Trustee shall not be personally liable under any circumstances, except (x) as provided in Article 4.2 or (y) for taxes, fees or other charges on, based on or measured by any fees, commission or compensation received by the Trustee in connection with the provision of his services hereunder. In particular, but not by way of limitation:

(i) The Trustee shall not be personally liable for any error of judgment that does not constitute gross negligence and that was made in good faith;

(ii) The Trustee shall not be required to take any action that (A) is inconsistent with the purpose of the Trust as set forth herein, or (B) would, to the actual knowledge of the Trustee result in the Trust becoming an association taxable as a corporation for federal income tax purposes;

(iii) No provision of this Agreement shall require the Trustee to expend or risk his personal funds, or otherwise incur any financial liability in the performance of his rights or powers hereunder, if the Trustee shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured or provided to him;

(iv) Under no circumstances shall the Trustee be personally liable for any indebtedness or obligation of the Trust; and

(v) The Trustee shall not be liable for the default or misconduct of any other party and shall not be liable for any act or omission taken at the direction of the Advisory Board.

(b) The Trustee shall be vested with the rights, power and benefits set forth herein, which shall include, without limitation, all rights, powers, and benefits afforded to a "trustee" under section 704 and 1106 of the Bankruptcy Code.

(c) The Trustee shall incur no liability to anyone in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper believed by it to be genuine and believed by it to be signed by the proper party or parties. The Trustee may accept a certified copy of a resolution of the board of directors or other governing body of any corporate party as conclusive evidence that such resolution has been duly adopted by such body and that the same is in full force and effect.

(d) In the exercise or administration of the trust hereunder, the Trustee (i) may act directly or, at the expense of the Trust, through agents or attorneys pursuant to agreements entered into with any of them, and the Trustee shall not be liable for the default or misconduct of such agents or attorneys if such agents or attorneys shall have been selected by the Trustee with reasonable care and with the approval of the Advisory Board, as applicable; and (ii) may, at the expense of the Trust, consult with such counsel, accountants and other skilled persons selected with reasonable care and employed by it with the approval of the Advisory Board, as applicable, and he shall not be liable for anything done, suffered or omitted in good faith by him in accordance with the advice or opinion of any such counsel, accountants or other skilled persons.

(e) Except as expressly provided herein, in accepting the trust hereby created the Trustee acts solely as trustee hereunder and not in his individual capacity, and all persons having

any claim against the Trustee by reason of the transactions contemplated by this Agreement shall look only to the Trust property for payment or satisfaction thereof.

(f) The Trustee agrees that he will not manage, control, use, sell, dispose of or otherwise deal with the Trust property except as expressly permitted or required by the terms of this Agreement, the Plan or the Confirmation Order.

(g) The Trustee shall be permitted to hire any professional that has been previously retained in this case. The Trustee shall compensate such professionals as an expense of the Trust without requiring the professionals to file applications for compensation. The professionals shall only be removed for cause.

(h) The Trustee shall file all tax returns and other filings with governmental authorities on behalf of the Trust and the Trust Assets it held for time periods ending on or before termination of the Trust. Subject to definitive guidance from the Internal Revenue Service or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the Trustee of a private letter ruling if the Trustee so requests one, or the receipt of an adverse determination by the Internal Revenue Service upon audit if not contested by the Trustee), the Trustee shall file a tax return for the Trust as a grantor trust pursuant to Treasury Regulations Section 1.671-4(a). The Trustee's filing shall also include requests for determination of tax under Section 505(b) of the Bankruptcy Code (to the extent applicable) and responses to any tax audits. The Trustee shall make available such information to the Beneficiaries as will enable them to properly file their separate tax returns and withhold and pay over any amounts required by tax law.

(i) The Trustee is authorized to act as agent for the Trust in withholding or paying over any amounts required by any law (including tax law), regulation, rule, ruling, directive or

other governmental requirement to be withheld or paid by the Trust in connection with the transfer and assignment of the Liquidation Trust Assets to the Trust pursuant to the Plan. The Trustee is further entitled to deduct any United States federal or applicable state withholding taxes from further payments or distributions made with respect to Allowed Claims, as appropriate, and shall otherwise comply with Section 346 of the Bankruptcy Code.

(j) All net income of the Trust and net proceeds from the disposition of the Liquidation Trust Assets shall be subject to United States federal and applicable state income taxation in the year such net income or net proceeds are realized and taxable to the Trust whether or not such amounts are immediately distributed to the Beneficiaries.

(k) The Trustee shall not have any duty or obligation to manage, control, use, sell, dispose of or otherwise deal with the Trust or Liquidation Trust Assets or to otherwise take or refrain from taking any action under this Agreement except as expressly required by the terms hereof or as expressly provided in written instructions as provided herein, and no implied duties or obligations shall be read into this Agreement against the Trustee. The Trustee shall not be required to take any action under this Agreement unless the Trustee shall have been indemnified, in manner and form reasonably satisfactory to such Trustee, against any liability, cost or expense (including counsel fees and disbursements) which may be incurred in connection therewith. The Trustee shall not be required to take any action under this Agreement if the Trustee shall reasonably determine or shall have been advised by counsel that such action is contrary to the terms of this Agreement or is otherwise contrary to law.

(l) The Trustee may fully rely upon and shall have no liability in connection with calculations or instructions forwarded to the Trustee by the Advisory Board.

