

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

In re:

GRACEWAY PHARMACEUTICALS, LLC,
et al.,¹

Debtors.

Chapter 11

Case No. 11-13036 (PJW)

Jointly Administered

JOINT PLAN OF LIQUIDATION OF GRACEWAY PHARMACEUTICALS, LLC, et al.

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Dated: January 25, 2012

¹ The Debtors in these cases, along with the last four digits of each Debtor's federal tax identification number, are: Graceway Pharma Holding Corp., a Delaware corporation (9175), Case No. 11-13037 (PJW); Graceway Holdings, LLC, a Delaware limited liability company (2502), Case No. 11-13038 (PJW); Graceway Pharmaceuticals, LLC, a Delaware limited liability company (5385), Case No. 11-13036 (PJW); Chester Valley Holdings, LLC, a Delaware limited liability company (9457), Case No. 11-13039 (PJW); Chester Valley Pharmaceuticals, LLC, a Delaware limited liability company (3713), Case No. 11-13041 (PJW); Graceway Canada Holdings, Inc., a Delaware corporation (6663), Case No. 11-13042 (PJW); and Graceway International, Inc., a Delaware corporation (2399), Case No. 11-13043 (PJW). The mailing address for Graceway Pharmaceuticals, LLC is 340 Martin Luther King Jr. Blvd., Suite 400, Bristol, TN 37620 (Attn: John Bellamy). On October 4, 2011, Graceway Canada Company filed an application in the Ontario Superior Court of Justice (Commercial List) pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C. 43.

ARTICLE 1 DEFINITIONS, INTERPRETATION AND RULES OF CONSTRUCTION 3

A.	Scope of Definitions	3
B.	Definitions.....	3
1.1	1.0% Holdback Account	3
1.2	363 Sale.....	3
1.3	549 Avoidance Action	3
1.4	549 Avoidance Action Proceeds	3
1.5	Acquired Assets	4
1.6	Administrative Expense Claim	4
1.7	Administrative Expense Claims Bar Date	4
1.8	Affiliate	4
1.9	Allowed Claim or Allowed Interest.....	4
1.10	Allowed [] Claim or Allowed [] Interest.....	5
1.11	Approving Majority First Lien Lenders.....	5
1.12	Asset Purchase Agreement	5
1.13	Assets	5
1.14	Assumed.....	6
1.15	Assumed Liabilities	6
1.16	Assumption Schedule.....	6
1.17	Avoidance Action	6
1.18	Avoidance Action Proceeds.....	6
1.19	Bankruptcy Code	6
1.20	Bankruptcy Court.....	6
1.21	Bankruptcy Rules.....	7
1.22	Bar Date	7
1.23	Beneficiaries	7
1.24	Bid Procedures Order.....	7
1.25	Budget.....	7
1.26	Business Day.....	7
1.27	Canadian Distribution Amount.....	7
1.28	Cash.....	7
1.29	Causes of Action	8
1.30	Causes of Action Proceeds.....	8
1.31	CCR Account	8
1.32	Chapter 11 Cases.....	8
1.33	Claim.....	9
1.34	Class	9
1.35	Committee Settlement.....	9
1.36	Confirmation	9
1.37	Confirmation Date	10
1.38	Confirmation Hearing	10
1.39	Confirmation Order.....	10
1.40	Consenting First Lien Lenders.....	10

1.41	Creditor	10
1.42	Creditor Releasees	10
1.43	Creditors' Committee.....	11
1.44	Debtor(s)	11
1.45	Debtor Releasees.....	11
1.46	Deficiency Claims.....	11
1.47	Designated Account	12
1.48	DIP Order.....	12
1.49	Disclosure Statement	12
1.50	Disputed Claim or Disputed Interest.....	12
1.51	Disputed [] Claim or Disputed [] Interest	13
1.52	Disputed Claims Reserve.....	13
1.53	Effective Date	13
1.54	Employee Account.....	13
1.55	Entity.....	13
1.56	Estate.....	13
1.57	Estate Fund Amount	14
1.58	Face Amount.....	14
1.59	Federal Bankruptcy Rule(s)	14
1.60	File or Filed.....	14
1.61	Final Distribution.....	14
1.62	Final Distribution Date	14
1.63	Final Order	15
1.64	First Lien Available Cash	15
1.65	First Lien Claimholders	16
1.66	First Lien Credit Agreement.....	16
1.67	First Lien Facility Adequate Protection Claim	16
1.68	First Lien Facility Agent.....	16
1.69	First Lien Facility Claim.....	17
1.70	First Lien Facility Deficiency Claim	17
1.71	First Lien Facility Lenders.....	17
1.72	First Lien Facility Secured Claim	17
1.73	First Lien Trust Administrative Fund	17
1.74	General Unsecured Claims	17
1.75	Graceway Canada	17
1.76	Governmental Claims Bar Date.....	18
1.77	Governmental Unit.....	18
1.78	GTCR.....	18
1.79	Impaired	18
1.80	Indemnification Claims.....	18
1.81	Intercreditor Agreement.....	18
1.82	Intercompany Claims	18
1.83	Interest.....	19
1.84	Lazard	19
1.85	Lazard Account.....	19
1.86	Lien	19

1.87	Liquidating Trust	19
1.88	Liquidating Trust Agreement.....	19
1.89	Liquidating Trustee.....	19
1.90	Liquidating Trustee Fee Amount.....	20
1.91	Liquidating Trustee Fees.....	20
1.92	Liquidating Trustee First Lien Fees.....	20
1.93	Mezzanine Credit Agreement	21
1.94	Mezzanine Facility Agent.....	21
1.95	Mezzanine Facility Claim.....	21
1.96	Mezzanine Facility Lenders.....	21
1.97	Nycomed Litigation	21
1.98	Nycomed Litigation Proceeds.....	21
1.99	Old Equity	21
1.100	Old Equity Rights	22
1.101	Order	22
1.102	Other Assets	22
1.103	Other Available Cash.....	23
1.104	Other Priority Claim	23
1.105	Other Secured Claim Liens.....	23
1.106	Other Secured Claims	23
1.107	Overpayment Amount.....	23
1.108	Person.....	23
1.109	Petition Date.....	23
1.110	Plan	24
1.111	Possessory Lienholder Claims	24
1.112	Prepetition Claims Motions	24
1.113	Priority Tax Claim	24
1.114	Pro Rata.....	24
1.115	Professional.....	25
1.116	Professional Claim	25
1.117	Purchaser.....	25
1.118	Released Claims.....	25
1.119	Remaining Contracts.....	25
1.120	Reserve Accounts.....	25
1.121	Sale Allocation Motion.....	25
1.122	Sale Motion.....	26
1.123	Sale Order	26
1.124	Sale Proceeds	26
1.125	Sale Support Agreement	26
1.126	Scheduled.....	27
1.127	Schedules	27
1.128	Second Lien Credit Agreement.....	27
1.129	Second Lien Facility Adequate Protection Claim.....	27
1.130	Second Lien Facility Agent	27
1.131	Second Lien Facility Claim	27
1.132	Second Lien Facility Deficiency Claim.....	27

1.133	Second Lien Facility Lenders	27
1.134	Second Lien Facility Secured Claim.....	28
1.135	Secured Claim.....	28
1.136	Security	28
1.137	Tax Claims.....	28
1.138	Taxes	28
1.139	Trust Administrative Fund.....	28
1.140	Trust Estate or Trust Assets	29
1.141	Unimpaired	29
1.142	United States Trustee	29
1.143	Unsecured Claim.....	29
C.	Rules of Interpretation	29
D.	Computation of Time	31
ARTICLE 2 TREATMENT OF UNCLASSIFIED CLAIMS		31
2.1	Administrative Expense Claims.....	31
2.2	Statutory Fees.....	32
2.3	Professional Claims	32
2.4	Priority Tax Claims.....	33
2.5	Deadline for Filing Administrative Expense Claims	34
ARTICLE 3 CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS		36
A.	General.....	36
B.	Classification.....	36
3.1	Class 1: Other Priority Claims	36
3.2	Class 2: First Lien Facility Claims.....	36
3.3	Class 3: Second Lien Facility Claims	37
3.4	Class 4: Other Secured Claims	37
3.5	Class 5: General Unsecured Claims.....	37
3.6	Class 6: Intercompany Claims	37
3.7	Class 7: Old Equity	37
3.8	Class 8: Old Equity Rights.....	37
ARTICLE 4 IDENTIFICATION OF CLASSES OF CLAIMS AND INTERESTS IMPAIRED AND NOT IMPAIRED BY THE PLAN		37
4.1	Unimpaired Classes of Claims and Interests	37
4.2	Impaired Classes of Claims and Interests	37
ARTICLE 5 PROVISIONS FOR THE TREATMENT OF CLAIMS AND INTERESTS		38

5.1	Class 1 (Other Priority Claims).....	38
5.2	Class 2 (First Lien Facility Claims)	38
5.3	Class 3 (Second Lien Facility Claims).....	39
5.4	Class 4 et seq. (Other Secured Claims).....	40
5.5	Class 5 (General Unsecured Claims)	41
5.6	Class 6 (Intercompany Claims).....	42
5.7	Class 7 (Old Equity).....	42
5.8	Class 8 (Old Equity Rights)	43
ARTICLE 6 TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES		43
6.1	Assumption, Assignment and Rejection Pursuant to the Sale Order	43
6.2	Assumption and Assignment of Remaining Contracts	43
6.3	Cure Payments; Assurance of Performance.....	44
6.4	Objections To Assumption of Remaining Contracts	45
6.5	Rejection	45
6.6	Approval of Rejection; Rejection Damages Claims Bar Date.....	46
ARTICLE 7 MEANS FOR EXECUTION AND IMPLEMENTATION OF THE PLAN		46
7.1	Substantive Consolidation of Claims against Debtors for Plan Purposes Only	46
7.2	The Liquidating Trust	47
7.3	Continuation of the Automatic Stay	49
7.4	Transfer of Equity Interests in Graceway Canada	49
7.5	Committee Settlement.....	50
7.6	Post-Confirmation Operations	50
7.7	Post-Confirmation Funding of Plan.....	50
7.8	Post-Effective Date Funding of Operations	52
7.9	Dissolution of the Debtors	53
7.10	Closing of the Debtors' Chapter 11 Cases.....	53
7.11	Post-Effective Date Cause of Action Settlements	54
7.12	Post-Effective Date Reporting	54
7.13	Cancellation of Existing Securities and Agreements.....	55
7.14	Dissolution of Creditors' Committee.....	55
7.15	Nycomed Litigation Proceeds.....	55
ARTICLE 8 POST-CONFIRMATION LITIGATION		56
8.1	Transfer and Enforcement of Causes of Action.....	56
8.2	Abandonment of Causes of Action and Other Assets of the Debtors.....	57
ARTICLE 9 PROCEDURES FOR TREATMENT OF DISPUTED CLAIMS		57
9.1	Objections to Claims.....	57
9.2	Resolution of Disputed Claims	58
9.3	Amendments to Claims.....	59

9.4	No Distributions Pending Allowance	59
ARTICLE 10	DISTRIBUTIONS	59
10.1	No Duplicate Distributions	59
10.2	Delivery of Distributions in General.....	59
10.3	Cash Payments	60
10.4	Interest on Claims	60
10.5	No De Minimis Distributions.....	60
10.6	Face Amount.....	61
10.7	Undeliverable Distributions	61
10.8	Timing of Distributions.....	61
10.9	Disputed Claims Reserve.....	64
10.10	Compliance with Tax Requirements.....	65
ARTICLE 11	CONDITIONS PRECEDENT	65
11.1	Conditions to Confirmation	65
11.2	Conditions to the Effective Date.....	66
11.3	Termination of Plan for Failure To Become Effective	67
11.4	Waiver of Conditions	67
11.5	Notice of Effective Date	67
ARTICLE 12	EFFECT OF CONFIRMATION	67
12.1	Jurisdiction of Court	67
12.2	Binding Effect.....	68
12.3	Term of Pre-Confirmation Injunctions or Stays	68
12.4	Injunction Against Interference with Plan	68
12.5	Exculpation	68
12.6	Injunction	71
12.7	Releases by Debtors	72
12.8	Releases by Holders of Claims and Interests.....	72
12.9	Limitation of Liability.....	73
ARTICLE 13	RETENTION OF JURISDICTION	73
13.1	Scope of Bankruptcy Court Jurisdiction.....	73
ARTICLE 14	ACCEPTANCE OR REJECTION OF THE PLAN	76
14.1	Persons Entitled to Vote.....	76
14.2	Acceptance by Impaired Classes	76
14.3	Request for Non-Consensual Confirmation.....	77
ARTICLE 15	MISCELLANEOUS PROVISIONS.....	77
15.1	Effectuating Documents and Further Transactions.....	77

15.2	Corporate Action.....	77
15.3	Payment of Statutory Fees	78
15.4	Modification of the Plan	78
15.5	Revocation of the Plan	78
15.6	Governing Law	78
15.7	No Admissions.....	78
15.8	Severability of Plan Provisions.....	79
15.9	Successors and Assigns.....	79
15.10	Exemption from Certain Transfer Taxes	79
15.11	Preservation of Rights of Setoffs	80
15.12	Defenses with Respect to Unimpaired Claims.....	80
15.13	No Injunctive Relief.....	80
15.14	Saturday, Sunday or Legal Holiday	80
15.15	Entire Agreement	80
15.16	Dissolution of Creditors' Committee.....	81
15.17	Notices	81

Exhibits

- 1.** List of Debtors
- 2.** Liquidating Trust Agreement
- 3.** Assumption Schedule

INTRODUCTION

Graceway Pharmaceuticals, LLC (“Graceway”), a Delaware limited liability company, and its Affiliates and Subsidiaries listed on Exhibit 1 hereto (collectively with Graceway, the “Debtors”) propose the Joint Plan of Liquidation of Graceway Pharmaceuticals, LLC, et al. (the “Plan”) for the resolution and satisfaction of all Claims against and Interests in the Debtors. The Debtors are the proponents of this Plan within the meaning of Section 1129 of the Bankruptcy Code. All capitalized terms not defined in this introduction have the meanings ascribed to them in Article 1 of this Plan. Reference is made to the Disclosure Statement, distributed contemporaneously herewith, for a discussion of the Debtors’ history, businesses, resolution of material disputes, significant asset sales, financial projections for the liquidation and distribution of the Debtors’ remaining Assets and a summary and analysis of the Plan and certain related matters.

This is a liquidating Plan pursuant to which substantially all of the Debtors’ Assets are to be transferred to a liquidating trust (subject to existing Liens and encumbrances, to the extent specified in the Plan) that will liquidate such Assets and make distributions to holders of Allowed Claims, whose Claims against the Debtors will be exchanged for a beneficial interest in the Liquidating Trust.

The Plan is premised on the substantive consolidation of the Debtors with respect to the voting and treatment of all Claims and Interests other than Other Secured Claims, as provided below. The Plan does not contemplate substantive consolidation of the Debtors with respect to Other Secured Claims against the Debtors, which Claims shall apply separately with respect to each Plan proposed by each Debtor. If the Plan cannot be confirmed as to some or all of the Debtors, in the Debtors’ sole discretion after consultation with the First Lien Facility

Agent, the Second Lien Facility Agent and the Creditors' Committee, (a) the Plan may be revoked as to all of the Debtors, or (b) the Debtors may revoke the Plan as to any Debtor not satisfying the cramdown requirements of Section 1129(b)(7) of the Bankruptcy Code (and any such Debtor's Chapter 11 Case being converted to a chapter 7 liquidation, continued or dismissed in the Debtors' sole discretion after consultation with the First Lien Facility Agent, the Second Lien Facility Agent and the Creditors' Committee) and confirmed as to the remaining Debtors. A list of each Debtor who is a proponent of the Plan and its corresponding Chapter 11 Case docket number is attached hereto as Exhibit 1.

Under Section 1125(b) of the Bankruptcy Code, a vote to accept or reject the Plan cannot be solicited from holders of Claims and/or Interests until such time as the Disclosure Statement has been approved by the Bankruptcy Court. The Debtors urge all holders of Claims entitled to vote on the Plan to read the Plan and the Disclosure Statement in their entirety before voting to accept or reject the Plan. To the extent, if any, that the Disclosure Statement is inconsistent with the Plan, the Plan will govern. No solicitation materials other than the Disclosure Statement and any schedules and exhibits attached thereto or referenced therein, or otherwise enclosed with the Disclosure Statement served by the Debtors on interested parties, have been authorized by the Debtors or the Bankruptcy Court for use in soliciting acceptances of the Plan. Subject to certain restrictions and requirements set forth in Section 1127 of the Bankruptcy Code and Federal Bankruptcy Rule 3019, the Debtors expressly reserve the right, after consultation with the First Lien Facility Agent, the Second Lien Facility Agent and the Creditors' Committee, to alter, amend, modify, revoke, or withdraw this Plan prior to its substantial consummation.

ARTICLE 1
DEFINITIONS, INTERPRETATION AND RULES OF CONSTRUCTION

A. Scope of Definitions. For the purposes of this Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms not otherwise defined shall have the meanings ascribed to them in Article 1 of this Plan. Any term used in this Plan that is not defined herein, but is defined in the Bankruptcy Code or the Federal Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Federal Bankruptcy Rules, respectively. Whenever the context requires, capitalized terms shall include the plural as well as the singular number, the masculine gender shall include the feminine, and the feminine gender shall include the masculine.

B. Definitions. In addition to such other terms as are defined in other Sections of the Plan, the following terms (which appear in the Plan as capitalized terms) shall have the meanings ascribed to them in this Article 1 of the Plan.

1.1 1.0% Holdback Account means the account into which \$4,213,125.55 of the Sale Proceeds was deposited on December 2, 2011 pursuant to paragraph 30(vi) of the Sale Order.

1.2 363 Sale means the sale approved under the Sale Order and consummated on December 2, 2011.

1.3 549 Avoidance Action means any avoidance or equitable subordination or recovery actions under Bankruptcy Code Section 549, but excluding Released Claims.

1.4 549 Avoidance Action Proceeds means the proceeds of any 549 Avoidance Actions actually received by the Debtors' Estates or the Liquidating Trust, whether obtained through litigation, settlement or otherwise.

1.5 Acquired Assets means “Acquired Assets,” as defined in the Asset Purchase Agreement.

1.6 Administrative Expense Claim means any right to payment for any cost or expense of administration of the Debtors’ Chapter 11 Cases asserted or arising under Sections 503, 507(a)(2), or 507(b) of the Bankruptcy Code, including, any (i) actual and necessary cost or expense of preserving the Debtors’ Estates or operating the business of the Debtors arising on or after the Petition Date, (ii) payment to be made under this Plan to cure a default on an executory contract or unexpired lease that has been assumed on or after the Petition Date (and prior to the occurrence of such default) pursuant to Section 365 of the Bankruptcy Code, (iii) cost, indebtedness or contractual obligation duly and validly incurred or assumed by the Debtors in the ordinary course of business arising on or after the Petition Date, (iv) compensation or reimbursement of expenses of Professionals arising on or after the Petition Date, to the extent allowed by the Bankruptcy Court under Section 330(a) or Section 331 of the Bankruptcy Code, including, without limitation, all Allowed Professional Claims, and (v) fees or charges assessed against the Debtors’ Estates under Section 1930 of title 28 of the United States Code.

1.7 Administrative Expense Claims Bar Date means the first Business Day that is at least thirty-five (35) days following the Effective Date or such other date ordered by the Bankruptcy Court.

1.8 Affiliate shall have the meaning set forth in Section 101(2) of the Bankruptcy Code.

1.9 Allowed Claim or Allowed Interest means a Claim against or Interest in any of the Debtors or any portion thereof (i) that has been allowed by a Final Order, (ii) as to which, on or by the Effective Date, (a) no proof of Claim or Interest has been Filed with the

Bankruptcy Court and (b) the liquidated and noncontingent amount of which is Scheduled, other than a Claim or Interest that is Scheduled at zero, in an unknown amount, or as disputed, (iii) for which a proof of Claim or Interest in a liquidated amount has been timely Filed with the Bankruptcy Court pursuant to the Bankruptcy Code and as to which either (a) no objection to its allowance has been Filed within the applicable periods of limitation fixed by the Plan, the Bankruptcy Code, or by any Order of the Bankruptcy Court sought pursuant to Section 9.1 of the Plan or otherwise entered by the Bankruptcy Court or (b) any objection to its allowance has been settled or withdrawn, or has been denied by a Final Order, or (iv) that is expressly allowed in the Plan.

1.10 Allowed [] Claim or Allowed [] Interest means an Allowed Claim or Allowed Interest in the particular category or Class identified.

1.11 Approving Majority First Lien Lenders means at least two First Lien Facility Lenders holding in aggregate a majority of the then outstanding First Lien Facility Claims held by the Consenting First Lien Lenders.

1.12 Asset Purchase Agreement means the Asset Purchase Agreement dated as of November 18, 2011, between the Debtors, Purchaser and Graceway Canada, as amended, and all other documentation related thereto or contemplated thereby.

1.13 Assets means all legal or equitable prepetition and post-petition interests of the Debtors or, to the extent transferred and assigned by the Debtors to the Liquidating Trust pursuant to Section 7.2.3 below on the Effective Date, all legal or equitable interests of the Liquidating Trust, in any and all real or personal property of any nature, including any real estate, buildings, structures, improvements, privileges, rights, easements, leases, subleases, licenses, goods, materials, supplies, furniture, fixtures, equipment, work in process, accounts,

chattel paper, tax refunds, net operating losses, Cash, deposit accounts, reserves, deposits, equity interests, contractual rights, intellectual property rights, Claims, Causes of Action (including, without limitation, Avoidance Actions), assumed executory contracts and unexpired leases, other general intangibles, and the proceeds, products, offspring, rents or profits thereof.

1.14 Assumed (including the term “Assumption” and any variants and derivatives thereof) means assumed by the Purchaser pursuant to the Asset Purchase Agreement.

1.15 Assumed Liabilities means “Assumed Liabilities,” as defined in the Asset Purchase Agreement.

1.16 Assumption Schedule has the meaning given to such term in Section 6.2 of the Plan.

1.17 Avoidance Action means any avoidance or equitable subordination or recovery actions under Bankruptcy Code Sections 105, 502(d), 510, 542, 543, 544, 545, 546, 547, 548, 550, 551, and 553 and any other avoidance or similar action under the Bankruptcy Code or similar law of any state or foreign jurisdiction, but excluding Released Claims and 549 Avoidance Actions.

1.18 Avoidance Action Proceeds means the proceeds of any Avoidance Actions actually received by the Debtors’ Estates or the Liquidating Trust, whether obtained through litigation, settlement or otherwise.

1.19 Bankruptcy Code means title 11 of the United States Code, as in effect on the Petition Date and as thereafter amended, as applicable in the Chapter 11 Cases.

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

1.21 Bankruptcy Rules means the Federal Bankruptcy Rules and the Local Bankruptcy Rules for the District of Delaware, as in effect on the Petition Date and as thereafter amended, as applicable from time to time in the Chapter 11 Cases.

1.22 Bar Date means December 30, 2011, which was established by the Bankruptcy Court as the deadline for filing proofs of Claims relating to prepetition Claims against the Debtors.

1.23 Beneficiaries means the holders of Allowed Claims as may be determined from time to time in accordance with the Plan and the Liquidating Trust Agreement, each of whom shall receive beneficial interests in the Liquidating Trust.

1.24 Bid Procedures Order means the Order Approving and Authorizing (A) Bidding Procedures in Connection with the Sale of Certain Assets of the Debtors, (B) Stalking Horse Bid Protections, (C) the Form and Manner of Notice of the Sale Hearing and (D) Related Relief [Docket No. 119].

1.25 Budget means the “Approved Budget” as defined in the DIP Order, as amended from time to time.

1.26 Business Day means any day other than a Saturday, Sunday or a “legal holiday” (as such term is defined in Federal Bankruptcy Rule 9006(a)(6)).

1.27 Canadian Distribution Amount means the aggregate amount of Cash, if any, distributed by Graceway Canada to the Debtors on account of the Debtors’ equity interests in Graceway Canada after payment in full of all creditors of Graceway Canada.

1.28 Cash means legal tender accepted in the United States of America for the payment of public and private debts, currently denominated in United States Dollars.

1.29 Causes of Action means, without limitation, any and all actions, causes of action, Avoidance Actions, 549 Avoidance Actions, controversies, liabilities, obligations, rights, suits, damages, judgments, Claims and demands whatsoever owned by any of the Debtors, whether known or unknown, reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, whether assertable directly, indirectly, derivatively or in any representative or other capacity, existing or hereafter arising, in law, equity, or otherwise, based in whole or in part upon any act, failure to act, error, omission, transaction, occurrence or other event arising or occurring prior to the Petition Date or during the course of the Chapter 11 Cases, through and including the Effective Date, including, without limitation, the Debtors' rights under the Asset Purchase Agreement to the Nycomed Litigation Proceeds, but excluding Released Claims.

1.30 Causes of Action Proceeds means the proceeds of any Causes of Action actually received by the Debtors' Estates or the Liquidating Trust, whether obtained through litigation, settlement or otherwise.

1.31 CCR Account means the "CCR Account," as defined in the Sale Order, into which \$17,684,000 was deposited on December 2, 2011 and in which approximately \$17,289,344.44 remains as of the date hereof for the sole purpose of paying liabilities permitted by the Budget and/or the Sale Support Agreement on account of chargebacks, channel management agreements, product returns and rebates constituting (a) Allowed Claims authorized to be paid by the Bankruptcy Court pursuant to the Orders approving the Prepetition Claims Motions or (b) Allowed Administrative Expense Claims.

1.32 Chapter 11 Cases means the chapter 11 cases of the Debtors pending before the Bankruptcy Court as set forth in Exhibit 1 hereto and as being jointly administered

with one another under Case No. 11-13036 (PJW), and as to any Debtor individually, a Chapter 11 Case.

1.33 Claim has the meaning ascribed to such term in Section 101(5) of the Bankruptcy Code, as construed by Section 102(2) of the Bankruptcy Code.

1.34 Class means a group of Claims or Interests as classified in a particular class under the Plan pursuant to Section 1122 of the Bankruptcy Code.

1.35 Committee Settlement means the settlement of the objections of the Creditors' Committee to the Sale Motion and the Sale Allocation Motion set forth on the record at the hearing on the Sale Motion and the Sale Allocation Motion on November 22, 2011, pursuant to which (a) the First Lien Facility Agent agreed to release its Liens and Claims, including the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim, on the Estate Fund Amount, the Liquidating Trustee Fee Amount and 25% of all Avoidance Action Proceeds other than 549 Avoidance Action Proceeds, and the First Lien Facility Agent (for the benefit of the First Lien Claimholders) received in exchange therefor any Canadian Distribution Amount in excess of the Estate Fund Amount, 75% of all Avoidance Action Proceeds and 100% of all 549 Avoidance Action Proceeds, all in accordance with the terms of this Plan; and (b) the Creditors' Committee agreed not to assert any Claim or Cause of Action against the First Lien Facility Agent or the First Lien Facility Lenders.

1.36 Confirmation means entry of the Confirmation Order by the Bankruptcy Court.

1.37 Confirmation Date means the date on which the Bankruptcy Court enters the Confirmation Order on its docket, within the meaning of Federal Bankruptcy Rules 5003 and 9021.

1.38 Confirmation Hearing means the duly noticed hearing held by the Bankruptcy Court to consider Confirmation of the Plan pursuant to Bankruptcy Code Section 1128, including any continuances thereof.

1.39 Confirmation Order means the Order of the Bankruptcy Court confirming the Plan pursuant to Section 1129 of the Bankruptcy Code in form and substance reasonably acceptable to the Debtors and the First Lien Facility Agent.

1.40 Consenting First Lien Lenders means each of the First Lien Facility Lenders party to the Sale Support Agreement.

1.41 Creditor means any Entity who holds a Claim against any of the Debtors.

1.42 Creditor Releasees means (i) the officers, directors, shareholders, members and/or enrollees, employees, representatives, advisors, attorneys, financial advisors, investment bankers, or agents of the Debtors (including their estates and beneficiaries), in each case as of the Petition Date or that have become officers and/or directors thereafter, including GTCR; (ii) the members of the Creditors' Committee, solely with respect to each member's conduct in furtherance of its, his, or her duties as a member of the Creditors' Committee, and not with respect to the actions of such members as individual creditors, and its agents, attorneys and other professionals acting in conjunction with the Chapter 11 Cases, and the Creditors' Committee's agents, attorneys and other professionals; (iii) the Liquidating Trustee; (iv) the First Lien Facility Agent and its agents, attorneys and other professionals; (v) the First Lien Facility Lenders in their capacity as such; (vi) the Second Lien Facility Agent and its agents, attorneys

and other professionals; (vii) the Second Lien Facility Lenders; and (viii) the Debtors' Affiliates and their officers and directors, including GTCR.

1.43 Creditors' Committee means the statutory committee of unsecured creditors appointed in the Chapter 11 Cases pursuant to Bankruptcy Code Section 1102.

1.44 Debtor(s) means, individually, Graceway Pharmaceuticals, LLC and each other Debtor listed on Exhibit 1 hereto and, collectively, all of them, including in their capacity as debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

1.45 Debtor Releasees means (i) the officers, directors, shareholders, members and/or enrollees, employees, representatives, advisors, attorneys, financial advisors, investment bankers, or agents of the Debtors (including their estates and beneficiaries), in each case as of the Petition Date or that have become officers and/or directors thereafter, including GTCR.; (ii) the members of the Creditors' Committee, solely with respect to each member's conduct in furtherance of its, his, or her duties as a member of the Creditors' Committee, and not with respect to the actions of such members as individual creditors, and its agents, attorneys and other professionals acting in conjunction with the Chapter 11 Cases, and the Creditors' Committee's agents, attorneys and other professionals; (iii) the Liquidating Trustee; (iv) the First Lien Facility Agent and its agents, attorneys and other professionals; (v) the First Lien Facility Lenders in their capacity as such; (vi) the Second Lien Facility Agent and its agents, attorneys and other professionals; (vii) the Second Lien Facility Lenders; and (viii) the Debtors' Affiliates and their officers and directors, including GTCR.

1.46 Deficiency Claims means with respect to any Claim secured by a Lien in any property of any Debtor having a value of less than the amount of such Claim (after taking into account other Liens of higher priority in such property), the portion of such Claim equal to

the difference between (a) the allowed amount of the Claim and (b) the allowed amount of the secured portion of such Claim (which allowed secured amount may be set pursuant to this Plan).

1.47 Designated Account means the “Designated Account,” as defined in the Sale Order, into which approximately \$4,410,193.60 was deposited on December 2, 2011 and in which an aggregate of approximately \$18,002,063.72 remains as of the date hereof.

1.48 DIP Order means the Final Order (i) Authorizing Debtors to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363; (ii) Granting Adequate Protection to Prepetition Secured Parties Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364; and (iii) Authorizing Debtors to Obtain Postpetition Financing Pursuant to 11 U.S.C. § 364, as supplemented or amended from time to time [Docket No. 219].

1.49 Disclosure Statement means that certain written disclosure statement that relates to this Plan as Filed in the Chapter 11 Cases by the Debtors, including the schedules and exhibits attached thereto, as may be amended, modified or supplemented from time to time, as approved by the Bankruptcy Court pursuant to Section 1125 of the Bankruptcy Code.

1.50 Disputed Claim or Disputed Interest means a Claim or Interest, respectively, that is not an Allowed Claim or Allowed Interest, as applicable, and that either (i) the Debtors have Scheduled as “disputed,” “contingent” or “unliquidated,” or (ii) as to which a proof of Claim or Interest has been Filed or deemed Filed as contingent and as to which an objection has been or may be timely Filed by the Debtors, the Liquidating Trustee or any other party in interest entitled to do so, which objection, if timely Filed, has not been withdrawn and has not been overruled or denied by a Final Order. For purposes of this definition, Disputed Claims shall include any actual or estimated Administrative Expense Claims, Professional Claims, Priority Tax Claims or Other Priority Claims that have not been paid in full in Cash as of

the Effective Date and any actual or estimated Other Secured Claims that have not been treated in accordance with Section 5.4 of this Plan as of the Effective Date.

1.51 Disputed [] Claim or Disputed [] Interest means a Disputed Claim or Disputed Interest in the particular category or Class identified

1.52 Disputed Claims Reserve has the meaning given to such term in Section 10.9 of the Plan.

1.53 Effective Date means the date that is the first Business Day following occurrence of the Confirmation Date on which all conditions to the Effective Date set forth in Article 11 of the Plan have been satisfied or, if waivable, waived pursuant to Section 11.4 of the Plan.

1.54 Employee Account means the “Employee Account,” as defined in the Sale Order, into which \$2,593,647.29 was deposited on December 2, 2011 and in which approximately \$965,687.11 remains as of the date hereof for purposes of funding the Debtors’ employee severance and benefits liabilities to the extent approved by the Orders approving the Prepetition Claims Motions and permitted by the Budget and/or the Sale Support Agreement.

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

1.56 Estate means, with regard to each Debtor, the estate that was created by the commencement by such Debtor of its Chapter 11 Case pursuant to Section 541 of the Bankruptcy Code, and shall be deemed to include, without limitation, any and all rights, powers, and privileges of such Debtor and any and all Assets and Interests in property, whether real, personal or mixed, rights, Causes of Action, avoidance powers or extensions of time that such Debtor or such estate shall have had as of the Petition Date, or which such Estate acquired after

the commencement of the Chapter 11 Case, whether by virtue of Sections 541, 544, 545, 546, 547, 548, 549 or 550 of the Bankruptcy Code, or otherwise. “Estates” has a correlative meaning.

1.57 Estate Fund Amount means an amount equal to \$10,000,000 to be available to the Debtors’ estates free and clear of all Liens and Claims of the First Lien Facility Agent, including First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim. The Estate Fund Amount shall be funded as follows: (i) first, from the first \$10,000,000 of the Canadian Distribution Amount received by the Debtors; (ii) second, solely to the extent the Canadian Distribution Amount is less than \$10,000,000, from the 1.0% Holdback Account; and (iii) finally, solely to the extent the sum of the Canadian Distribution Amount and the funds in the 1.0% Holdback Account is less than \$10,000,000, from the Sale Proceeds distributed to the First Lien Facility Agent pursuant to the Sale Order.