(m) If the Trustee determines, in the exercise of the Trustee's discretion, that he has a material conflict of interest with respect to any matter, the Advisory Board shall at their option and in their discretion shall either (i) exercise the Trustee's rights and authorities with respect to such matter, or (ii) designate a person to act on behalf of the Trust solely with respect to such matter with such designee's authority to act on behalf of the Trust to terminate upon the matter's conclusion. If neither the Trustee nor the Advisory Board are able to act on behalf of the Trust (and the Advisory Board are unable to appoint a designee to act on behalf of the Trust) with respect to any matter, the Trustee, after notice to the U.S. Trustee and the Advisory Board, may request the Bankruptcy Court to approve the Trustee's choice of a designee to act on behalf of the Trust solely with respect to such matter, with such designee's authority to act on behalf of the Trust to terminate upon the matter's conclusion.

(n) The Trustee may purchase errors and omissions insurance for himself with regard to any liabilities, losses, damages, claims, costs and expenses he may incur, including, without limitation, attorney's fees, arising out of or due to his actions or omissions, or consequences of such actions or omissions, other than as a result of his gross negligence or willful misconduct, with respect to the implementation and administration of the Plan and this Agreement.

(o) The Trustee shall not have any responsibility or liability for or with respect to the genuineness, value, sufficiency or validity of the Trust Assets.

(p) In no event whatsoever shall the Trustee be liable for any representation, warranty, covenant, agreement, indebtedness or other obligation of the Trust.

(q) The Trustee shall incur no liability if, by reason of any provision of any present or future law or regulation thereunder, or by any force majeure event, including but not limited to natural disaster, war or other circumstances beyond his control, the Trustee shall be prevented or

forbidden from doing or performing any act or thing which the terms of this Agreement provide shall or may be done or performed.

(r) The attorney-client privilege, work product doctrine or other privileges or immunities inuring to the benefit of the Debtors or attaching to documents or communications of the Debtors shall be transferred to the Trust. The Trustee is authorized to assert or waive any such privilege or doctrine, as necessary or appropriate for the administration of the Trust, provided that, to the extent any such privilege or doctrine is waived in connection with information requested of any professional previously employed by the Debtors, the Trustee agrees that such information request shall be made solely for the purpose of carrying out the Trustee's duties hereunder, that the Trustee shall act in good faith and shall use his best efforts to tailor as narrowly as possible any request so as not to be unduly invasive or burdensome to the professional upon whom the request is made, and that the restrictions set forth in this Agreement shall apply to such request.

(s) As soon as practicable, the Trustee shall move for the entry of a "final decree" and to close the Debtors' chapter 11 case, provided the case is not required to remain open to pursue and maintain any claim, objection or cause of action. The Trustee shall be responsible for filing all post-confirmation quarterly reports required by the US Trustee Operating Guidelines for chapter 11 cases and will pay all quarterly fees due to the United States Trustee.

4.5 *Compensation and Indemnity.* The Trustee shall be entitled to receive from the Trust compensation for his services hereunder, based on his firm's standard hourly rates for actual time spent, plus out of pocket expenses, which compensation shall not be limited by any provision of law in regard to compensation of a trustee of an express trust.

(a) With respect to the Trustee, the Trust shall (i) reimburse the Trustee for all reasonable expenses incurred by him in connection with the execution and performance of his rights and duties hereunder (including reasonable fees and expenses of counsel and other experts); (ii) indemnify, defend and hold harmless the Trustee (in both his individual and trustee capacities) and the officers, directors, employees and agents of the Trustee (collectively, including the Trustee in its individual capacity, the "Indemnified Persons") from and against any and all losses, damages, liabilities, claims, actions, suits, costs, expenses, disbursements (including the reasonable fees and expenses of counsel), taxes and penalties of any kind and nature whatsoever, to the extent that such expenses arise out of or are imposed upon or asserted at any time against one or more Indemnified Persons with respect to the performance of this Agreement, the creation, operation, administration or termination of the Trust, or the transactions contemplated hereby (collectively, "Indemnified Expenses"); and (iii) advance to each Indemnified Person Indemnified Expenses (including reasonable legal fees) incurred by such Indemnified Person in defending any claim, demand, action, suit or proceeding, prior to the final disposition of such claim, demand, action, suit or proceeding, upon receipt by the Trust of a written request therefor and of an undertaking by or on behalf of the Indemnified Person to repay such amount if it shall ultimately be determined that the Indemnified Person is not entitled to be indemnified therefor under this Article IV; provided however, that notwithstanding anything in this Agreement to the contrary, the Trust shall not be required to reimburse the Trustee for any expenses, indemnify an Indemnified Person for Indemnified Expenses, or advance any Indemnified Expenses to an Indemnified Person, to the extent any such obligation arose or was the result of the bad faith, willful misconduct or gross negligence of such Indemnified Person as determined by a competent court of law.

(b) The Trustee and all professionals retained by the Trustee pursuant to this Agreement will be paid for their services and reimbursed for their expenses from the Trust by submitting a monthly statement describing with reasonable particularity the time expended and the nature, extent and value of the services provided during the period covered by such request to the Trustee. The Trustee shall have until the tenth calendar day after the submission of the statement to review it. If the Trustee does not object, 100% of the fees and 100% of the disbursements identified in each statement shall be paid.