1.58 Face Amount has the meaning given to such term in Section 10.6 of the Plan.

1.59 Federal Bankruptcy Rule(s) means, collectively, the Federal Rules of Bankruptcy Procedure, as in effect on the Petition Date and as thereafter amended, as applicable in the Chapter 11 Cases, and individually, a particular Federal Rule of Bankruptcy Procedure.

1.60 File or Filed means file or filed with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

1.61 Final Distribution has the meaning given to such term in Section 10.8.3 of the Plan.

1.62 Final Distribution Date has the meaning given to such term in Section 10.8.3 of the Plan.

1.63 Final Order means an Order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in any Chapter 11 Case or the docket of any other court of competent jurisdiction, (i) that has not been reversed, stayed, modified or amended, (ii) as to which the time to appeal or seek certiorari or move for a new trial, reargument or rehearing has expired, and no appeal or petition for certiorari or other proceedings for a new trial, reargument or rehearing has been timely taken, or (iii) as to which any appeal that has been taken or any petition for certiorari that has been timely filed has been withdrawn or resolved by the highest court to which the Order or judgment was appealed or from which certiorari was sought or the new trial, reargument or rehearing has been denied or resulted in no modification of such Order; *provided, however*, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or applicable state court rules of civil procedure, may be Filed with respect to such Order, shall not cause such Order not to be a Final Order.

1.64 First Lien Available Cash means (i) any Canadian Distribution Amount remaining after the Estate Fund Amount is fully funded, (ii) any Cash in the 1.0% Holdback Account after the Estate Fund Amount is fully funded, (iii) any Cash in the CCR Account after payment, to the extent permitted by the Budget and/or the Sale Support Agreement, of all liabilities on account of chargebacks, channel management agreements, product returns and rebates constituting (a) Allowed Claims authorized to be paid by the Bankruptcy Court pursuant to the Orders approving the Prepetition Claims Motions or (b) Allowed Administrative Expense Claims, (iv) any Cash in the Employee Account after payment of severance and benefits approved in the Orders approving the Prepetition Claims Motion and permitted by the Budget and/or Sale Support Agreement, (v) any Cash in the Lazard Account after paying the Allowed

Professional Fees of Lazard, and (vi) any other Cash of the Debtors (whether deposited in the Designated Account or otherwise and including the Overpayment Amount) in excess of the amounts required to be set aside for payment of all Allowed Administrative Expense Claims, Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of this Plan), Allowed Priority Tax Claims, Allowed Other Priority Claims and any cure costs for executory contracts or unexpired leases on the Assumption Schedule pursuant to the Budget and/or the Sale Support Agreement, other than any such Claims on account of (A) chargebacks, channel management agreements, product returns and rebates or (B) employee severance and benefits payable from the Employee Account. For the avoidance of doubt, First Lien Available Cash shall exclude the Other Assets.

1.65 First Lien Claimholders means the “First Lien Claimholders” as defined in the DIP Order.

1.66 First Lien Credit Agreement means that certain \$680,000,000 First Lien Credit Agreement dated as of May 3, 2007, among, *inter alia*, Graceway Pharmaceuticals, LLC, as borrower, Graceway Holdings, LLC, the First Lien Facility Lenders, and the First Lien Facility Agent.

1.67 First Lien Facility Adequate Protection Claim means the Claims of the First Lien Claimholders under Section 507(b) of the Bankruptcy Code and Section 4(b) of the DIP Order, if any.

1.68 First Lien Facility Agent means Bank of America, N.A., as administrative agent for the First Lien Facility Lenders and collateral agent for the First Lien Claimholders, or any successor thereto.

1.69 First Lien Facility Claim means the First Lien Facility Secured Claim, any First Lien Facility Deficiency Claim and any First Lien Facility Adequate Protection Claim.

1.70 First Lien Facility Deficiency Claim means any Deficiency Claim with respect to the First Lien Facility Secured Claim.

1.71 First Lien Facility Lenders means the “Lenders” as defined in the First Lien Credit Agreement.

1.72 First Lien Facility Secured Claim means the Secured Claims of the First Lien Claimholders under the First Lien Credit Agreement and the DIP Order. For the avoidance of doubt, to the extent the value of the Assets that secure the First Lien Facility Secured Claim exceed the amount of the First Lien Facility Secured Claim before taking into account post-petition interest, the First Lien Facility Secured Claim shall include post-petition interest.

1.73 First Lien Trust Administrative Fund shall have the meaning specified in Section 4.1 of the Liquidating Trust Agreement and shall be funded solely in accordance with Section 7.8 below.

1.74 General Unsecured Claims means all Unsecured Claims against the Debtors, including, without limitation, the Mezzanine Facility Claim and any Second Lien Facility Deficiency Claim, but excluding any First Lien Facility Deficiency Claim, the Intercompany Claims and the Old Equity Rights.

1.75 Graceway Canada means Graceway Canada Company, a non-Debtor Affiliate of the Debtors, which filed an application in the Ontario Superior Court of Justice (Commercial List) pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C. 43 on October 4, 2011.

1.76 Governmental Claims Bar Date means March 27, 2012, which was established by the Bankruptcy Court as the deadline for filing proofs of Claims relating to prepetition Claims against the Debtors.

1.77 Governmental Unit shall have the meaning ascribed to it in Section 101(27) of the Bankruptcy Code.

1.78 GTCR means GTCR Partners VIII, L.P., GTCR Golder Rauner II, L.L.C., GTCR Fund VIII, L.P., Fund VIII/B Graceway Splitter, L.P., GTCR Co-Invest II, L.P., GTCR Fund IX/A, L.P., Fund IX/B Graceway Splitter, L.P., GTCR Co-Invest III, L.P., and any affiliates of the foregoing.

1.79 Impaired shall have the meaning ascribed to it in Section 1124 of the Bankruptcy Code when used with reference to a Claim or an Interest.

1.80 Indemnification Claims means the obligations of the Debtors, or any one of them, pursuant to their certificates of incorporation or other charter documents, bylaws, applicable law, any employment agreement or other express agreement operational as of the Petition Date to indemnify any of their current and former officers and directors, on the terms and subject to the limitations described therein.

1.81 Intercreditor Agreement means the Intercreditor Agreement dated as of May 3, 2007, among Graceway Holdings, LLC, Graceway Pharmaceuticals, LLC, the First Lien Facility Agent, the Second Lien Facility Agent and Goldman Sachs Credit Partners, L.P. as Control Agent.

1.82 Intercompany Claims means the Claims of a Debtor against any other Debtor, and shall exclude any Claims of a Debtor against a non-Debtor Affiliate.

1.83 Interest means the legal, equitable, contractual and other rights of the holders of Old Equity and Old Equity Rights.

1.84 Lazard means Lazard Frères & Co. LLC.

1.85 Lazard Account means the “Lazard Account,” as defined in the Sale Order, into which \$2,481,250.00 was deposited on December 2, 2011 for the payment of the sale transaction fee due and owing to Lazard pursuant to the terms of that certain engagement letter, dated March 12, 2010, between Lazard and Graceway Pharmaceuticals, LLC in connection with the 363 Sale.

1.86 Lien means with respect to any Asset, any mortgage, deed of trust, deed to secure debt, lien (statutory or otherwise), pledge, hypothecation, encumbrance, collateral assignments, charge or security interest in, on or of such Asset.

1.87 Liquidating Trust means the liquidating trust established pursuant to the Liquidating Trust Agreement further described in Section 7.2 hereof, which shall act through the Liquidating Trustee.

1.88 Liquidating Trust Agreement means the Liquidating Trust Agreement dated as of the Effective Date among the Debtors and the Liquidating Trustee, a copy of which is attached hereto as Exhibit 2 and incorporated herein by reference, and all supplements and amendments thereto.

1.89 Liquidating Trustee means the Person appointed and serving from time to time as Liquidating Trustee under the Liquidating Trust Agreement, acting in his capacity as such on behalf of the Liquidating Trust. The initial Liquidating Trustee shall be Kip Horton of RPA Advisors, LLC.

1.90 Liquidating Trustee Fee Amount means \$150,000, which shall be funded into the Trust Administrative Fund by the First Lien Facility Agent from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled and shall be free and clear of all Liens and Claims of the First Lien Facility Agent or the First Lien Claimholders, including the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim.

1.91 Liquidating Trustee Fees means the reasonable fees and out-of-pocket expenses of the Liquidating Trustee and any attorneys or other professionals hired by the Liquidating Trustee other than Liquidating Trustee First Lien Fees, in each case, payable in accordance with the terms and conditions of the Liquidating Trust Agreement solely from the Liquidating Trustee Fee Amount and the Other Assets.

1.92 Liquidating Trustee First Lien Fees means the reasonable fees and out-of-pocket expenses of the Liquidating Trustee and any attorneys or other professionals hired by the Liquidating Trustee, in each case, payable in accordance with the terms and conditions of the Liquidating Trust Agreement, incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash, in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims, which shall be funded into the First Lien Trust Administrative Fund by the First Lien Facility Agent from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled.

1.93 Mezzanine Credit Agreement means that certain \$70,000,000 Mezzanine Credit Agreement dated as of May 3, 2007, among, *inter alia*, Graceway Pharmaceuticals, LLC, Graceway Holdings, LLC, the Mezzanine Facility Lenders, Goldman Sachs Credit Partners L.P., as administrative agent, joint lead arranger, joint lead book manager and syndication agent, Deutsche Bank Trust Company Americas, as joint lead arranger, and Deutsche Bank Securities Inc. and Banc of America Securities LLC, as joint lead book managers.

1.94 Mezzanine Facility Agent means Goldman Sachs Credit Partners L.P., as administrative agent for the Mezzanine Facility Lenders, or any successor thereto.

1.95 Mezzanine Facility Claim means the Claim of the Mezzanine Facility Agent on behalf of the Mezzanine Facility Lenders under the Mezzanine Credit Agreement.

1.96 Mezzanine Facility Lenders means the “Lenders” as defined in the Mezzanine Credit Agreement.

1.97 Nycomed Litigation means Graceway Pharmaceuticals, LLC and 3M Innovative Properties Company v. Perrigo Company, Perrigo Israel Pharmaceuticals, Ltd. and Nycomed U.S. Inc., Civil Action No. 10-937 (WJM)(MF) in the United States District Court for the District of New Jersey.

1.98 Nycomed Litigation Proceeds means the portion of the proceeds of the Nycomed Litigation to which the Debtors are entitled pursuant to the Asset Purchase Agreement.

1.99 Old Equity means any outstanding or retired ownership interests in any of the Debtors, including interests evidenced by stock, membership interests or their equivalents, but excluding the Old Equity Rights.

1.100 Old Equity Rights means any calls, rights, puts, awards, commitments, repurchase rights, unvested or unexercised options, warrants, unvested common, preferred or other interests or any other agreement of any character related to Old Equity, obligating any of the Debtors to issue, transfer, purchase, redeem, or sell any common, preferred or other interests or securities, any rights under any equity incentive plans, voting agreements, investor agreements and registration rights agreements regarding common, preferred or other interests or equity securities of any of the Debtors, any Claims arising from the rescission of a purchase, sale or other acquisition of any outstanding common, preferred, membership or other interests or equity securities (or any right, Claim, or interest in and to any common, preferred, membership or other interests or equity securities) of any of the Debtors, any Claims for the payment of any distributions with respect to any common, preferred, membership or other interests or equity securities of any of the Debtors, and any Claims for damages or any other relief arising from the purchase, sale, or other acquisition of the outstanding common, preferred, membership or other interests or equity securities of any of the Debtors.

1.101 Order means an order of judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in any Chapter 11 Case or the docket of any other court of competent jurisdiction.

1.102 Other Assets means the following Assets, which Assets shall be provided to the Debtors' Estates free and clear of the Liens and Claims of the First Lien Facility Agent, including the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim:

- (i) the Estate Fund Amount;
- (ii) the Liquidating Trustee Fee Amount;

(iii) 25% of Avoidance Action Proceeds; and

(iv) after payment in full of any First Lien Facility Adequate Protection Claim and any Second Lien Facility Adequate Protection Claim, any other Assets upon which there are no Liens.

1.103 Other Available Cash means the Other Assets, less the amount of Other Assets deposited in the Trust Administrative Fund and the Disputed Claims Reserve.

1.104 Other Priority Claim means any Claim, other than an Administrative Expense Claim or a Priority Tax Claim, of a Creditor to the extent such Claim is entitled to priority pursuant to Bankruptcy Code Section 507(a).

1.105 Other Secured Claim Liens means the valid, perfected and enforceable Liens relating to the Allowed Other Secured Claims.

1.106 Other Secured Claims means all Secured Claims against the Debtors other than the First Lien Facility Secured Claim and the Second Lien Facility Secured Claim; *provided, however*, that any Secured Claim that is an Assumed Liability has been Assumed and shall be satisfied in accordance with the Asset Purchase Agreement and shall not receive distributions pursuant to this Plan.

1.107 Overpayment Amount has the meaning given to such term in Section 2.3 of the Plan.

1.108 Person means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a joint venture, an unincorporated organization, or a Governmental Unit.

1.109 Petition Date means September 29, 2011.

1.110 Plan means this joint plan of liquidation of the Debtors and all exhibits annexed hereto or referenced herein, as may be amended, modified or supplemented from time to time in accordance with the provisions of the Plan or the Bankruptcy Code and Bankruptcy Rules.

1.111 Possessory Lienholder Claims means all Claims held by Persons to the extent such Claims are deemed to be secured, through a possessory Lien, in property in which any Estate has an interest, but only to the extent of the value of the possessory lienholders' interest in the Estate's interest in such property as of the Effective Date.

1.112 Prepetition Claims Motions means those certain documents, motions and pleadings, filed by the Debtors with the Bankruptcy Court on the Petition Date, pursuant to which the Debtors sought authorization to pay the prepetition obligations specifically described therein or any motions filed by the Debtors after the Petition Date consented to by the Approving Majority First Lien Lenders that seek authorization to pay the prepetition obligations specifically described therein.

1.113 Priority Tax Claim means any Claim entitled to priority pursuant to Bankruptcy Code Section 507(a)(8).

1.114 Pro Rata means proportionately so that the ratio of the amount of consideration distributed on account of a particular Allowed Claim to the amount of the Allowed Claim is the same as the ratio of the amount of consideration distributed on account of all Allowed Claims of the Class in which the particular Allowed Claim is included to the amount of all Allowed Claims of that Class, but in any event the amount of consideration distributed on account of an Allowed Claim shall not exceed 100% of the amount of the Allowed Claim.

1.115 Professional means a Person employed in the Debtors' Chapter 11 Cases 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 Effective Date, pursuant to Sections 327, 328, 329, 330, 331 and 363 of the Bankruptcy Code.

1.116 Professional Claim means a Claim of a Professional retained in the Debtors' Chapter 11 Cases by the Debtors or the Creditors' Committee pursuant to a Final Order in accordance with Sections 327 or 1103 of the Bankruptcy Code or otherwise, for compensation or reimbursement of actual and necessary costs and expenses relating to services incurred after the Petition Date and prior to and including the Effective Date pursuant to Sections 327, 328, 329, 330, 331 and 363 of the Bankruptcy Code.

1.117 Purchaser means the purchaser of all or substantially all of the Debtors' Assets pursuant to the Sale Order.

1.118 Released Claims means any Claims, rights or Causes of Action of any of the Debtors or their Estates released pursuant to the DIP Order, the Asset Purchase Agreement, the Sale Order, the Plan or the Confirmation Order.

1.119 Remaining Contracts has the meaning given to such term in Section 6.1 of the Plan.

1.120 Reserve Accounts means the CCR Account, the Designated Account, the Employee Account, and the Lazard Account.

1.121 Sale Allocation Motion means the Debtors' Motion for Entry of an Order Determining the Value of the Assets of Graceway Canada Company Proposed to be Purchased Under the Stalking Horse Asset Purchase Agreement [Docket No. 134] dated October 17, 2011 and the Supplement to the Debtors' Motion for Entry of an Order Determining the Value of the

Assets of Graceway Canada Company Proposed to be Purchased Under the Stalking Horse Asset Purchase Agreement [Docket No. 153] dated October 25, 2011, pursuant to which the Debtors sought approval of the allocation of \$4,404,683.65 of the Sale Proceeds to the assets owned by non-Debtor Graceway Canada and allocation of the remainder of the Sale Proceeds to the Assets owned by the Debtors. For the avoidance of doubt, after adjustments, \$4,253,828.76 of the Sale Proceeds were ultimately allocated to the assets owned by non-Debtor Graceway Canada.

1.122 Sale Motion means Debtors' Motion for Entry of (I) An Order Approving and Authorizing (A) Bidding Procedures in Connection with the Sale of Certain Assets of the Debtors, (B) Stalking Horse Bid Protections, (C) The Form and Manner of Notice of the Sale Hearing and (D) Related Relief; and (II) An Order Authorizing (A) The Sale of Certain Assets of the Debtors Free and Clear of all Claims, Liens, Liabilities, Rights, Interests and Encumbrances; (B) The Debtors to Enter into and Perform their Obligations under the Asset Purchase Agreement; (C) The Debtors to Assume and Assign Certain Executory Contracts and Unexpired Leases; and (D) Granting Related Relief [Docket No. 12] dated September 29, 2011, pursuant to which the Debtors sought approval of the 363 Sale.

1.123 Sale Order means the Order Authorizing (A) The Sale of Certain Assets of the Debtors Free and Clear of All Claims, Liens, Liabilities, Rights, Interests and Encumbrances; (B) The Debtors to Enter into and Perform Their Obligations Under the Asset Purchase Agreement; (C) The Debtors to Assume and Assign Certain Executory Contracts and Unexpired Leases; and (D) Granting Related Relief [Docket No. 306] dated November 22, 2011.

1.124 Sale Proceeds means the aggregate Cash proceeds of the 363 Sale.

1.125 Sale Support Agreement means the Sale Support Agreement, dated as of September 28, 2011, entered by and among the Debtors, Graceway Canada and the First Lien

Facility Lenders from time to time party thereto, as it may be amended, supplemented or otherwise modified from time to time.

1.126 Scheduled means as set forth on the Schedules.

1.127 Schedules means the Schedules of Assets and Liabilities filed by the Debtors in accordance with Bankruptcy Code Section 521 and Federal Bankruptcy Rule 1007, as the same may be amended from time to time prior to the Effective Date in accordance with Federal Bankruptcy Rule 1009.

1.128 Second Lien Credit Agreement means that certain \$330,000,000 Second Lien Credit Agreement dated as of May 3, 2007, among, *inter alia*, Graceway Pharmaceuticals, LLC, as borrower, Graceway Holdings, LLC, the Second Lien Facility Lenders, and the Second Lien Facility Agent, as amended.

1.129 Second Lien Facility Adequate Protection Claim means the Claims of the Second Lien Facility Agent and the Second Lien Facility Lenders under Section 507(b) of the Bankruptcy Code and Section 4(b) of the DIP Order, if any.

1.130 Second Lien Facility Agent means Deutsche Bank Trust Company Americas, as agent for the Second Lien Facility Lenders under the Second Lien Credit Agreement, or any successor thereto.

1.131 Second Lien Facility Claim means any Second Lien Facility Secured Claim and any Second Lien Facility Adequate Protection Claim.

1.132 Second Lien Facility Deficiency Claim means any Deficiency Claim with respect to the Second Lien Facility Secured Claim.

1.133 Second Lien Facility Lenders means the “Lenders” as defined in the Second Lien Credit Agreement.

1.134 Second Lien Facility Secured Claim means the Secured Claim of the Second Lien Facility Agent on behalf of the Second Lien Facility Lenders under the Second Lien Credit Agreement and the DIP Order, if any.

1.135 Secured Claim means any Claim of a Creditor, including for principal, interest and any other amounts, secured by a valid, perfected, and enforceable Lien that is not subject to avoidance under applicable bankruptcy or non-bankruptcy law, against property of any of the Debtors' Estates (or the proceeds of such property), that is a Possessory Lienholder Claim or that is otherwise subject to setoff under Bankruptcy Code Section 553, to the extent of the value of such Creditor's interest in that Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to Bankruptcy Code Section 506(a).

1.136 Security means any instrument issued by, or interest in, any of the Debtors of the type described in Bankruptcy Code Section 101(49).

1.137 Tax Claims has the meaning given to such term in Section 2.5.2 of the Plan.

1.138 Taxes means all income, franchise, excise, sales, use, employment, withholding, property, payroll or other taxes, assessments, or governmental charges, together with any interest, penalties, additions to tax, fines, and similar amounts relating thereto, imposed or collected by any federal, state, local or foreign governmental authority on or from any of the Debtors.

1.139 Trust Administrative Fund shall have the meaning specified in Section 4.1 of the Liquidating Trust Agreement and shall be funded solely in accordance with Section 7.8 below.

1.140 Trust Estate or Trust Assets means the Assets (other than the Nycomed Litigation Proceeds), including, without limitation, the Other Assets, all of which shall be irrevocably assigned, transferred and conveyed to the Liquidating Trust as of the Effective Date of the Plan, plus any and all net income earned on the foregoing.

1.141 Unimpaired means any Claim that is not Impaired.

1.142 United States Trustee means the United States Trustee appointed under Section 581(a)(3) of title 28 of the United States Code to serve in the District of Delaware.

1.143 Unsecured Claim means any Claim against the Debtors, excluding Administrative Expense Claims, Priority Tax Claims, Other Priority Claims, the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim, any Second Lien Facility Adequate Protection Claim and Other Secured Claims. Unsecured Claims shall include (i) any Indemnification Claims arising from or attributable to actions prior to the Petition Date but only to the extent not covered by applicable directors' and/or officers' insurance coverage and (ii) all Deficiency Claims. Any Claim that is an Assumed Liability has been Assumed and shall be satisfied in accordance with the Asset Purchase Agreement and shall not receive distributions pursuant to this Plan.

C. Rules of Interpretation

1. In the event of an inconsistency, (a) the provisions of the Plan shall control over the contents of the Disclosure Statement and Liquidating Trust Agreement and (b) the provisions of the Confirmation Order shall control over the contents of the Plan.

2. For the purposes of the Plan:

(a) any reference in the Plan 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; *provided, however*, that any change to such form, terms or conditions that is material to a party to such document shall not be modified without such party's consent unless such document expressly provides otherwise;

(b) any reference in the Plan to an existing document, exhibit or schedule Filed or to be Filed means such document, exhibit or Plan schedule, as it may have been or may be amended, modified or supplemented as of the Effective Date;

(c) unless otherwise specified, all references in the Plan to "Sections," "Articles," "Exhibits" and "Plan Schedules" are references to Sections, Articles, Exhibits and Plan Schedules of or to the Plan;

(d) the words "herein," "hereof," "hereto," "hereunder" and others of similar import refer to the Plan in its entirety rather than to only a particular portion of the Plan;

(e) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be part of or to affect interpretations of the Plan; and

(f) the word "including" means "including without limitation."

3. Whenever a distribution of property is required to be made on a particular date, the distribution shall be made on such date or as soon as reasonably practicable thereafter.

4. All Exhibits to the Plan are incorporated into the Plan and shall be deemed to be included in the Plan, regardless of when they are Filed.

5. Subject to the provisions of any contract, certificate, bylaws, instrument, release or other agreement or document entered into in connection with the Plan, the rights and

obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, federal law, including the Bankruptcy Code and Bankruptcy Rules.

6. This Plan is the product of extensive discussions and negotiations between and among, *inter alia*, the Debtors, the First Lien Facility Agent, the Second Lien Facility Agent, the Creditors' Committee and certain other creditors and constituencies. Each of the foregoing was represented by counsel who either (a) participated in the formulation and documentation of or (b) was afforded the opportunity to review and provide comments on, the Plan, the Disclosure Statement, and the documents ancillary thereto. Accordingly, unless explicitly indicated otherwise, the general rule of contract construction known as "*contra proferentum*" shall not apply to the construction or interpretation of any provision of this Plan, the Disclosure Statement, any of the Plan Exhibits, or any contract, instrument, release, indenture, or other agreement or document generated in connection herewith.

D. Computation of Time. In computing any period of time prescribed or allowed by the Plan, unless otherwise expressly provided, the provisions of Federal Bankruptcy Rule 9006(a) shall apply.

ARTICLE 2

TREATMENT OF UNCLASSIFIED CLAIMS

2.1 Administrative Expense Claims. Subject to the allowance procedures and deadlines provided herein, on the Effective Date or as soon thereafter as is practicable in recognition of the applicable Claims resolution process set forth herein, the holder of an Allowed Administrative Expense Claim (other than an Administrative Expense Claim that is an Assumed Liability or a Professional Claim) shall receive on account of such Allowed Administrative Expense Claim and in full satisfaction, settlement and release of and in exchange for such Allowed Administrative Expense Claim, (i) Cash equal to the unpaid portion of such Allowed

Administrative Expense Claim, or (ii) such other treatment as to which the Debtors, or, if after the Effective Date, the Liquidating Trustee, and the holder of such Allowed Administrative Expense Claim have agreed upon in writing provided such treatment is on more favorable terms to the Debtors or the Liquidating Trustee, as the case may be, than the treatment set forth in subsection (i) hereof; *provided, however*, that (a) notwithstanding any other provision of this Plan, Administrative Expense Claims that are Assumed Liabilities have been Assumed and shall be satisfied in accordance with the Asset Purchase Agreement and shall not receive distributions pursuant to this Plan and (b) Professional Claims shall be paid in accordance with Section 2.3.

2.2 Statutory Fees. On or before the Effective Date, all fees due and payable pursuant to 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid in full, in Cash.

2.3 Professional Claims. Immediately prior to the Effective Date, the Debtors shall pay from the Designated Account all amounts owing to the Professionals other than Lazard and from the Lazard Account all amounts owing to Lazard for all outstanding Professional Claims relating to prior periods and for the period ending on the Effective Date; *provided, however*, that the amount paid to each Professional immediately prior to the Effective Date shall not exceed the lesser of (a) the excess, if any, of (i) the amount provided for in the Budget for such Professional over (ii) the sum of the aggregate amount of all payments already made to such Professional for services rendered since the Petition Date and the amount of any retainers currently held by such Professional and (b) the sum of (i) the amount billed and unpaid for such Professional and (ii) the amount estimated by such Professional as necessary to cover unbilled periods through the Effective Date, which estimated amount shall be provided to the Debtors and the First Lien Facility Agent by each Professional on or prior to the Effective Date.

The Professionals shall estimate Professional Claims due for periods that have not been billed as of the Effective Date. On or prior to the Administrative Expense Claims Bar Date, each Professional shall File with the Bankruptcy Court its final fee application seeking final approval of all fees and expenses from the Petition Date through the Effective Date. Within ten (10) days after entry of a Final Order with respect to its final fee application, each Professional shall remit any overpayment (the "Overpayment Amount") to the Liquidating Trustee to be deposited in the Designated Account or the Liquidating Trustee shall pay any outstanding amounts owed to the Professional, but in no event shall any Professional receive more than the amount provided in the Budget for such Professional from the Designated Account. Payment of Allowed Professional Claims asserted by any Professional shall be funded from Other Assets (other than the Liquidating Trustee Fee Amount) to the extent that the aggregate amount of such Allowed Professional Claims of such Professional since the Petition Date exceeds the amount provided for in the Budget for such Professional.

2.4 Priority Tax Claims. Subject to the allowance procedures and deadlines provided herein, on the Effective Date or as soon thereafter as is practicable in recognition of the applicable Claims resolution process set forth herein, with respect to each Allowed Priority Tax Claim, at the sole option of the Debtors or, if after the Effective Date, the Liquidating Trustee, the holder of an Allowed Priority Tax Claim shall be entitled to receive on account of such Allowed Priority Tax Claim, in full satisfaction, settlement and release of and in exchange for such Allowed Priority Tax Claim, (i) Cash in an amount equal to the unpaid portions of such Allowed Priority Tax Claims; or (ii) such other treatment agreed to in writing by the holder of such Allowed Priority Tax Claim and the Debtors or, if after the Effective Date, the Liquidating

Trustee, provided such treatment is on more favorable terms to the Debtors or the Liquidating Trustee, as the case may be, than the treatment set forth in subsection (i) hereof.

2.5 Deadline for Filing Administrative Expense Claims.

2.5.1 Administrative Expense Claims Other Than Tax Claims.

Other than with respect to (i) Administrative Expense Claims for which the Bankruptcy Court previously has established a Bar Date, and (ii) Tax Claims addressed in Section 2.5.2 below, any and all requests for payment or proofs of Administrative Expense Claims, including Claims of all Professionals or other Entities requesting compensation or reimbursement of expenses pursuant to Bankruptcy Code Sections 327, 328, 330, 331, 503(b) or 1103 for services rendered on or before the Effective Date (including any compensation requested by any Professional or any other Entity for making a substantial contribution in the Chapter 11 Cases), must be Filed and served on the Liquidating Trustee and its counsel no later than the Administrative Expense Claims Bar Date. Objections to any such Administrative Expense Claims must be Filed and served on the claimant no later than sixty (60) days after the Administrative Expense Claims Bar Date, which date may be extended by application to the Bankruptcy Court. The Liquidating Trustee shall use reasonable efforts to promptly and diligently pursue resolution of any and all Disputed Administrative Expense Claims. **Holders of Administrative Expense Claims, including all Professionals or other Entities requesting compensation or reimbursement of expenses pursuant to Bankruptcy Code Sections 327, 328, 330, 331, 503(b) or 1103 for services rendered on or before the Effective Date (including any compensation requested by any Professional or any other Entity for making a substantial contribution in the Chapter 11 Cases), that are required to File a request for payment or proof of such Claims and that do not File such requests or proofs of Claim on or before the Administrative**

Expense Claims Bar Date shall be forever barred from asserting such Claims against the any of the Debtors, their Estates, or the Liquidating Trust.

2.5.2 Tax Claims. All requests for payment of Claims pursuant to Section 503 of the Bankruptcy Code by a Governmental Unit for Taxes (and for interest and/or penalties or other amounts related to such Taxes) for any tax year or period, all or any portion of which occurs or falls within the period from and including the Petition Date through and including the Effective Date, and for which no bar date has otherwise been previously established (“Tax Claims”), must be Filed on or before the later of: (i) thirty (30) days following the Effective Date; or (ii) to the extent applicable, sixty (60) days following the filing of a tax return for such Taxes (if such Taxes are assessed based on a tax return) for such tax year or period with the applicable Governmental Unit. Objections to any Tax Claims must be Filed within thirty (30) days after the later of the Administrative Expense Claims Bar Date or sixty (60) days following the filing of a tax return for such Taxes, which objection dates may be extended by application to the Bankruptcy Court. **Any holder of a Tax Claim that is required to File a request for payment of such Tax Claim and other amounts due related to such Taxes and which does not File such a Claim by the applicable bar date shall be forever barred from asserting any such Claim against any of the Debtors or any non-Debtor member of the Debtors’ consolidated tax group, the Debtors’ Estates, the Liquidating Trust or any other Entity, or their respective property, whether any such Claim is deemed to arise prior to, on, or subsequent to the Effective Date, and shall receive no distribution under the Plan or otherwise on account of such Claim.**

ARTICLE 3
CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS

A. General. Pursuant to Section 1122 of the Bankruptcy Code, set forth below is a designation of the Classes of Claims against and Interests in the Debtors. A Claim or Interest is placed in a particular Class only to the extent that such Claim or Interest falls within the description of that Class. A Claim or Interest is also placed in a particular Class for purposes of receiving a distribution under the Plan, but only to the extent such Claim or Interest is an Allowed Claim or Interest and has not been paid, released, or otherwise settled prior to the Effective Date. Except as otherwise expressly set forth in this Plan, a Claim or Interest which is not an Allowed Claim or Allowed Interest shall not receive any payments, rights or distributions under this Plan. In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims of the kinds specified in Section 507(a)(2) and (3) and Priority Tax Claims of the kinds specified in Section 507(a)(8) of the Bankruptcy Code have not been classified and are treated as set forth in Article 2 above.

B. Classification. As stated above, the Plan is premised on the substantive consolidation of the Debtors with respect to the voting of all Claims and Interests and the treatment of all Claims and Interests other than Other Secured Claims, as provided below. The following summary is for the convenience of all interested parties and is superseded for all purposes by the classification, description and treatment of Claims and Interests in Articles 4 and 5 of the Plan.

3.1 Class 1: Other Priority Claims. Class 1 consists of all Other Priority Claims.

3.2 Class 2: First Lien Facility Claims. Class 2 consists of the First Lien Facility Secured Claim, any First Lien Facility Deficiency Claim and any First Lien Facility Adequate Protection Claim.

3.3 Class 3: Second Lien Facility Claims. Class 3 consists of any Second Lien Facility Secured Claim and any Second Lien Facility Adequate Protection Claim.

3.4 Class 4: Other Secured Claims. Class 4 consists of all Other Secured Claims.

3.5 Class 5: General Unsecured Claims. Class 5 consists of all General Unsecured Claims.

3.6 Class 6: Intercompany Claims. Class 6 consists of all Intercompany Claims.

3.7 Class 7: Old Equity. Class 7 consists of all Interests arising from or relating to Old Equity.

3.8 Class 8: Old Equity Rights. Class 8 consists of all Claims and Interests arising from or relating to Old Equity Rights.

ARTICLE 4
IDENTIFICATION OF CLASSES OF CLAIMS AND INTERESTS IMPAIRED AND
NOT IMPAIRED BY THE PLAN

4.1 Unimpaired Classes of Claims and Interests. Class 1 Other Priority Claims and Class 4 Other Secured Claims are not Impaired by the Plan.

4.2 Impaired Classes of Claims and Interests. Class 2 First Lien Facility Claim, Class 3 Second Lien Facility Claim, Class 5 General Unsecured Claims, Class 6 Intercompany Claims, Class 7 Old Equity, and Class 8 Old Equity Rights are Impaired by the Plan.

ARTICLE 5
PROVISIONS FOR THE TREATMENT OF CLAIMS AND INTERESTS

5.1 Class 1 (Other Priority Claims). On the Effective Date or as soon thereafter as is reasonably practicable in recognition of the applicable Claims reconciliation process set forth herein, the holder of an Allowed Other Priority Claim shall receive on account of the Allowed Other Priority Claim and in full satisfaction, settlement and release of and in exchange for such Allowed Other Priority Claim, (i) Cash equal to the amount of such Allowed Other Priority Claim, or (ii) such other treatment as to which the Debtors and the holder of such Allowed Other Priority Claim have agreed upon in writing, provided such treatment is on more favorable terms to the Debtors or the Liquidating Trustee, as the case may be, than the treatment set forth in subsection (i) hereof.