4.6 *Tenure, Resignation, Removal and Replacement of Trustee.*

The authority of the Trustee shall be effective as of the Effective Date and shall remain in full force and effect, with respect to the Trustee, until all distributions have been made to the Beneficiaries.

(a) The Trustee may resign and be discharged by the Trust created by this Agreement upon not less than 30 days' prior written notice to the Advisory Board. The Trustee shall only be removed from his position for cause or breach of fiduciary duty. Upon receiving notice of resignation, the Advisory Board, as the case may be, shall use their best efforts promptly to appoint a successor Trustee by written instrument or instruments delivered to such resigning Trustee and the successor Trustee. Any resignation or removal of a Trustee and appointment of a successor Trustee shall become effective only upon acceptance of the appointment by the successor Trustee. If no successor Trustee shall have been appointed within 30 days after notice of such resignation or removal has been delivered, the Trustee may apply to the Bankruptcy Court for the appointment of a successor Trustee, and the Bankruptcy Court may, after such notice (if any) as it may deem proper, appoint a successor Trustee.

(b) In the event of the death or incapacity of a Trustee, the Advisory Board shall appoint a successor Trustee by written instrument delivered to the successor Trustee.

(c) No successor Trustee shall be in any way responsible or liable for the acts or omissions of any predecessor Trustee.

ARTICLE V

Reports to Beneficiaries

5.1 *Reports to Beneficiaries.* Approximately 120 days following the Effective Date, the Trustee shall serve on the Advisory Board, a status report and a summary financial update explaining what progress has been made toward entry of the Final Decree. Until entry of the Final Decree, further status reports shall be filed annually and served on the Advisory Board. Each status report shall generally include a description of assets sold or otherwise realized upon during the relevant period, gross and net proceeds received, Distributions and payments made, expenses incurred and paid, and cash on hand, as well as a summary of claims objections and the status of all contested matters and litigation.

ARTICLE VI

Termination of Trust

6.1 *Termination of Trust.* This Agreement shall terminate and the Trust shall dissolve and terminate and be of no further force or effect upon the earlier to occur of (i) the final distribution of all monies and other Trust property in accordance with the terms of this Agreement, the Plan and the Confirmation Order, or (ii) five (5) years after the Effective Date unless the Bankruptcy Court approves an extension upon a finding that such an extension is necessary for the Trust to complete its claims resolution and liquidating purpose.

(a) The bankruptcy, liquidation, dissolution, death or incapacity of any Beneficiary shall not (i) operate to terminate this Agreement or the Trust, (ii) entitle such Beneficiary's legal

representatives or heirs to claim an accounting or to take any action or proceeding in any court for a partition or winding up of all or any part of the Trust or the Liquidation Trust Assets or (iii) otherwise affect the rights, obligations and liabilities of the parties hereto.

(b) No Beneficiary shall be entitled to revoke or terminate the Trust.

(c) After the termination of the Trust and for the purpose of liquidating and winding up the affairs of the Trust, the Trustee shall continue to act as such until his duties have been fully performed. Upon distribution of the Trust Assets, and unless ordered otherwise by the Bankruptcy Court, the Trustee shall retain for a period of two (2) years the books, records, Beneficiary lists and certificates and other documents and files which shall have been delivered to or created by the Trustee. All of such records and documents may, but need not, be destroyed at any time after one (1) year from the completion and winding up of the affairs of the Trust. Except as otherwise specifically provided herein, upon the discharge of all liabilities of the Trust and final distribution of the Trust Assets, the Trustee shall have no further duties or obligations hereunder. Upon motion by the Trustee, the Bankruptcy Court may enter an order relieving the Trustee, his agents and employees and the Advisory Board, its agents and employees of any further duties.

ARTICLE VII

Advisory Board

7.1 On the Effective Date, members of the Creditors Committee who elect to serve on the Advisory Board shall commence serving as the Trust's Advisory Board. The identity of each Committee member who has elected to serve on the Advisory Board is set forth on Schedule A attached hereto. The Advisory Board shall have general oversight powers for the activities of the Trustee as well as those specific rights and powers set forth in other provisions of this Agreement and under the Plan.

7.2 Meetings of the Advisory Board are to be held with such frequency and at such place as the Trustee and the members may determine in their reasonable discretion. Special meetings of the Advisory Board may be held whenever and wherever called for by the Trustee or any two members.

7.3 Unless otherwise specified herein, all other rules of decorum and procedure governing the Advisory Board shall be identical those rules of decorum and procedure governing the Committee as set forth in the By-laws of the Committee (which are incorporated herein by referenced as if fully set forth herein).

7.4 The authority of the Advisory Board will be effective as of the Effective Date and will remain and continue in full force and effect until the Trust is terminated in accordance with this Agreement or applicable law. The members will serve until death, resignation or removal pursuant to this Agreement or applicable law.

7.5 A member may resign by giving not less than thirty (30) days' prior written notice thereof to the Trustee and the other members. Such resignation shall become effective on the later to occur of: (i) the day specified in such notice; and (ii) the appointment of a successor in accordance with this Agreement.

7.6 A member may be removed by the unanimous vote of the other members, written resolution of which shall be delivered to the removed member; provided, however that such removal may only be made for Cause.

7.7 None of the members of the Advisory Board shall incur any liability for any act or omission in his capacity as a member of the Advisory Board answerable or accountable under any circumstances, except for the willful misconduct or gross negligence.

7.8 With respect to the Advisory Board, the Trust shall indemnify, defend and hold harmless the Advisory Board (in their capacities as individuals and as members of the Advisory Board) and the officers, directors, employees and agents of each of such Advisory Board (collectively, the "Indemnified Advisory Board Members") from and against any and all losses, damages, liabilities, claims, actions, suite, costs, expenses, disbursements (including the reasonable fees and expenses of counsel), taxes and penalties of any kind and nature whatsoever, to the extent that such expenses arise out of or are imposed upon or asserted at any time against one or more Indemnified Advisory Board Members with respect to the performance of this Agreement, the creation, operation, administration or termination of the Trust, or the transaction contemplated hereby (collectively, "Indemnified Member Expenses"); and (iii) advance to each Indemnified Advisory Board Members Indemnified Members Expenses (including reasonable legal fees) incurred by such Indemnified Advisory Board Members in defending any claim, demand, action, suit or proceeding, prior to the final disposition of such claim, demand, action, suite or proceeding, upon receipt by the Trust of a written request therefore and of an undertaking by or on behalf of the Indemnified Advisory Board Members to repay such amount if it shall ultimately be determined that the Indemnified Advisory Board Members are not entitled to be indemnified therefore under this Article; provided however, that notwithstanding anything in this Agreement to the contrary, the Trust shall not be required to reimburse any Advisory Board Members for any expenses, indemnify an Indemnified Advisory Board Members for Indemnified Member Expenses, or advance any Indemnified Member Expenses to an Indemnified Advisory Board Member, to the extent any such obligation arose or was the result of the bad faith, willful misconduct or gross negligence of such Indemnified Advisory Board Member.

7.9 It is expressly acknowledged that the Advisory Board and the Trustee share a joint interest in the successfully prosecution of the Causes of Action and entry into an arrangement to share information based upon such joint interest will be deemed sufficient to preserve and protect privilege.

ARTICLE VIII

Amendment

8.1 *Method of Amendment.* This Agreement may only be amended by written instrument executed by the Trustee and approved by the Bankruptcy Court if such amendment materially affects the Trust generally.

8.2 Promptly after the execution of any amendment to the Certificate of Trust, the Trustee shall cause the filing of such amendment with the Delaware Secretary of State in accordance with Section 3810 of the Act.

ARTICLE IX

Miscellaneous Provisions

9.1 *Intention of Parties to Establish Trust.* This Agreement is not intended to create, and shall not be interpreted as creating, an association, partnership or joint venture of any kind. It is intended as a trust to be governed and construed in all respects as a trust.

9.2 *Filing Documents.* A copy of this Agreement and all amendments thereof shall be filed in an office or residence of the Trustee and shall be available at all times for inspection by the Beneficiaries or their duly authorized representative.

9.3 *Governing Law.* THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT REFERENCE TO ITS CONFLICT OF LAW PROVISIONS, AND THE OBLIGATIONS,

RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

9.4 *Separability.* In the event any provision of this Agreement or the application thereof to any person or circumstances shall be finally determined by a court of proper jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

9.5 *Notices.* Unless otherwise expressly specified or permitted by the terms hereof, all notices shall be in writing and shall be deemed given upon receipt by the intended recipient or three Business Days after mailing if mailed by certified mail, postage prepaid, if to the Trustee, addressed to _____ with copies to Joanne B. Wills, at Klehr Harrison Harvey Branzburg LLP, 919 Market Street, Suite 1000, Wilmington, DE 19801-3062.

9.6 *Further Assurances.* Each party hereto (and his respective successors and assigns) shall, upon any Trustee's reasonable request, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments, and do or cause to be done, such further acts, as may be necessary to carry out the purposes of this Agreement and to vest in the Trustee the powers and duties contemplated hereunder.

9.7 *Exculpatory Provisions and Survival Thereof.* Whether or not expressly provided, any and all exculpatory provisions, immunities and indemnities, and any limitations and negations of liability contained in this Agreement, in each case inuring to the benefit of the Trustee, shall survive (i) the termination or revocation of this Agreement, and (ii) as to any person who has served as Trustee, the resignation or removal of such person as Trustee.

9.8 *Separate Counterparts.* This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

9.9 *Successors and Assigns.* All covenants and agreements contained herein shall, as applicable, be binding upon, and inure to the benefit of, each of the Beneficiaries and its permitted assignees, the Trustee and his successors and the Debtors and its successors, all as herein provided.

9.10 *Headings.* The headings of the various Articles and Sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

9.11 *Books and Records.* On the date hereof, the Debtors shall transfer to the Trust all of the books and records of the Debtors in the Debtors' possession, and shall instruct any third parties or professionals possessing such books and records (including computer generated or computer maintained books, records and data, legal and accounting files maintained by any professional of the Debtors and other of the Debtors' books and records maintained by or in the possession of third parties), to turn over or permit access to (at the election of the party to whom the request is made) such books and records as may be reasonably requested by the Trustee, provided that the Trustee shall only request such books and records or access thereto to the extent reasonably necessary to the Trustee's performance of his duties hereunder, provided further that the out of pocket expenses of complying with any such request shall not be borne by the party upon whom the request is made, absent agreement to the contrary.