5.2 Class 2 (First Lien Facility Claims). On the Effective Date or as soon thereafter as is reasonably practicable in recognition of the applicable Claims reconciliation process set forth herein, the First Lien Facility Agent shall receive, for the benefit of the First Lien Claimholders, in full satisfaction, settlement and release of and in exchange for the First Lien Facility Claims (including the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim), (i) any First Lien Available Cash that is available to be distributed on the Effective Date; (ii) the Nycomed Litigation Proceeds; and (iii) beneficial interests in the Liquidating Trust entitling each First Lien Claimholder to receive its Pro Rata share of (A) any First Lien Available Cash that becomes available to be distributed after the Effective Date, (B) seventy-five percent (75%) of any Avoidance Action Proceeds and (C) one hundred percent (100%) of any other Cause of Action Proceeds, including, without limitation, 549 Avoidance Action Proceeds. Until the First Lien Facility Claims are paid in full in Cash, the Liens securing the First Lien Facility Secured Claim

and any First Lien Facility Adequate Protection Claim shall remain on the Assets (including, without limitation, the Reserve Accounts and the Cash deposited therein and the Nycomed Litigation Proceeds) other than the Other Assets, provided that, except for their obligations under this Plan, the Debtors and their Estates shall have no further liability to the First Lien Facility Agent or the First Lien Facility Lenders. Holders of the First Lien Facility Claims shall be Beneficiaries; it being understood that distributions from the Liquidating Trust shall be exclusively governed in accordance with the terms set forth in this Plan.

5.3 Class 3 (Second Lien Facility Claims). The Second Lien Facility Agent shall receive, for the benefit of the Second Lien Facility Lenders, in full satisfaction, settlement and release of and in exchange for any Allowed Second Lien Facility Secured Claim and any Allowed Second Lien Facility Adequate Protection Claim on the Effective Date or as soon thereafter as is practicable in recognition of the applicable Claims reconciliation process set forth herein, beneficial interests in the Liquidating Trust entitling each Second Lien Facility Lender to receive its Pro Rata share of (i) any Other Available Cash subject to the Liens granted to the Second Lien Facility Agent pursuant to the Second Lien Credit Agreement or the DIP Order and (ii) after payment in full in Cash of the First Lien Facility Claim, (a) any First Lien Available Cash; (b) the Nycomed Litigation Proceeds, (c) seventy-five percent (75%) of any Avoidance Action Proceeds; and (d) one hundred percent (100%) of any 549 Avoidance Action Proceeds. Until the Second Lien Facility Claims are paid in full in Cash, the Liens securing any Second Lien Facility Secured Claim and any Second Lien Facility Adequate Protection Claim shall remain on the Assets, provided that, (i) except for their obligations under this Plan, the Debtors and their Estates shall have no further liability to the Second Lien Facility Agent or the Second Lien Facility Lenders and (ii) such Liens shall continue to be junior and subordinate in all

respects to the Liens securing the First Lien Facility Secured Claim and First Lien Adequate Protection Claim that have not been released in connection with the Committee Settlement. Any Second Lien Facility Deficiency Claim shall not constitute Class 3 Second Lien Facility Claims and shall be treated as a Class 5 General Unsecured Claim hereunder. Holders of the Allowed Second Lien Facility Claims shall be Beneficiaries; it being understood that distributions from the Liquidating Trust shall be exclusively governed in accordance with the terms set forth in this Plan.

5.4 Class 4 et seq. (Other Secured Claims). This Class is subdivided into subclasses designated by letters of the alphabet (Class 4A, Class 4B and so on), so that each holder of any Other Secured Claim is in a Class by itself, except to the extent that there are Other Secured Claims that are substantially similar to each other and may be included within a single Class, and except for a precautionary class of otherwise unclassified Other Secured Claims. On the Effective Date or as soon thereafter as is practicable in recognition of the applicable Claims reconciliation process set forth herein, each holder of an Allowed Other Secured Claim that was not assumed by the Purchaser in connection with the 363 Sale shall receive, in full satisfaction, settlement and release of and in exchange for such Allowed Other Secured Claim, (i) the collateral securing any such Allowed Other Secured Claim (to the extent such collateral does not constitute collateral securing the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim, the Second Lien Facility Secured Claim or any Second Lien Facility Adequate Protection Claim or, if such collateral does secure any such Claim, to the extent that the Lien securing such Allowed Other Secured Claim is senior to the Lien securing the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim, the Second Lien Facility Secured Claim or any Second Lien Facility Adequate Protection Claim, as applicable),

(ii) Cash in an amount equal to such Allowed Other Secured Claim to the extent the collateral securing such Allowed Other Secured Claim was sold and such collateral does not constitute collateral securing the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim, the Second Lien Facility Secured Claim or any Second Lien Facility Adequate Protection Claim or, if such collateral does secure any such Claim, to the extent that the Lien securing such Allowed Other Secured Claim is senior to the Lien securing the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim, the Second Lien Facility Secured Claim or any Second Lien Facility Adequate Protection Claim, as applicable, or (iii) such other treatment that leaves such Allowed Other Secured Claim Unimpaired pursuant to the Section 1124(2) of the Bankruptcy Code. The Other Secured Claim Liens shall be released and the Debtors and their Estates shall have no further liability therefor; *provided, however*, that any Deficiency Claims of holders of Class 4 Other Secured Claims shall not constitute Class 4 Other Secured Claims and shall be treated as Class 5 General Unsecured Claims hereunder.

5.5 Class 5 (General Unsecured Claims). On the Effective Date or as soon thereafter as is practicable in recognition of the applicable Claims reconciliation process set forth herein, the holders of Allowed General Unsecured Claims shall receive, in full satisfaction, settlement and release of and in exchange for such Allowed Claims, their Pro Rata share of the Other Available Cash that is not subject to the Liens granted to the Second Lien Facility Agent pursuant to the Second Lien Credit Agreement or the DIP Order, after payment in full of all Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of this Plan), Allowed Administrative Expense Claims (other than Administrative Expense Claims that are Assumed Liabilities), Allowed Priority Tax Claims and Allowed Other Priority Claims; *provided, however*, that pursuant to and in accordance with the Mezzanine Credit

Agreement, any amounts distributed on account of the Allowed Mezzanine Facility Claim (a) are subject and subordinate to payment in full in Cash of the Second Lien Facility Claims and (b) shall be distributed directly to the Second Lien Facility Agent for the benefit of the holders of Allowed Second Lien Facility Claims until the Allowed Second Lien Facility Claims are paid in full in Cash. Holders of Allowed General Unsecured Claims shall be Beneficiaries; it being understood that distributions from the Liquidating Trust shall be exclusively governed in accordance with the terms set forth in this Plan and beneficial interests in the Liquidating Trust granted to such holders will not entitle them to any distribution of more than twenty-five percent (25%) of any Avoidance Action Proceeds or any distribution of any other Cause of Action Proceeds, including, without limitation, any 549 Avoidance Action Proceeds. In addition, the holders of Allowed General Unsecured Claims shall be entitled to share Pro Rata in any amount remaining in or released from the Disputed Claims Reserve after resolution of all Disputed Unsecured Claims.

5.6 Class 6 (Intercompany Claims). As a result of substantive consolidation of the Debtors for distribution purposes under the Plan as provided in Section 7.1 hereof, holders of Intercompany Claims will not receive any distribution of property under the Plan on account of their Intercompany Claims and, on the Effective Date, the Intercompany Claims will be cancelled; *provided, however*, Class 6 shall exclude any Claims of a Debtor against a non-Debtor Affiliate.

5.7 Class 7 (Old Equity). Holders of Old Equity Interests will not receive and will not retain any property of the Debtors under the Plan on account of such Interests and all Old Equity Interests will be cancelled as of the Effective Date.

5.8 Class 8 (Old Equity Rights). Holders of any Claim or Interest arising from or relating to Old Equity Rights will not receive and will not retain any property of the Debtors under the Plan on account of such Claim or Interest and all Old Equity Rights and any Interests or Claims arising from or relating thereto will be cancelled as of the Effective Date.

ARTICLE 6
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

6.1 Assumption, Assignment and Rejection Pursuant to the Sale Order.

Pursuant to the Bid Procedures Order and the Sale Order, the Bankruptcy Court established deadlines and procedures for the assumption and rejection of executory contracts and unexpired leases by the Debtors at the direction of the Purchaser and allocated responsibility for payment of cure amounts between the Debtors and the Purchaser. Any executory contracts and unexpired leases of the Debtors, including executory contracts and unexpired leases entered into after the Petition Date, not assumed and assigned to the Purchaser or rejected prior to the Effective Date (the “Remaining Contracts”) shall be rejected pursuant to Section 6.5 of this Plan unless assumed or assumed and assigned pursuant to Section 6.2 of this Plan.

6.2 Assumption and Assignment of Remaining Contracts. As of the Effective Date, the Debtors shall assume and assign to the Liquidating Trust, pursuant to Bankruptcy Code Section 365, each of the Remaining Contracts that are identified in Exhibit 3 to this Plan (the “Assumption Schedule”) that have not expired under their own terms prior to the Effective Date; provided that the Assumption Schedule to this Plan shall be acceptable to the Liquidating Trustee (or the proposed Liquidating Trustee) in his or her sole discretion. The Debtors reserve the right to amend the Assumption Schedule not later than twenty-eight (28) days prior to the Confirmation Hearing either to: (i) delete any executory contract or lease listed therein and provide for its rejection pursuant to Section 6.5 hereof; or (ii) add any

executory contract or lease to the Assumption Schedule, thus providing for its assumption and assignment pursuant to this Section 6.2; provided, however, that any amendments to the Assumption Schedule shall be acceptable to the Liquidating Trustee (or the proposed Liquidating Trustee) in his or her sole discretion. The Debtors shall provide notice of any such amendment to the Assumption Schedule to the parties to the executory contract or lease affected thereby not later than twenty-eight (28) days prior to the Confirmation Hearing. The Confirmation Order shall constitute an Order of the Bankruptcy Court pursuant to Bankruptcy Code Section 365 approving all assumptions and assignments described in this Section 6.2 and the Assumption Schedule, as of the Effective Date.

6.3 Cure Payments; Assurance of Performance. Any monetary defaults under each Remaining Contract to be assumed and assigned under the Plan shall be satisfied, pursuant to Bankruptcy Code Section 365(b)(1) by payment of the cure amount in Cash in full on the Effective Date by the Debtors from the Designated Account to the extent permitted by the Budget and/or the Sale Support Agreement and from the Other Assets to the extent not permitted by the Budget and/or the Sale Support Agreement. In the event of a dispute regarding (i) the amount or timing of any cure payments, (ii) the ability of the Debtors, the Liquidating Trustee, or an assignee thereof to provide adequate assurance of future performance under the Remaining Contracts to be assumed or assumed and assigned, as applicable, or (iii) any other matter pertaining to assumption or assumption and assignment of the Remaining Contracts to be assumed, the Liquidating Trustee shall pay all required cure amounts promptly following the entry of a Final Order resolving the dispute from the Designated Account to the extent permitted by the Budget and/or the Sale Support Agreement and from the Other Assets to the extent not permitted by the Budget and/or the Sale Support Agreement.

6.4 Objections To Assumption of Remaining Contracts. To the extent that any party to a Remaining Contract identified for assumption and assignment asserts arrearages or damages pursuant to Bankruptcy Code Section 365(b)(1), or has any other objection with respect to any proposed assumption, cure or assignment on the terms and conditions provided herein, all such arrearages, damages and objections must be Filed and served no later than the earlier of (i) twenty-one (21) days after such party is served with notice of such assumption and assignment and (ii) one (1) day prior to the Confirmation Hearing.

Failure to assert such arrearages, damages or objections in the manner described above shall constitute consent to the proposed assumption, cure or assignment on the terms and conditions provided herein, including an acknowledgement that the proposed assumption and/or assignment provides adequate assurance of future performance and that the amount identified for “cure” in the Assumption Schedule is the amount necessary to cover any and all outstanding defaults under the Remaining Contract to be assumed, as well as an acknowledgement and agreement that no other defaults exist under such Remaining Contract.

If any assumption of a Remaining Contract proposed herein for any reason is not approved by the Bankruptcy Court, then the Debtors shall be entitled, in their sole discretion, upon written notice to the applicable non-Debtor party to such Remaining Contract, to deem such Remaining Contract to have been rejected pursuant to the provisions of Section 6.5 below.

6.5 Rejection. Except for those executory contracts and unexpired leases that (i) are assumed and assigned pursuant to this Plan, (ii) have been previously assumed and assigned or rejected pursuant to previous Orders of the Bankruptcy Court, or (iii) are the subject of a pending motion before the Bankruptcy Court with respect to the assumption and assignment

of such executory contracts and unexpired leases, as of the Effective Date, all executory contracts and unexpired leases of the Debtors shall be rejected pursuant to Section 365 of the Bankruptcy Code; *provided, however*, that neither the inclusion by the Debtors of a contract or lease on the Assumption Schedule nor anything contained in this Article 6 shall constitute an admission by any Debtor that such contract or lease is an executory contract or unexpired lease or that any Debtor or its successors and assigns, including, but not limited to, the Liquidating Trust, has any liability thereunder.

6.6 Approval of Rejection; Rejection Damages Claims Bar Date. The Confirmation Order shall constitute an Order of the Bankruptcy Court approving the rejection of executory contracts and unexpired leases under Section 6.5 above pursuant to Bankruptcy Code Section 365 as of the Effective Date. Any Claim for damages arising from any such rejection must be Filed within thirty (30) days after the mailing of notice of the entry of the Confirmation Order, or such Claim shall receive no distribution under the Plan or otherwise on account of such Claim. All Allowed Claims arising from the rejection of the Debtors' executory contracts or unexpired leases shall be classified as General Unsecured Claims and shall be treated in accordance with Section 5.5 of the Plan.

ARTICLE 7

MEANS FOR EXECUTION AND IMPLEMENTATION OF THE PLAN

7.1 Substantive Consolidation of Claims against Debtors for Plan Purposes Only. The Plan is premised on the substantive consolidation of all of the Debtors with respect to the treatment of all Claims and Interests, except for the Other Secured Claims in Class 4. The Plan does not contemplate substantive consolidation of the Debtors with respect to the Class 4 Claims, which shall be deemed to apply separately with respect to the Plan proposed by each Debtor. This Plan shall serve as a request by the Debtors, in lieu of a separate motion, to

the Bankruptcy Court that it grant substantive consolidation with respect to the treatment of all Claims and Interests: on the Effective Date, (i) all Class 6 Intercompany Claims will be eliminated (except to the extent such Claims are by a Debtor against a non-Debtor Affiliate); (ii) no distributions shall be made under the Plan on account of any equity interest held by a Debtor in any other Debtor; (iii) all Assets and liabilities of the Debtors will be merged or treated as though they were merged; (iv) all guarantees of the Debtors of the obligations of any other Debtor and any joint or several liability of any of the Debtors shall be eliminated; and (v) each and every Claim or Interest against any Debtor shall be deemed Filed against the consolidated Debtors and all Claims Filed against more than one Debtor for the same liability shall be deemed one Claim against any obligation of the consolidated Debtors. In the event the Bankruptcy Court determines that such substantive consolidation of the Debtors is not appropriate, the Debtors may request that the Bankruptcy Court otherwise confirm the Plan and the treatment of the different Classes under the Plan on a Debtor by Debtor basis.

7.2 The Liquidating Trust.

7.2.1 Establishment of the Liquidating Trust. On the Effective Date, the Debtors, on their own behalf and on behalf of the Beneficiaries, shall execute the Liquidating Trust Agreement and take all steps necessary to establish the Liquidating Trust. The initial Liquidating Trustee shall be Kip Horton of RPA Advisors, LLC.

7.2.2 Purpose of Liquidating Trust. The Liquidating Trust is being established for the sole purpose of liquidating the Debtors' Assets (other than the Nycomed Litigation Proceeds) and distributing the proceeds thereof to certain holders of Allowed Claims, in each case, as identified in and prescribed by this Plan. The Liquidating Trust shall not continue or engage in any trade or business, except to the extent reasonably necessary to, and

consistent with, the liquidating purpose of the Liquidating Trust. Unless otherwise required by law, all parties shall treat the Liquidating Trust as a liquidating trust for all federal income tax purposes.

7.2.3 Contribution of the Debtors' Assets to the Liquidating Trust.

On the Effective Date of the Plan, each of the Debtors shall transfer and assign all of its respective Assets (other than the Nycomed Litigation Proceeds) to the Liquidating Trust free and clear of all Liens, Claims, interests and encumbrances (except that the Assets other than the Other Assets shall remain subject to the Liens securing the First Lien Facility Secured Claim and any First Lien Facility Adequate Protection Claim as provided in Section 5.2 of the Plan).

7.2.4 Valuation of Trust Assets. As soon as possible after the Effective Date, but in no event later than ninety (90) days thereafter, the Liquidating Trustee, based upon his good faith determination after consultation with his counsel, shall inform the Beneficiaries in writing solely as to his estimate of the value of the Assets transferred to the Liquidating Trust. The valuation shall be used consistently by all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Beneficiaries) for all federal income tax purposes, and the parties shall file tax returns consistent with such valuation; *provided, however*, that such valuation shall not be binding on the Liquidating Trustee or any other party for any other purposes, including, without limitation, in regard to the liquidation of the Trust Assets, whether by disposition, liquidation, litigation, settlement, or otherwise.