9.12 *Tax Identification Numbers.* The Trustee may require any Beneficiary to furnish (i) its employer or taxpayer identification number as assigned by the Internal Revenue Service, and (ii) such other information, records or documents necessary to satisfy the Trustee's tax

reporting obligations (including certificates of non-foreign status). The Trustee may condition the payment of any distribution to any Beneficiary upon receipt of such identification number and requested documents.

9.13 *Jurisdiction.* Notwithstanding the Effective Date and to the fullest extent permitted by the law, the Bankruptcy Court shall retain exclusive jurisdiction over the Trust after the Effective Date, including, without limitation, jurisdiction to resolve any and all controversies, suite and issues that may arise in connection therewith, including, without limitation, this Agreement, or any entity's obligations incurred in connection herewith, including without limitation, any action against the Trustee or any professional retained by the Trustee or the Trust, in each case in its capacity as such. Each party to this Trust Agreement hereby irrevocably consents to the exclusive jurisdiction of the Bankruptcy Court in any action to enforce, interpret or construe any provision of this Agreement or of any other agreement or document delivered in connection with this Agreement, and also hereby irrevocably waives any defense of improper venue, forum non conveniens or lack of personal jurisdiction to any such action brought in the Bankruptcy Court. Each party further irrevocably agrees that (i) any action to enforce, interpret or construe any provision of this Agreement will be brought only in the Bankruptcy Court and (ii) all determinations, decisions, rulings and holdings of the Bankruptcy Court shall be final and non-appealable and not subject to reargument or reconsideration. Each party hereby irrevocable consents to the service by certified or registered mail, return receipt requested, to be sent to its address set forth in this Agreement may designate from time to time by notice give in the manner provided above, of any process in any action to enforce, interpret or construe any provision of this Agreement.

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

Dated: February ____, 2010

**ALSET OWNERS, LLC, ALTES, LLC, SETLA,
LLC AND CHECKERS MICHIGAN, LLC**

By: _____

Its: _____

_____, LIQUIDATION TRUSTEE

By: _____

Title: _____

SCHEDULE A
ADVISORY BOARD

SCHEDULE B
TRUSTEE'S FEES

EXHIBIT 2 TO PLAN

PENTLAND SETTLEMENT

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

-----X	
In re:	: Chapter 11
	: :
ALSET OWNERS, LLC, <i>et al.</i> , ¹	: Case No. 09-11960 (BLS)
	: :
Debtors.	: (Jointly Administered)
-----X	

**STIPULATION REGARDING RESOLUTION OF AND
TREATMENT OF CLAIMS OF PENTLAND USA, INC.**

This stipulation (the “Stipulation”) is entered into by and among (i) the above captioned debtors and debtors-in-possession (collectively, the “Debtors”), (ii) the Official Committee of Unsecured Creditors (the “Committee”), and (iii) Pentland USA, Inc. (“Pentland,” together with the Debtors and the Committee, the “Parties”), by and through their respective undersigned counsel.

WHEREAS:

A. On June 5, 2009 (the “Petition Date”), the Debtors commenced cases (the “Cases”) for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Court”). The Debtors continue to manage and operate their business as debtor in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these chapter 11 cases. On June 24, 2009, the United States Trustee appointed the Committee.

¹ The Debtors and the last four digits of their respective tax identification numbers are: Alset Owners, LLC, a Delaware limited liability company (7520); Altes, LLC, a Delaware limited liability company (6927); Setla, LLC, a Delaware limited liability company (6752); and Checkers Michigan, LLC, a Delaware limited liability company (8016). The Debtors’ service address is Altes, LLC/Setla, LLC, 1200 North Federal Highway, Boca Raton, FL 33432.

B. Prior to the Petition Date, Pentland, from time to time, loaned the Debtors approximately \$6,850,000 for various transactions and working capital, which loans were not secured by any of the Debtors' assets, except for the pledge of membership interests in Alset Owners, LLC (the "Unsecured Pentland Loans"). Aside from being an unsecured lender to the Debtors, Pentland was also a member of Alset Owners, LLC with a 39% ownership interest as of the Petition Date.

C. As of the Petition Date, Pentland is owed \$5,153,365.46 on account of the Unsecured Pentland Loans (the "Pentland Unsecured Claim"). The Debtors' Schedules reflect a total claim in a slightly smaller amount of \$5,152,329. A proof of claim asserting the Pentland Unsecured Claim on account of the Unsecured Pentland Loans has been filed with the Debtors' claims agent.

D. On December 2, 2009, the Debtors filed the Debtors' Joint Plan of Liquidation (the "Plan"). The Plan provides that holders of general unsecured claims in Class 2 shall receive their Pro Rata share of distributions from the liquidation of the Debtors' assets. Pentland, as the holder of the Pentland Unsecured Claim, has a right to receive a distribution in Class 2 pro rata with other holders of Class 2 unsecured claims.

E. This Stipulation is reflected in the Plan as an integral compromise under the Plan. The Plan and accompanying disclosure statement describe the terms of this Stipulation.

F. The Committee raised certain issues concerning the Pentland Unsecured Claim. Pentland, on the other hand, maintains that the Pentland Unsecured Claim is a valid claim. In order to avoid the expense and uncertainty relating to the validity of the Pentland Unsecured Claim, the Parties entered into negotiations culminating in the execution

and delivery of this Stipulation, which is subject to Court approval in connection with the Plan.

NOW, THEREFORE, after good faith and arms-length negotiations, the Parties hereby stipulate and agree as follows:

1. The Pentland Unsecured Claim (Claim No. 141) shall be deemed an allowed general unsecured claim in the Debtors' estates.
2. Subject to confirmation of the Plan and the occurrence of the Effective Date (as defined in the Plan), Pentland shall receive \$50,000 on account of the Pentland Unsecured Claim (the "Pentland Distribution"), provided however that in the event that other unsecured creditors in Class 2 are paid in full on account of their allowed claims, then Pentland shall receive any remaining distributions ("Remaining Distributions") in the Debtors' cases up to the remaining balance of the Pentland Unsecured Claim.
3. Pentland shall receive the Pentland Distribution when the other holders of unsecured claims in Class 2 receive their initial distribution in the Debtors' cases.
4. This Stipulation will be effective upon entry of an order confirming the Plan (the "Confirmation Order") and the occurrence of the Effective Date under the Plan.
5. In the event that the Court denies confirmation of the Plan and the Effective Date does not occur, this Stipulation shall be void in its entirety and without any legal force or effect or evidentiary value and the rights of the Parties hereto shall be fully restored to the status quo ante, as if the Parties had not entered into this Stipulation and the Debtors had not filed same with the Court.
6. Upon the Effective Date of the Plan, Pentland shall release and forever discharge the Debtors, their successors and assigns, from any and all claims, including claims

defined in Bankruptcy Code § 101(5), demands, causes of action, obligations, damages, and liabilities of any nature whatsoever, whether known or unknown, that Pentland, or any of its successors or assigns ever had or now has, or may claim to have at the present time against the Debtors and their estates, provided however, Pentland may enforce the provisions of this Stipulation and shall receive the Pentland Distribution on account of the Pentland Unsecured Claim without prejudice to its right to receive Remaining Distributions.

7. Upon the Effective Date of the Plan, the Debtors, on behalf of themselves and their estates, and the Committee, hereby release and forever discharge Pentland, its affiliates, and successors and assigns (jointly referred to as "Releasees") from any and all claims, including claims defined in Bankruptcy Code § 101(5), demands, causes of action, obligations, damages, and liabilities of any nature whatsoever, known or unknown, that the Debtors, their estates and/or the Committee ever had or now has, or may claim to have at the present time against the Releasees, including but not limited to Causes of Action (as defined in the Plan).

8. Upon the Effective Date of the Plan, this Stipulation shall take effect and be binding on the Parties and any successor(s) to the Parties and the Debtors' estates, such as, without limitation, a liquidating trustee or chapter 7 trustee appointed with respect to the Debtors' cases.

9. Each person who executes this Stipulation on behalf of a party hereto represents that he or she is duly authorized to execute this Stipulation on behalf of such party.

10. This Stipulation can only be amended or otherwise modified by agreement in writing signed by all the Parties.

11. This Stipulation constitutes the entire agreement between the Parties with respect to the subject matter hereof and shall supersede any previous negotiations, commitments and writings with respect to such subject matter.

12. This Stipulation shall be governed by, and construed in accordance with the laws of the State of New York (without regard to the conflicts of laws provisions thereof), and to the extent applicable, the Bankruptcy Code and related laws of the United States.

13. Nothing contained or provided for herein shall be deemed to constitute a waiver or admission by any party with respect to any rights, claims, defenses or objections if the Effective Date does not occur and the Confirmation Order does not become final and non-appealable. No party may use or refer to this Stipulation or related motion papers filed with the Court if such order does not become final and non-appealable.

14. This Stipulation may be executed in one or more counterparts, all of which shall be considered one and the same document, and shall become effective when one or more counterparts have been signed by each of the Parties and delivered to the other party, it being understood that all Parties need not sign the same counterpart.

15. The Court shall retain exclusive jurisdiction to resolve any disputes or controversies arising from or related to this Stipulation.

Dated: Wilmington, Delaware
February __, 2010

BLANK ROME LLP

KLEHR, HARRISON, HARVEY,
BRANZBURG & ELLERS LLP

By: _____
David W. Carickhoff (No. 3715)
Victoria A. Guilfoyle (No. 5183)
1201 North Market Street, Suite 800
Wilmington, Delaware 19801
Telephone: (302) 425-6400
Facsimile: (302) 425-6464

By: _____
Joanne B. Wills
Richard M. Beck
919 Market Street, Suite 1000
Wilmington, Delaware 19801
Telephone: (302) 426-1189
Facsimile: (302) 426-9193

- and -

Michael Z. Brownstein
Rocco A. Cavaliere
The Chrysler Building
405 Lexington Avenue
New York, NY 10174
Telephone: (212) 885-5000
Facsimile: (212) 885-5001

Counsel for the Official Committee
of Unsecured Creditors

- and -

PENTLAND USA, INC.