7.2.5 Certain Federal Income Tax Matters. For U.S. federal income tax purposes, the Debtors, the Liquidating Trustee and the Beneficiaries will treat the transfer of Assets to the Liquidating Trust as a transfer by the Debtors of the Debtors' Assets (net of any applicable liabilities) to the Beneficiaries (to the extent of the value of their respective interests

in the applicable Trust Assets), followed by a transfer of such Assets (net of any applicable liabilities) by the Beneficiaries to the Liquidating Trust (to the extent of the value of their respective interests in the applicable Trust Assets). For U.S. federal income tax purposes, the Liquidating Trust (except with respect to the Disputed Claims Reserve) will be treated as one or more grantor trusts, and the Beneficiaries will be treated as the grantors and deemed owners of the Liquidating Trust.

7.3 Continuation of the Automatic Stay. In furtherance of the implementation of the Plan, except as otherwise provided herein, all injunctions or stays provided for in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect and apply to all Beneficiaries and creditors holding Claims against the Debtors, the Estates, the Assets, the Liquidating Trustee, the Liquidating Trust and the Trust Assets until the Final Distribution Date.

7.4 Transfer of Equity Interests in Graceway Canada. On the Effective Date, (i) the Debtors' equity interests in Graceway Canada Company and (ii) the Debtors' Claims against Graceway Canada Company arising from any intercompany claims, loans, notes, transfers or other obligations shall be transferred by the Debtors to the Liquidating Trust, and the equity interests in Graceway Canada Company shall continue to be subject to the Liens securing the First Lien Facility Secured Claim and any First Lien Facility Adequate Protection Claim as provided in Section 5.2 of the Plan and the Liens of the Second Lien Facility Agent in favor of the Second Lien Facility Lenders; *provided, however*, that the portion of the Canadian Distribution Amount used to fund the Estate Fund Amount shall be free and clear of the Liens of the First Lien Facility Agent in accordance with the Committee Settlement. The Liquidating

Trust shall exercise its powers as the sole shareholder to appoint the Liquidating Trustee as the sole officer and director of Graceway Canada Company and shall make distributions of the Canadian Distribution Amount as provided under the Plan.

7.5 Committee Settlement. The Committee Settlement is the cornerstone of the Plan. To the extent the Committee Settlement is not already deemed approved by the Sale Order, pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan relating to and effectuating the Committee Settlement shall constitute a good faith compromise. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Committee Settlement, as well as a finding by the Bankruptcy Court that the Committee Settlement is in the best interests of the Debtors, their Estates and holders of Claims and Interests and is fair, equitable and reasonable.

7.6 Post-Confirmation Operations. Following Confirmation and prior to the occurrence of the Effective Date, the then-current officers and directors of each of the Debtors shall continue in their respective capacities and the Debtors shall execute such documents and take such other actions as are necessary to effectuate the transactions provided for in this Plan. On and after the Effective Date, all such officers and directors shall be deemed to have resigned.

7.7 Post-Confirmation Funding of Plan. Payment of Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of this Plan), Allowed Administrative Expense Claims, Allowed Priority Tax Claims and Allowed Other Priority Claims shall be made from the Reserve Accounts to the extent permitted by the Budget and/or the Sale Support Agreement. To the extent any of such Allowed Claims are not satisfied from the Reserve Accounts (and, with respect to Allowed Other Secured Claims, are not

otherwise satisfied in accordance with the terms of this Plan), such Allowed Claims shall be paid from the Other Available Cash. The Debtors anticipate that the Cash in the Reserve Accounts and the Other Available Cash shall be sufficient to pay all Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of this Plan), Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims and cure costs for executory contracts or unexpired leases on the Assumption Schedule, if any, in full in Cash on the Effective Date or once such Claims become Allowed Claims. Other Allowed Claims shall be satisfied as set forth in Article 5. Notwithstanding anything contained herein or otherwise, (i) Cash in the CCR Account shall be available, to the extent permitted by the Budget and/or the Sale Support Agreement, only to pay Claims on account of chargebacks, channel management agreements, product returns and rebates constituting (a) Allowed Claims authorized to be paid by the Bankruptcy Court pursuant to the Order approving the Prepetition Claims Motions or (b) Allowed Administrative Expense Claims, (ii) Cash in the Employee Account shall be available only to pay Claims on account of employee severance and benefits approved in the Orders approving the Prepetition Claims Motion and permitted by the Budget and/or Sale Support Agreement, (iii) Cash in the Lazard Account shall be available only to pay Allowed Professional Fees of Lazard, and (iv) Cash in the Designated Account shall be available only to pay Allowed Administrative Expense Claims, Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of this Plan), Allowed Priority Tax Claims and Allowed Other Priority Claims to the extent permitted by the Budget and/or Sale Support Agreement, other than any such Claims on account of (A) chargebacks, channel management agreements, product returns and rebates or (B) employee severance and benefits payable from the Employee Account.

7.8 Post-Effective Date Funding of Operations. From time to time as agreed between the First Lien Facility Agent and the Liquidating Trustee, the First Lien Facility Agent shall fund amounts into the First Lien Trust Administrative Fund to pay the Liquidating Trustee First Lien Fees incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash, in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled. On the Effective Date, the Liquidating Trustee Fee Amount shall be funded into the Trust Administrative Fund by the First Lien Facility Agent from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled free and clear of all Liens and Claims of the First Lien Facility Agent and the First Lien Claimholders, including the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim for the sole purpose of paying the Liquidating Trustee Fees. Any additional amount the Liquidating Trustee deems necessary to fund post-Effective Date operations other than fees and expenses incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims,

Priority Tax Claims and Other Priority Claims, shall be funded into the Trust Administrative Fund from the Other Assets.

7.9 Dissolution of the Debtors. As soon as practicable after the Effective Date, each of the Debtors will be dissolved for all purposes without the necessity for any other or further actions to be taken by or on behalf of the Debtors or payments to be made in connection therewith; *provided, however*, that pursuant to Section 1142(b) of the Bankruptcy Code, the Liquidating Trustee shall file each Debtor's final tax returns, and shall be authorized, but not directed, to file with the official public office for keeping corporate records in each Debtor's state of incorporation a certificate of dissolution or equivalent document. Such a certificate of dissolution may be executed by the Liquidating Trustee without need for any action or approval by the shareholders or Board of Directors of any Debtor. From and after the Effective Date, the Debtors (i) for all purposes shall be deemed to have withdrawn their business operations from any state in which they were previously conducting, or are registered or licensed to conduct, their business operations, and shall not be required to file any document, pay any sum or take any other action in order to effectuate such withdrawal, (ii) shall be deemed to have cancelled pursuant to this Plan all Interests and all Intercompany Claims, and (iii) shall not be liable in any manner to any taxing authority for franchise, business, license or similar taxes accruing on or after the Effective Date.

7.10 Closing of the Debtors' Chapter 11 Cases. Notwithstanding anything to the contrary in the Bankruptcy Rules providing for earlier closure of the Debtors' Chapter 11 Cases, when all Assets contributed to the Liquidating Trust have been liquidated and converted into Cash (other than those Assets abandoned by the Liquidating Trust), and such Cash has been distributed in accordance with the Liquidating Trust Agreement and this Plan, the Liquidating

Trustee shall seek authority from the Bankruptcy Court to close the Debtors' Chapter 11 Cases in accordance with the Bankruptcy Code and the Bankruptcy Rules; *provided, however*, that, in light of the substantive consolidation of the Debtors' estates for distribution purposes, the Liquidating Trustee may, in the Liquidating Trustee's sole discretion, seek authority from the Bankruptcy Court to close all of the Debtors' Chapter 11 Cases except for the Graceway Chapter 11 Case immediately upon satisfaction of all Other Secured Claims.

7.11 Post-Effective Date Cause of Action Settlements. Subject to this Section 7.11, on and after the Effective Date, the Liquidating Trustee shall have the exclusive authority to settle or abandon Causes of Action owned by the Liquidating Trust. On and after the Effective Date and until such time as the First Lien Facility Claims are paid in full in Cash, in order to settle or abandon Causes of Action owned by the Liquidating Trust, the Liquidating Trustee shall be required to obtain (i) the prior written consent of the Approving Majority First Lien Lenders or (ii) an Order of the Bankruptcy Court approving such settlement or abandonment after notice and a hearing. After the First Lien Facility Claims are paid in full in Cash, except as otherwise set forth in this Plan, the Confirmation Order or the Liquidating Trust Agreement, the Liquidating Trustee shall not be required to obtain approval of the Approving Majority First Lien Lenders or the Bankruptcy Court to settle or abandon Causes of Action owned by the Liquidating Trust.

7.12 Post-Effective Date Reporting. Once each quarter, the Liquidating Trustee shall File with the Bankruptcy Court and serve on the United States Trustee a report setting forth the amounts and timing of all distributions made by the Liquidating Trustee under the Plan in each applicable reporting period and the recipients thereof. Each quarterly report shall also state the Liquidating Trust's Cash balances as of the beginning and ending of each

such period. Quarterly reports shall be provided no later than the fifteenth (15th) day of each January, April, July and October until all Final Distributions under this Plan have been made.

7.13 Cancellation of Existing Securities and Agreements. On the Effective Date, any document, agreement, or instrument evidencing any Claim or Interest against or in the Debtors (including, but not limited to, the First Lien Credit Agreement and the Second Lien Credit Agreement) that has not been Assumed by the Purchaser shall be deemed cancelled without further act or action under any applicable agreement, law, regulation, Order, or rule and the Debtors shall have no further obligations under such documents, agreements or instruments; provided, however, that, although the Debtors shall have no further obligations or liability under Section 10.04 of the Credit Agreement or the Fee Letter (as defined in the First Lien Credit Agreement), as among the First Lien Claimholders and other parties other than the Debtors, Section 10.04 of the First Lien Credit Agreement and the Fee Letter shall remain in full force and effect. Notwithstanding anything to the contrary set forth herein, the Liens on the Assets (including the Reserve Accounts and the Cash deposited therein and the Nycomed Litigation Proceeds, but excluding the Other Assets) securing the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim, the Second Lien Facility Secured Claim and any Second Lien Facility Adequate Protection Claim shall remain valid and perfected Liens thereon.

7.14 Dissolution of Creditors' Committee. On the Confirmation Date, the Creditors' Committee shall automatically be dissolved and the members of, and Professionals retained by, the Creditors' Committee shall have no further duties or obligations after the Confirmation Date.

7.15 Nycomed Litigation Proceeds. On the Effective Date, the Debtors shall assign and transfer the Nycomed Litigation Proceeds to the First Lien Facility Agent subject to

any Liens thereon, which Liens shall remain valid and perfected to the same extent as on the Petition Date on and after the Effective Date. Upon receipt of any Nycomed Litigation Proceeds, the First Lien Facility Agent shall hold such Nycomed Litigation Proceeds in trust for the holders of any Liens thereon and shall distribute the Nycomed Litigation Proceeds to the holders of Liens thereon in the order of priority determined by the Bankruptcy Court or as set forth in any written intercreditor agreement. In the event that the First Lien Facility Agent receives any Nycomed Litigation Proceeds, the First Lien Facility Agent shall provide written notice of the receipt thereof to the Second Lien Facility Agent. In the event that the First Lien Facility Claims are paid in full in Cash, the First Lien Facility Agent shall assign and transfer the Nycomed Litigation Proceeds to the Second Lien Facility Agent subject to any Liens thereon, which Liens shall remain valid and perfected to the same extent as on the Petition Date on and after the Effective Date. Upon receipt of any Nycomed Litigation Proceeds, the Second Lien Facility Agent shall hold such Nycomed Litigation Proceeds in trust for the holders of any Liens thereon and shall distribute the Nycomed Litigation Proceeds to the holders of Liens thereon in the order of priority determined by the Bankruptcy Court or as set forth in any written intercreditor agreement.

ARTICLE 8

POST-CONFIRMATION LITIGATION

8.1 Transfer and Enforcement of Causes of Action. Pursuant to Section 1123(b)(3) of the Bankruptcy Code, except as otherwise provided in this Plan or the Confirmation Order, after transfer of the Assets (other than the Nycomed Litigation Proceeds) to the Liquidating Trust pursuant to Section 7.2.3 hereof, the Liquidating Trustee (and to the extent retained by the Liquidating Trust to perform such work, any other Person) will have the

exclusive right and standing in any court of competent jurisdiction to enforce any and all Causes of Action against any Entity and rights of the Debtors that arose before or after the Petition Date, including, but not limited to, the rights and powers of a trustee and debtor-in-possession, against any Entity whatsoever, including, but not limited to, all Avoidance Actions and 549 Avoidance Actions, but excluding Released Claims.

8.2 Abandonment of Causes of Action and Other Assets of the Debtors.

Subject to this Section 8.2, on and after the Effective Date, Liquidating Trustee shall have the exclusive authority to abandon Causes of Action or other Assets owned by the Liquidating Trust. On and after the Effective Date and until such time as the First Lien Facility Claims are paid in full in Cash, in order to abandon Causes of Action or other Assets owned by the Liquidating Trust, the Liquidating Trustee shall be required to obtain (i) the prior written consent of the Approving Majority First Lien Lenders or (ii) an Order of the Bankruptcy Court approving such abandonment after notice and a hearing. After the First Lien Facility Claims are paid in full in Cash, except as otherwise set forth in this Plan, the Confirmation Order or the Liquidating Trust Agreement, the Liquidating Trustee shall not be required to obtain approval of the Approving Majority First Lien Lenders or the Bankruptcy Court to abandon Causes of Action or other Assets owned by the Liquidating Trust.

ARTICLE 9

PROCEDURES FOR TREATMENT OF DISPUTED CLAIMS

9.1 Objections to Claims. Following the Effective Date, only the Liquidating Trustee shall be entitled to object to Claims. No objection shall be required with respect to a proof of Claim filed after the Bar Date, the Governmental Claims Bar Date or the Administrative Expense Claims Bar Date (as applicable), and any and all such Claims shall be deemed

disallowed unless otherwise ordered by the Bankruptcy Court after notice and a hearing. Any objections to Administrative Expense Claims shall be filed and served on the claimant no later than the later of (x) sixty (60) days after the Administrative Expense Claims Bar Date, and (y) such later date as may be fixed by the Bankruptcy Court, after notice and a hearing, which later date may be fixed before or after the date specified in clause (x) above. Any objections to any Claim other than an Administrative Expense Claim shall be Filed and served on the claimant no later than the later of (x) sixty (60) days after the date the Claim is Filed, (y) sixty (60) days after the Effective Date or such other date as may be ordered from time to time by the Bankruptcy Court and (z) such later date as may be fixed by the Bankruptcy Court, after notice and a hearing, which later date may be fixed before or after the date specified in clause (x) above.

9.2 Resolution of Disputed Claims. Subject to this Section 9.2, after the Effective Date, the Liquidating Trustee shall have the exclusive authority to compromise, settle, otherwise resolve, or withdraw any objections to Disputed Claims. On and after the Effective Date and until such time as the First Lien Facility Claims are paid in full in Cash, in order to compromise, settle, otherwise resolve, or withdraw any objections to Disputed Claims, the Liquidating Trustee shall be required to obtain (i) the prior written consent of the Approving Majority First Lien Lenders or (ii) an Order of the Bankruptcy Court approving such compromise, settlement, other resolution, or withdrawal of any objections to Disputed Claims. After the First Lien Facility Claims are paid in full in Cash, except as otherwise set forth in this Plan, the Confirmation Order or the Liquidating Trust Agreement, the Liquidating Trustee shall not be required to obtain approval of the Approving Majority First Lien Lenders or the Bankruptcy Court to compromise, settle, otherwise resolve, or withdraw any objections to Disputed Claims.

9.3 Amendments to Claims. After the Confirmation Date, a proof of Claim for any Claim other than an Administrative Expense Claim may not be amended without the authorization of the Bankruptcy Court. After the Administrative Expense Claims Bar Date, a proof of Claim for an Administrative Expense Claim may not be amended without the authorization of the Bankruptcy Court. Any such amendments to proofs of Claim or proofs of Claim for an Administrative Expense Claim Filed after the Confirmation Date or the Administrative Expense Claims Bar Date (as applicable) shall be deemed disallowed in full and expunged without any action by the Debtors or the Liquidating Trustee, unless the holder of the Claim or Administrative Expense Claim has obtained prior Bankruptcy Court authorization to File the amendment.

9.4 No Distributions Pending Allowance. Notwithstanding any other provision hereof, if any portion of a Claim or Administrative Expense Claim is Disputed, no payment or distribution provided hereunder shall be required to be made on account of such Claim or Administrative Expense Claim unless and until such Disputed Claim or Disputed Administrative Expense Claim becomes an Allowed Claim in its entirety.

ARTICLE 10

DISTRIBUTIONS

10.1 No Duplicate Distributions. In accordance with Section 7.1 of the Plan and unless otherwise expressly provided herein, to the extent more than one Debtor is liable for any Claim, such Claim shall be considered a single Claim and entitled only to the payment provided therefor under the applicable provisions of the Plan.