Counsel for Debtors and Debtors in
Possession

By: _____
Name: Nahum Shar
Title: President
3333 New Hyde Park Road
Suite 200
New Hyde Park, NY 11042

EXHIBIT B TO DISCLOSURE STATEMENT

BAR DATE ORDER

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

In re : Chapter 11
ALSET OWNERS, LLC, *et al.*,¹ : Case No. 09-11960 (BLS)
: (Jointly Administered)
Debtors. :

Re: Docket No. 162

**ORDER (A) FIXING THE PROCEDURES AND DEADLINES TO FILE
PROOFS OF CLAIM PURSUANT TO FED. R. BANKR. P. 2002 AND 3003
AND DEL. BANKR. L.R. 2002-1(e) AND TO MAKE REQUESTS FOR
PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS AND
(B) APPROVING THE FORM AND MANNER OF NOTICE OF BAR DATE**

Upon the Motion² of the above-captioned debtors and debtors in possession (the "Debtors"), requesting entry of an order (i) establishing the deadline for filing certain Proofs of Claim against the Debtors pursuant to Rule 3003-1 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (ii) establishing the deadline for filing certain Administrative Expense Claims against the Debtors, and (iii) approving the form and manner of notice thereof pursuant to Bankruptcy Rule 2002(a)(7) and Del. Bankr. L.R. 2002-1(e); and it appearing that the relief sought in the Motion and the entry of this Order is appropriate and necessary in order for the Debtors to determine the nature, scope and classification of all claims; and it appearing that the relief sought in the Motion is reasonable and in the best interests of the

¹ The Debtors and the last four digits of their respective tax identification numbers are: Alset Owners, LLC, a Delaware limited liability company (7520); Altes, LLC, a Delaware limited liability company (6927); Setla, LLC, a Delaware limited liability company (6752); and Checkers Michigan, LLC, a Delaware limited liability company (8016). The Debtors' service address is Altes, LLC/Setla, LLC, 1200 North Federal Highway, Boca Raton, FL 33432.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

Debtors and their estates; and no adverse interest being represented, and sufficient cause appearing therefore, and upon due deliberation given,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted.
2. All claims, as defined in section 101(5) of title 11 of the United States Code (the "Bankruptcy Code"), arising prior to the **Petition Date**, including any claims against the Debtors' estate based on the Debtors' primary, secondary, direct, indirect, fixed, secured, unsecured, contingent, guaranteed, disputed, undisputed, liquidated, unliquidated, matured, unmatured, legal or equitable liability, or otherwise (each a "Prepetition Claim"), except as otherwise provided for or specifically excepted herein, shall be filed with BMC Group Inc. (the "Claims Agent"), in writing, together with supporting documentation, substantially conforming with Official Bankruptcy Form 10, or as otherwise prescribed or authorized under the Bankruptcy Rules so that the Proof of Claim is **actually received on or before December 15, 2009, at 4:00 p.m. prevailing Eastern time** (the "Bar Date"), at the office of the Claims Agent as set forth in the Bar Date notice. A Proof of Claim may not be filed by facsimile or electronic mail transmission.

3. Any Person asserting a Prepetition Claim by reason of the rejection of an executory contract or unexpired lease, pursuant to section 502(g) of the Bankruptcy Code and Bankruptcy Rule 3002(c)(4), must file a Proof of Claim on account of any claims such Person holds or wishes to assert against the respective Debtor, so that the Proof of Claim is **actually**

received by the Claims Agent on or before the later of (i) thirty days after the date of the rejection of such contract or lease, or (ii) the Bar Date.

4. All governmental units (which shall include all entities defined as such in section 101(27) of the Bankruptcy Code, including any such entities that hold a Claim arising from prepetition tax years or periods or prepetition transactions to which a Debtor was a party) holding or wishing to assert Claims against a Debtor arising before the Petition Date, are required to file a Proof of Claim on account of any claims such governmental unit holds or wishes to assert against the respective Debtor, so that the proof of Claim is **actually received** by the Claims Agent on or before **December 15, 2009 at 4:00 p.m. prevailing Eastern time**.

5. All parties asserting certain administrative expenses against a Debtor's estate arising between the Petition Date and December 15, 2009 (but excluding claims for fees and expenses of professionals retained in these proceedings and members of the Committee in these cases) or under Bankruptcy Code section 503(b)(9), **whenever arising**, shall file a motion for allowance of such administrative expense with the Court (the "Administrative Expense Claim") on or before **December 15, 2009 at 4:00 p.m. prevailing Eastern time**.

6. Any Person asserting a claim by reason of the recovery of a voidable transfer, pursuant to section 502(h) of the Bankruptcy Code and Bankruptcy Rule 3002(c)(3), must file a Proof of Claim on account of any claims such Person holds or wishes to assert against a Debtor, so that the Proof of Claim is **actually received** by the Claims Agent on or before the later of (i) the Bar Date, or (ii) thirty days after the consensual resolution or entry of final

judgment avoiding such transfer and payment of such recovered transfer to the respective Debtor's estate.

7. Following the notice of any amendment to the Schedules pursuant to Bankruptcy Rule 1009(a), which amendment (i) reduces the liquidated amount or changes the priority of a scheduled Prepetition Claim, or (ii) reclassifies a scheduled, undisputed, noncontingent Prepetition Claim to be disputed, unliquidated, undetermined, and/or contingent, or (iii) adds a Prepetition Claim that was not listed on the original Schedules, any Person affected by such amendment shall be permitted to file a Proof of Claim on account of any claims such Person holds or wishes to assert against a Debtor, so that the Proof of Claim is **actually received** by the Claims Agent on or before the later of (a) the Bar Date, or (b) the first business day that is at least thirty calendar days after the mailing of notice of such amendment. Any Person, entity, or governmental unit relying on the Debtors' Schedules will bear the responsibility for determining that all of its Claims against the applicable Debtor are accurately listed in the Schedules.

8. The following claims are *excluded* from the provisions of this Order and are not required to be filed on or before the Bar Date, unless otherwise ordered by the Court.

a. claims by any Person, entity, or governmental unit that has already properly filed a Proof of Claim with the Claims Agent, or with the Clerk of the Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, DE 19801;

b. claims by any Person or governmental unit if that Person or governmental unit's Prepetition Claim is listed in the Schedules (or any amendment thereto) and

is not scheduled as being contingent, unliquidated, or disputed, unless the Person or governmental unit believes that it is owed a different amount or its Prepetition Claim is entitled to a different priority than that reflected in the Schedules;

c. claims by any Person or governmental unit if that Person or governmental unit's Prepetition Claim previously has been allowed by order of the Court; and

d. claims with respect to administrative expense claims for fees and expenses of professionals retained in these proceedings and members of the Committee in these cases.

9. Pursuant to Bankruptcy Rule 3002(c)(2), any Person or governmental unit required to file a proof of Proof of Claim but does not do so in compliance with the date and procedures established herein shall not, with respect to any such claim, be treated as a creditor of the Debtors for the purposes of voting and distribution.

10. In accordance with Bankruptcy Rule 2002, the Debtors are hereby authorized and directed to cause the Official Form No. 10, and the notice of the Bar Date, in a form substantially of that annexed to the Motion as Exhibit A and incorporated herein, which form is hereby approved, to be given by first class mail, postage prepaid, on or before **October 9, 2009**, upon (i) the Office of the United States Trustee, (ii) counsel for the Committee, (iii) all Persons and governmental units on the Debtors' creditor matrix, (iv) all known holders of claims listed on the Debtors' Schedules and, as applicable, any amended Schedules, at the addresses stated therein, (v) all relevant taxing authorities, (vi) the District Director of Internal Revenue for

the District of Delaware, and (vii) all parties that have requested notice in this case pursuant to Bankruptcy Rule 2002.

11. The Debtors are hereby authorized, but not directed, to cause notice of the Bar Date to be published by no later than **October 15, 2009** in a national newspaper.

12. Nothing contained herein shall limit, abridge or otherwise affect the Debtors' right to request that the Court fix a date by which the holder of a Claim that is specifically excluded from the requirements of this Order must file a proof of claim or interest.

13. The provisions of this Order apply to all Claims of whatever nature or character against any of the Debtors or their property, whether such Claims are secured or unsecured, administrative, priority or non-priority, liquidated or unliquidated, matured or unmatured, fixed or contingent.

14. The Debtors are authorized to take such steps and do such things as they deem to be reasonably necessary to fulfill the notice requirements established by this Order, including the expenditure of all sums reasonably necessary to implement the provisions of this Order.

15. This Court shall retain jurisdiction to interpret, implement and enforce the terms and provisions of this Order.

Dated: September 29, 2009



The Honorable Brendon Linehan Shannon
United States Bankruptcy Judge

EXHIBIT C TO DISCLOSURE STATEMENT

LIQUIDATION ANALYSIS

Asset Owners
Schedule of Projected Liquidation Recoveries

	<u>Percent Recovery</u>		<u>Chapter 7 Liquidation Recovery</u>		<u>Percent Recovery</u>		<u>Plan of Reorganization Recovery</u>	
	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>	<u>High</u>	<u>Low</u>
<u>Proceeds from liquidation</u>								
Cash and cash equivalents	100%	100%	\$ 486,106	\$ 486,106	100%	100%	\$ 486,106	\$ 486,106
Expected receivables/other assets	100%	47%	264,000	125,000	100%	47%	264,000	125,000
Real estate tax escrow	100%	0%	185,000	-	100%	0%	185,000	-
Total proceeds from liquidation			<u>935,106</u>	<u>611,106</u>			<u>935,106</u>	<u>611,106</u>
Allocation of proceeds								
Wind-down expenses			32,000	32,000			32,000	32,000
Chapter 7 trustee fees			28,053	18,333				
Chapter 7 trustee professional fees			125,000	175,000			-	-
Total wind-down expenses			<u>185,053</u>	<u>225,333</u>			<u>32,000</u>	<u>32,000</u>
Proceeds available for payment of administrative and priority claims			750,053	385,773			903,106	579,106
Administrative and priority claims								
Chapter 11 administrative claims			150,000	150,000			210,000	225,000
Priority claims			-	-			-	-
Total administrative and priority claims			<u>150,000</u>	<u>150,000</u>			<u>210,000</u>	<u>225,000</u>
Plan of reorganization disbursements								
Liquidation trust fees and expenses							75,000	100,000
Total plan of reorganization disbursements							<u>75,000</u>	<u>100,000</u>
Proceeds available for payment of general unsecured creditors			<u>600,053</u>	<u>235,773</u>			<u>618,106</u>	<u>254,106</u>
Pentland unsecured claim distribution							<u>50,000</u>	<u>50,000</u>
General unsecured claims:								
Pentland unsecured claim			5,185,000	5,185,000				
Other unsecured creditors			1,800,000	7,000,000			1,800,000	7,000,000
Total general unsecured claims	9%	2%	<u>6,985,000</u>	<u>12,185,000</u>	32%	3%	<u>1,800,000</u>	<u>7,000,000</u>
Total projected deficiency			<u>\$ (6,384,947)</u>				<u>\$ (1,231,894)</u>	<u>\$ (6,795,894)</u>