10.2 Delivery of Distributions in General. Distributions to holders of Allowed Claims shall be made: (i) at the addresses set forth in the proofs of Claim Filed by such holders; (ii) at the addresses set forth in any written notices of address change Filed with the

Bankruptcy Court or delivered to the Liquidating Trustee after the date on which any related proof of Claim was Filed; or (iii) at the addresses reflected in the Schedules relating to the applicable Allowed Claim if no proof of Claim has been Filed and the Liquidating Trustee has not received a written notice of a change of address.

10.3 Cash Payments. Except as otherwise provided in the Confirmation Order, Cash payments to be made pursuant to the Plan shall be made by checks drawn on a domestic bank or by wire transfer from a domestic bank, at the option of the Debtors (with respect to Cash payments made on the Effective Date) and Liquidating Trustee (with respect to Cash payment made after the Effective Date).

10.4 Interest on Claims. Except as otherwise set forth herein or as required by applicable bankruptcy law, postpetition interest shall not accrue or be paid on Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim. Interest shall not accrue or be paid upon any Disputed Claim in respect of the period from the Petition Date to the date a final distribution is made thereon if and after such Disputed Claim becomes an Allowed Claim. To the extent that any Allowed Claim entitled to a distribution under the Plan is composed of indebtedness and accrued but unpaid interest thereon, such distribution shall, to the extent permitted by applicable law, be allocated for federal income tax purposes to the principal amount of the Allowed Claim first and then, to the extent the consideration exceeds the principal amount of the Allowed Claim, to the portion of such Allowed Claim representing accrued but unpaid interest.

10.5 No De Minimis Distributions. No payment of Cash in an amount of less than \$100.00 shall be required to be made on account of any Allowed Claim. Such undistributed amount may instead be made part of the Other Available Cash for use in accordance with this

Plan. If the Other Available Cash for the Final Distribution is less than \$10,000, and the Liquidating Trustee, in his sole discretion, determines that it would cost more than \$5,000 to distribute such funds, the Liquidating Trustee may donate such funds to the charity of his choice.

10.6 Face Amount. Unless otherwise expressly set forth herein with respect to a specific Claim or Class of Claims, for the purpose of the provisions of this Article, the “Face Amount” of a Disputed Claim means the amount set forth on the proof of Claim unless the Disputed Claim has been estimated for distribution purposes, in which case the Face Amount shall be the Estimated Amount, or, in the alternative, if no proof of Claim has been timely Filed or deemed Filed, zero.

10.7 Undeliverable Distributions. If the distribution check to any holder of an Allowed Claim is not cashed within 90 days after issuance by the Liquidating Trustee, the Liquidating Trustee may give a stop payment order with respect to the check and no further distributions shall be made to such holder on account of such Allowed Claim. Such Allowed Claim shall be discharged and the holder of such Allowed Claim shall be forever barred from asserting such Claim against the Liquidating Trustee, the Debtors, or the Liquidating Trust. In such cases, any Cash held for distribution on account of such Claim shall (i) become the property of the Liquidating Trust, and (ii) be distributed to other Creditors in accordance with the terms of this Plan.

10.8 Timing of Distributions.

10.8.1 On the Effective Date, or as soon thereafter as practicable in accordance with the Claims resolution processed described herein, the Liquidating Trustee shall distribute to the holders of Allowed Administrative Expense Claims (other than Administrative Expense Claims that are Assumed Liabilities), Allowed Priority Tax Claims, Allowed Class 1

Claims and Allowed Class 4 Claims (to the extent not otherwise satisfied in accordance with the terms of this Plan) the distributions for each respective Class as set forth in the Plan.

10.8.2 On the Effective Date, after payment in full in Cash of all severance and benefits approved in the Orders approving the Prepetition Claims Motions, any Cash remaining in the Employee Account shall be First Lien Available Cash and shall be promptly distributed to the First Lien Facility Agent or, to the extent the First Lien Facility Claims have been paid in full in Cash, as otherwise set forth in the Plan. Promptly after the Estate Fund Amount is fully funded (or, if the Estate Fund Amount is fully funded prior to the Effective Date, on the Effective Date), any Canadian Distribution Amount remaining and any Cash in the 1.0% Holdback Account remaining shall be First Lien Available Cash and shall be promptly distributed to the First Lien Facility Agent or, to the extent the First Lien Facility Claims have been paid in full in Cash, as otherwise set forth in the Plan. Promptly after the Allowed Professional Fees of Lazard are paid in full in Cash (or, if the Allowed Professional Fees of Lazard are paid in full in Cash prior to the Effective Date, on the Effective Date), any Cash remaining in the Lazard Account shall be First Lien Available Cash and shall be promptly distributed to the First Lien Facility Agent or, to the extent the First Lien Facility Claims have been paid in full in Cash, as otherwise set forth in the Plan. Promptly after the Administrative Expense Claims Bar Date, any amounts in the CCR Account in excess of the aggregate Face Amounts of Claims Filed asserting liabilities related to chargebacks, channel management agreements, product returns and/or rebates shall be First Lien Available Cash and shall be promptly distributed to the First Lien Facility Agent or, to the extent the First Lien Facility Claims have been paid in full in Cash, as otherwise set forth in the Plan. In addition, upon the ultimate determination that any Disputed Claim to be funded from the CCR Account is not

Allowed, the portion of the CCR Account held on account of such Claim shall be First Lien Available Cash and shall be promptly distributed to the First Lien Facility Agent or, to the extent the First Lien Facility Claims have been paid in full in Cash, as otherwise set forth in the Plan. On the Effective Date, any amounts in the Designated Account in excess of the aggregate amount set forth in the Budget for all expenses to be paid from the Designated Account shall be First Lien Available Cash and shall be promptly distributed to the First Lien Facility Agent or, to the extent the First Lien Facility Claims have been paid in full in Cash, as otherwise set forth in the Plan. Promptly after the Administrative Expense Claims Bar Date, any amounts in the Designated Account in excess of the aggregate Face Amounts of the Claims Filed that are to be funded from the Designated Account shall be First Lien Available Cash and shall be promptly distributed to the First Lien Facility Agent or, to the extent the First Lien Facility Claims have been paid in full in Cash, as otherwise set forth in the Plan. In addition, upon the ultimate determination that any Disputed Claim to be funded from the Designated Account is not Allowed, the portion of the Designated Account held on account of such Claim shall be First Lien Available Cash and shall be promptly distributed to the First Lien Facility Agent or, to the extent the First Lien Facility Claims have been paid in full in Cash, as otherwise set forth in the Plan.

10.8.3 From time to time, but in no event less than once every three (3) months, the Liquidating Trustee shall distribute all Other Available Cash and any First Lien Available Cash not already distributed pursuant to Section 10.8.2 as set forth in this Plan. After (i) the distribution of the payments described in Section 10.8.1 hereof, (ii) the liquidation into Cash of all Assets owned by the Liquidating Trust (other than those Assets abandoned by the Liquidating Trustee), (iii) the collection of other sums due or otherwise remitted or returned to

the Estates, (iv) the resolution of all Disputed Claims and (v) the payment in full in Cash of all Liquidating Trustee Fees and Liquidating Trustee First Lien Fees, the Liquidating Trustee shall distribute the remaining Assets owned by the Liquidating Trust in accordance with this Plan (the “Final Distribution”). The date of the Final Distribution shall be the “Final Distribution Date.”

10.9 Disputed Claims Reserve. On the Effective Date, the Liquidating Trustee shall establish a reserve fund solely from the Other Assets other than the Liquidating Trustee Fee Amount (the “Disputed Claims Reserve”) for the payment by the Liquidating Trustee of all Disputed Claims other than First Lien Facility Claims if and when Allowed; provided, however, that funds shall be added to the Disputed Claims Reserve for Administrative Expense Claims, Priority Tax Claims, Other Priority Claims and Other Secured Claims that are Disputed Claims only to the extent the amounts deposited in the applicable Reserve Account for the payment of such Claims are insufficient to pay the Face Amount of such Claims. With respect to any unliquidated Disputed Claim, the Disputed Claims Reserve shall be funded upon entry of and in accordance with an Order(s) of the Bankruptcy Court estimating the amount (the “Estimated Amount”) of such unliquidated Disputed Claim. Upon ultimate determination that any Disputed Claim is not Allowed, the Liquidating Trustee shall immediately release the portion of the Disputed Claim Reserve on account of such Claim and distribute such portion in accordance with the Plan. Each time a distribution of Other Available Cash is made to any Class of Claims, the Liquidating Trustee shall deposit into the Disputed Claims Reserve an amount equal to the distribution each holder of a Disputed Claim in such Class would have received were the Face Amount of its Disputed Claim in such Class an Allowed Claim solely from proceeds of Other Assets. Any Person whose Disputed Claim is so estimated shall be entitled to an Allowed Claim only up to an amount not to exceed the Estimated Amount even if such Person’s Disputed

Claim, as finally allowed, would have exceeded the maximum Estimated Amount thereof. At the time a Person's Disputed Claim becomes an Allowed Claim, such Person shall receive from the applicable Reserve Account and/or the Disputed Claims Reserve a distribution equal to the distributions such Person would have received on account of its Allowed Claim had it been an Allowed Claim at the time of such prior distributions, with any surplus Cash held in the Disputed Claims Reserve on account of such Disputed Claim becoming generally available for use by the Liquidating Trustee as Other Available Cash in accordance with the Plan and the Liquidating Trust Agreement and any surplus Cash held in any Reserve Account being becoming available for distribution by the Liquidating Trustee as First Lien Available Cash in accordance with the Plan.

10.10 Compliance with Tax Requirements. In connection with the Plan and the distributions made in accordance therewith, to the extent applicable, the Liquidating Trustee shall comply with all tax withholding and reporting requirements imposed by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. The Liquidating Trustee shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements.

ARTICLE 11

CONDITIONS PRECEDENT

11.1 Conditions to Confirmation. The following are each conditions to entry of the Confirmation Order:

11.1.1 The Bankruptcy Court shall have approved the Disclosure Statement with respect to this Plan in form and substance that is reasonably acceptable to the Debtors and the First Lien Facility Agent; and

11.1.2 The Confirmation Order shall be in form and substance reasonably satisfactory to the Debtors and the First Lien Facility Agent.

11.2 Conditions to the Effective Date. The Plan shall not become effective and the Effective Date shall not occur unless and until:

11.2.1 The Bankruptcy Court shall have entered the Confirmation Order in form and substance reasonably satisfactory to the Debtors and the First Lien Facility Agent and no stay of the Confirmation Order shall be in effect at the time the other conditions set forth in this Section 11.2 are satisfied or, if permitted, waived;

11.2.2 The Confirmation Order shall not have been amended or modified without the consent of the Debtors and the First Lien Facility Agent;

11.2.3 All documents, instruments and agreements, in form and substance reasonably satisfactory to the Debtors and the First Lien Facility Agent provided for under this Plan or necessary to implement this Plan, including, without limitation, the Liquidating Trust Agreement, shall have been executed and delivered by the parties thereto, unless such execution or delivery has been waived by the parties benefited thereby;

11.2.4 The Debtors shall have reasonably determined that the Cash in the Reserve Accounts and the Other Available Cash is sufficient to pay in full in Cash on the Effective Date all estimated Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of this Plan), Allowed Administrative Expense Claims (other than Administrative Expense Claims that are Assumed Liabilities), Allowed Other Priority Claims and Allowed Priority Tax Claims; and

11.2.5 The Confirmation Order shall have become a Final Order.

11.3 Termination of Plan for Failure To Become Effective. If the Effective Date shall not have occurred on or prior to the date that is forty-five (45) days after the Confirmation Date, then this Plan shall terminate and be of no further force or effect unless the provisions of this Section 11.3 are waived in writing by the Debtors and the First Lien Facility Agent.

11.4 Waiver of Conditions. The Debtors may waive any or all of the conditions set forth in Sections 11.1 and/or 11.2 (other than the conditions set forth in Sections 11.1.1, 11.2.1, and 11.2.4) of this Plan subject to the consent of the First Lien Facility Agent.

11.5 Notice of Effective Date. On the Effective Date, or as soon thereafter as is reasonably practicable, the Debtors shall File with the Bankruptcy Court a “Notice of Effective Date” in a form reasonably acceptable to the Debtors in their sole discretion, which notice shall constitute appropriate and adequate notice that this Plan has become effective; *provided, however,* that the Debtors shall have no obligation to notify any Person of such fact. The Plan shall be deemed to be effective as of 12:01 a.m., prevailing Eastern time, on the Effective Date specified in such filing. A courtesy copy of the Notice of Effective Date may be sent by United States mail, postage prepaid (or at the Debtors’ option, by courier or facsimile) to those Persons who have Filed with the Bankruptcy Court requests for notices pursuant to Federal Bankruptcy Rule 2002 and the Master Service List established in the Chapter 11 Cases.

ARTICLE 12

EFFECT OF CONFIRMATION

12.1 Jurisdiction of Court. Pursuant to Sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising

out of, and related to, the Debtors' Chapter 11 Cases and the Plan to the fullest extent permitted by law.

12.2 Binding Effect. Except as otherwise provided in Section 1141(d) of the Bankruptcy Code, on and after the Confirmation Date, the provisions of this Plan shall bind (i) any holder of a Claim against or Interest in the Debtors and its respective successors and assigns (including the Liquidating Trust), whether or not the Claim or Interest of such holder is Impaired under this Plan and whether or not such holder has accepted the Plan and (ii) the Liquidating Trustee.

12.3 Term of Pre-Confirmation Injunctions or Stays. Unless otherwise provided in a separate Order from the Bankruptcy Court, all injunctions or stays arising under or entered during the Debtors' Chapter 11 Cases in accordance with Sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect and apply to all Beneficiaries and creditors holding Claims against the Debtors, their Estates, the Debtors' Assets, the Liquidating Trustee and the Liquidating Trust until the Final Distribution Date or, if different, the date indicated in such applicable Order.

12.4 Injunction Against Interference with Plan. Upon the entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former Affiliates, employees, agents, officers, directors, principals or advisors, shall be enjoined from taking any actions to interfere with the implementation or consummation of this Plan.

12.5 Exculpation. *Except as otherwise specifically provided in this Plan, none of the Purchaser (in its capacity as a purchaser under the Asset Purchase Agreement), the Debtors, the Liquidating Trustee, the First Lien Facility Agent, the First Lien Facility Lenders in*

their capacity as such, the Second Lien Facility Agent, the Second Lien Facility Lenders in their capacity as such, the Creditors' Committee (solely with respect to its conduct as a committee and not with respect to the actions of its members as individual creditors), nor any of such parties' respective present members (with respect to members of the Creditors' Committee, solely with respect to each member's conduct in furtherance of its, his, or her duties as a member of the Creditors' Committee, and not with respect to the actions of such members as individual creditors), officers, directors, shareholders, employees, representatives, advisors, attorneys, financial advisors, investment bankers, agents or Affiliates, or any of such parties' successors and assigns, shall have or incur, and each such Person is hereby released from, any Claim, obligation, cause of action in any form whatsoever or liability to one another or to any holder of a Claim or an Interest, or any other party in interest, or any of their respective officers, directors, shareholders, members and/or enrollees, employees, representatives, advisors, attorneys, financial advisors, investment bankers, agents, related professionals or Affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the negotiation and execution of this Plan, the Disclosure Statement, the Asset Purchase Agreement and the 363 Sale, the solicitation of votes for and the pursuit of Confirmation of this Plan, the consummation of this Plan, or the administration of this Plan, the Asset Purchase Agreement, the 363 Sale and the property to be distributed under this Plan, including all documents ancillary thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto and all prepetition activities leading to the promulgation and Confirmation of this Plan except willful misconduct or gross negligence as determined by a Final Order. Nothing in this Section 12.5 shall: (i) be construed as a release of any entity's gross negligence or willful misconduct with respect to matters set forth in this

Section 12.5 or (ii) limit or abrogate the obligations of the Debtors or the Purchaser and any of their respective affiliates to one another under the Asset Purchase Agreement. Any of the foregoing parties in all respects shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities (if any) under this Plan.

Notwithstanding any other provision of this Plan, neither any holder of a Claim or Interest, nor other party in interest, nor any of their respective officers, directors, shareholders, members and/or enrollees, employees, representatives, advisors, attorneys, financial advisors, investment bankers, related professionals, agents or Affiliates, and no successors or assigns of the foregoing, shall have any right of action against any Debtor or the Purchaser (in its capacity as a purchaser under the Asset Purchase Agreement), the Liquidating Trustee, the First Lien Facility Agent, the First Lien Facility Lenders (in their capacity as such), the Second Lien Facility Agent, the Second Lien Facility Lenders (in their capacity as such), the Creditors' Committee (solely with respect to its conduct as a committee and not with respect to the actions of its members as individual creditors), or any of such parties' respective present members (with respect to members of the Creditors' Committee, solely with respect to each member's conduct in furtherance of its, his, or her duties as a member of the Creditors' Committee, and not with respect to the actions of such members as individual creditors), officers, directors, shareholders, employees, representatives, advisors, attorneys, financial advisors, investment bankers, related professionals, agents or Affiliates, or any of such parties' successors and assigns, for any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the negotiation and execution of this Plan, the Disclosure Statement, the Asset Purchase Agreement and the 363 Sale, the solicitation of votes for and the pursuit of Confirmation of this Plan, the consummation of this Plan, or the administration of this Plan, the

Asset Purchase Agreement, the 363 Sale and the property to be distributed under this Plan, including all documents ancillary thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto and all prepetition activities leading to the promulgation and Confirmation of this Plan except willful misconduct or gross negligence as determined by a Final Order.

12.6 Injunction. *Except as otherwise specifically provided in the Plan or the Confirmation Order, all Entities or Persons who have held, hold or may hold Claims, rights, causes of action, liabilities or any equity interests based upon any act or omission, transaction or other activity of any kind or nature related to the Debtors, the Liquidating Trust or the Chapter 11 Cases that occurred prior to the Effective Date, other than as expressly provided in this Plan or the Confirmation Order, regardless of the filing, lack of filing, allowance or disallowance of such a Claim or Interest and regardless of whether such Entity has voted to accept the Plan, and any successors, assigns or representatives of such Entities shall be precluded and permanently enjoined on and after the Effective Date from (a) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order with respect to any Claim, Interest or any other right or claim against the Debtors, the Liquidating Trustee, the Liquidating Trust or any Assets of the Debtors or the Liquidating Trust which such Entities possessed or may possess prior to the Effective Date, (b) the creation, perfection or enforcement of any encumbrance of any kind with respect to any Claim, Interest or any other right or claim against the Debtors, the Liquidating Trustee, the Liquidating Trust or any assets of the Debtors or the Liquidating Trust which they possessed or may possess prior to the Effective Date, and (c) the assertion of any Claims that are released hereby.*

12.7 Releases by Debtors. *Except as expressly provided in this Plan, upon the Effective Date, each of the Debtors hereby (i) remises, acquits, waives, releases and forever discharges each of the Debtor Releasees, and (ii) covenants and agrees never to institute or cause to be instituted any suit or other form of action or proceeding of any kind or nature whatsoever against any of the Debtor Releasees based upon any claims, demands, indebtedness, agreements, promises, Causes of Action, obligations, damages or liabilities of any nature whatsoever (other than rights to enforce obligations of the Debtor Releasees under any Order of the Bankruptcy Court, the Plan and all contracts, instruments, releases and other agreements delivered in connection therewith), in law or in equity, whether or not known, suspected or claimed, that the Debtors or the Estates ever had, claimed to have, has, or may have or claim to have against the Debtor Releasees, or any of them, by reason of any matter, cause, thing, act or omission of the Debtor Releasees, or any of them, in each case related to the Debtors,, the Chapter 11 Cases, the 363 Sale or the Plan.*

12.8 Releases by Holders of Claims and Interests. *As of the Effective Date, to the fullest extent permitted under applicable law, in consideration for the obligations under the Plan and the Cash, securities, contracts, instruments, releases and other agreements or documents to be delivered in connection with the Plan, and the benefits provided by the Creditor Releasees in the Plan and in the Chapter 11 Cases, each present and former holder of a Claim or Interest will be deemed to release forever, waive and discharge any and all Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities (other than the rights to enforce the Debtors' obligations under any Order of the Bankruptcy Court, the Asset Purchase Agreement, the Plan and the securities, contracts, instruments, releases and other agreements and documents delivered thereunder), 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, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Chapter 11 Cases, the 363 Sale, or the Plan against Creditor Releasees.

12.9 Limitation of Liability. *Except as expressly set forth in the Plan or the Asset Purchase Agreement, following the Effective Date, none of the Debtors, the Liquidating Trust, the Liquidating Trustee, the Creditors' Committee, the First Lien Facility Agent, the First Lien Facility Lenders (in their capacity as such), the Second Lien Facility Agent, the Second Lien Facility Lenders (in their capacity as such), or any of their respective members, officers, directors, employees, advisors, attorneys, professionals, agents or Affiliates shall have or incur any liability to any holder of a Claim or Interest for any act or omission in connection with, related to, or arising out of, the Chapter 11 Cases, the 363 Sale, the negotiation and pursuit of Confirmation of the Plan, the consummation of the Plan or any contract, instrument, release or other agreement or document created in connection with the 363 Sale, this Plan, or the administration of the Plan or the property to be distributed under the Plan, except for gross negligence or willful misconduct.*

ARTICLE 13

RETENTION OF JURISDICTION

13.1 Scope of Bankruptcy Court Jurisdiction. Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court may retain jurisdiction over the Debtors' Chapter 11 Cases after the Effective Date to the fullest extent legally permissible, including jurisdiction to, among other things:

(a) Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest, including the resolution of (x) any request for payment of any Administrative Expense Claim, (y) any Disputed Claims or Interests and (z) any and all objections to the allowance or priority of any Claim or Interest;

(b) To the extent not inconsistent with the Bankruptcy Code, hear and determine any and all Causes of Action against any Person and rights of the Debtors that arose before or after the Petition Date, including, but not limited to, the rights and powers of a trustee and debtor-in-possession, against any Person whatsoever, including, but not limited to, all avoidance powers granted to the Debtors under the Bankruptcy Code and all Causes of Action and remedies granted pursuant to Sections 502, 506, 510, 541, 542, 543, 544, 545, 547 through 551 and 553 of the Bankruptcy Code;

(c) Grant or deny any applications for allowance of compensation for Professionals authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

(d) Resolve any matters relating to the assumption, assumption and assignment or rejection of any executory contract or unexpired lease to which any Debtor is a party or with respect to which any of the Debtors may be liable, including, without limitation, the determination of whether such contract is executory for the purposes of Section 365 of the Bankruptcy Code, and hear, determine and, if necessary, liquidate any Claims arising therefrom;

(e) Enter Orders approving the Liquidating Trustee's post-Confirmation sale or other disposition of Assets of the Liquidating Trust;

(f) Ensure that distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan and the Liquidating Trust Agreement;

(g) Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving any Debtor or the Liquidating Trust that may be pending in the Debtors' Chapter 11 Cases on the Effective Date;

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

(i) Enter such Orders as may be necessary or appropriate to implement or consummate the provisions of the Liquidating Trust Agreement, the Plan and the Confirmation Order;

(j) Hear and determine any matters concerning the enforcement of the provisions of Article 12 of this Plan and any other exculpations, limitations of liability or injunctions contemplated by this Plan;

(k) Resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Liquidating Trust Agreement, the Plan or the Confirmation Order;

(l) Permit the Debtors, to the extent authorized pursuant to Section 1127 of the Bankruptcy Code, to modify the Plan or any agreement or document created in connection with the Plan, or remedy any defect or omission or reconcile any inconsistency in the Plan or any agreement or document created in connection with the Plan;

(m) Issue injunctions, enter and implement other Orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Liquidating Trust Agreement, the Plan or the Confirmation Order;

(n) Enforce any injunctions entered in connection with or relating to the Plan or the Confirmation Order;

(o) Enter and enforce such Orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated, or distributions pursuant to the Plan are enjoined or stayed;

(p) Determine any other matters that may arise in connection with or relating to the Plan, the 363 Sale, the Asset Purchase Agreement or the Confirmation Order;

(q) Enter any Orders in aid of prior Orders of the Bankruptcy Court; and

(r) Enter a final decree closing the Debtors' Chapter 11 Cases.

ARTICLE 14 **ACCEPTANCE OR REJECTION OF THE PLAN**

14.1 Persons Entitled to Vote. Class 1 and Class 4 are not Impaired, and holders of Class 1 Claims and Class 4 Claims are deemed pursuant to Section 1126(f) of the Bankruptcy Code to have accepted the Plan. Votes from holders of Class 1 Claims and Class 4 Claims will not be solicited. Class 2, Class 3, and Class 5 are Impaired and are expected to receive a distribution under the Plan. Votes from holders of the Class 2 Claims, the Class 3 Claims, and the Class 5 Claims will be solicited. Class 6 Claims, Class 7 Interests, and Class 8 Claims and Interests are Impaired, are not expected to receive any distributions pursuant to the Plan, and are therefore deemed, pursuant to Section 1126(g) of the Bankruptcy Code, to have rejected the Plan. Votes from holders of Class 6 Claims, Class 7 Interests and Class 8 Claims and Interests will not be solicited.

14.2 Acceptance by Impaired Classes. An Impaired Class of Claims shall have accepted the Plan if (i) 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 (ii) 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.

14.3 Request for Non-Consensual Confirmation. Class 6, Class 7, and Class 8 are not expected to receive any distribution on account of their Claims and Interests and are therefore deemed to have rejected the Plan. The Debtors therefore request that the Court confirm the Plan under the cramdown provisions of Section 1129(b) of the Bankruptcy Code with respect to Class 6, Class 7, and Class 8 and any Class that does not vote in favor of the Plan.

ARTICLE 15

MISCELLANEOUS PROVISIONS

15.1 Effectuating Documents and Further Transactions. Each of the Debtors and the Liquidating Trustee is authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan and any Securities issued pursuant to this Plan.

15.2 Corporate Action. On the Effective Date, all matters provided for under this Plan that would otherwise require approval of the stockholders, directors, members, managers or partners of one or more of the Debtors shall be deemed to have occurred and shall be in effect from and after the Effective Date pursuant to Section 303 of the Delaware General Corporation Law or other applicable law of the states in which the Debtors are organized, without any requirement of further action by the stockholders, directors, members, managers, or partners of the Debtors.

15.3 Payment of Statutory Fees. After the Effective Date, the Liquidating Trustee shall pay all fees payable pursuant to section 1930 of chapter 123 of title 28 of the United States Code through the entry of a final decree closing the Debtors' cases.

15.4 Modification of the Plan. Subject to the restrictions on Plan modifications set forth in Section 1127 of the Bankruptcy Code, the Debtors reserve the right, after consultation with the First Lien Facility Agent, the Second Lien Facility Agent and the Creditors' Committee, to alter, amend or modify the Plan before its substantial consummation.

15.5 Revocation of the Plan. The Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Date. If the Debtors revoke or withdraw the Plan, or if Confirmation does not occur or if the Plan does not become effective, then the Plan shall be null and void, and nothing contained in the Plan or Disclosure Statement shall: (a) constitute a waiver or release of any Claims by or against, or any Interests in, the Debtors; (b) constitute an admission of any fact or legal conclusion by the Debtors or any other Entity; or (c) prejudice in any manner the rights of the Debtors in any further proceedings involving the Debtors.

15.6 Governing Law. Unless a rule of law or procedure is supplied by (i) federal law (including the Bankruptcy Code and Bankruptcy Rules), or (ii) an express choice of law provision in any agreement, contract, instrument or document provided for, or executed in connection with, the Plan, the rights and obligations arising under the Plan and any agreements, contracts, documents and instruments executed in connection with the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without giving effect to the principles of conflict of laws thereof.

15.7 No Admissions. If Confirmation or the Effective Date does not occur, nothing contained in the Plan or Disclosure Statement shall be deemed as an admission by the

Debtors with respect to any matter set forth herein or therein including, without limitation, liability on any Claim or the propriety of any Claims classification.

15.8 Severability of Plan Provisions. If prior to Confirmation, any term or provision of the Plan that does not govern the treatment of Claims or Interests is held by the Bankruptcy Court to be invalid, void or unenforceable, at the request of the Debtors the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, Impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

15.9 Successors and Assigns. The rights, benefits and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Entity.

15.10 Exemption from Certain Transfer Taxes. Pursuant to Section 1146(a) of the Bankruptcy Code, the issuance, transfer or exchange of any Security or the making or delivery of any instrument of transfer under this Plan may not be taxed under any law imposing a stamp tax, use tax, sales tax or similar tax. Any sale of any Asset of the Debtors or the Liquidating Trust occurring after or upon the Effective Date shall be deemed to be in furtherance of this Plan.

15.11 Preservation of Rights of Setoffs. The Debtors or, if after the Effective Date, the Liquidating Trustee, may, but shall not be required to, set off against any Claim, and the payments or other distributions to be made pursuant to this Plan in respect of such Claim, Claims of any nature whatsoever that the Debtors or, if after the Effective Date, the Liquidating Trustee, may have against the holder of such Claims; but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Liquidating Trustee of any such Claim that the Debtors or, if after the Effective Date, the Liquidating Trustee, may have against such holder.

15.12 Defenses with Respect to Unimpaired Claims. Except as otherwise provided in this Plan, nothing shall affect the rights and legal and equitable defenses of the Debtors or, if after the Effective Date, the Liquidating Trustee, with respect to any Unimpaired Claim, including all rights in respect of legal and equitable defenses to setoffs or recoupments against Unimpaired Claims.

15.13 No Injunctive Relief. Except as otherwise provided in the Plan or Confirmation Order, no Claim or Interest shall under any circumstances be entitled to specific performance or other injunctive, equitable, or other prospective relief.

15.14 Saturday, Sunday or Legal Holiday. If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

15.15 Entire Agreement. This Plan (together with the Liquidating Trust Agreement) sets forth the entire agreement and undertaking relating to the subject matter hereof and supersedes all prior discussions and documents. The Debtors' Estates shall not be bound by

any terms, conditions, definitions, warranties, understandings, or representations with respect to the subject matter hereof, other than as expressly provided for herein.

15.16 Dissolution of Creditors' Committee. The Creditors' Committee shall be dissolved on the Effective Date, without need for a further Order of the Bankruptcy Court.

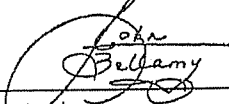
15.17 Notices. Any notice required or permitted to be provided under this Plan shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery, or (c) reputable overnight delivery service, freight prepaid, to be addressed as follows:

Debtors	Counsel to Debtors
<p>Graceway Pharmaceuticals, LLC 340 Martin Luther King Jr. Blvd. Suite 400 Bristol, TN 37620 Attn: John Bellamy (john.bellamy@gracewaypharma.com)</p>	<p>Latham & Watkins LLP 233 South Wacker Drive Chicago, IL 60606 Attn: Josef S. Athanas, Esq. and Matthew L. Warren, Esq. (josef.athanas@lw.com and matthew.warren@lw.com)</p> <p>Young Conaway Stargatt & Taylor, LLP Rodney Square 1000 North King Street Wilmington, DE 19801 Attn: Michael R. Nestor, Esq. and Kara Hammond Coyle, Esq. (mnestor@ycst.com and kcoyle@ycst.com)</p>
Special Bankruptcy and Restructuring Counsel to the Agent for the First Lien Facility Lenders	United States Trustee
<p>Wachtell, Lipton, Rosen & Katz 51 West 52nd Street New York, NY 10019 Attn: Scott K. Charles, Esq. and Michael S. Benn, Esq. (SKCharles@wlrk.com and MSBenn@wlrk.com)</p> <p>DLA Piper LLP 919 North Market Street, 15th Floor Suite 1500 Wilmington, DE 19801 Attn: Stuart M. Brown, Esq. (stuart.brown@dlapiper.com)</p>	<p>Office of the United States Trustee for the District of Delaware 844 King Street J. Caleb Boggs Federal Building Room 2207, Lockbox 35 Wilmington, DE 19801 Attn: Juliet Sarkessian, Esq. (Juliet.M.Sarkessian@usdoj.gov)</p>

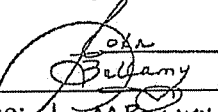
Financing Counsel to the Agent for the First Lien Facility Lenders	Counsel to the Creditors' Committee
<p>Morgan Lewis 225 Franklin Street, 16th Floor Boston, MA 02110 Attn: Sula Fiszman, Esq. (sfiszman@morganlewis.com)</p>	<p>Lowenstein Sandler PC 65 Livingston Avenue Roseland, NJ 07068 Attn: S. Jason Teele, Esq. (steele@lowenstein.com)</p> <p>Elliott Greenleaf 1105 Market Street, Suite 1700 Wilmington, DE 19801 Attn: Rafael X. Zahralddin-Aravena (rxza@elliottgreenleaf.com)</p>
Counsel to the Agent for the Second Lien Facility Lenders	Agent for the Mezzanine Lenders
<p>Sidley Austin LLP One South Dearborn, Chicago, IL 60603 Attn: Larry Nyhan, Esq. (lnyhan@sidley.com)</p>	<p>Goldman Sachs Credit Partners L.P. 30 Hudson Street, 5th Floor Jersey City, NJ 07302 Attn: Michelle Latzoni</p>
Receiver for Graceway Canada Company	Counsel to the Receiver for Graceway Canada Company
<p>RSM Richter Inc. 200 King Street West, Suite 1100 Toronto, ON M5H 3T4 Attn: Robert Kofman and David Sieradzki</p>	<p>Davies Ward Phillips & Vineberg LLP 1 First Canadian Place, Suite 4400 P.O. Box 63 Toronto, ON M5X 1B1 Attn: Jay Swartz</p>
Liquidating Trustee	Counsel to Graceway Canada Company
<p>Kip Horton RPA Advisors, LLC 45 Eisenhower Drive Paramus, NJ 07652 Attn: Kip Horton (khorton@rpaadvisors.com)</p>	<p>Goodmans LLP Bay Adelaide Centre 333 Bay Street, Suite 3400 Toronto, ON M5H 2S7 Attn: Fred Myers, Joe Latham, and Caroline Descours</p>

Dated: January 25, 2012

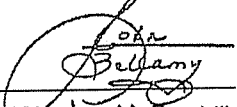
Graceway Pharma Holding Corp.

By: 
Name: JOHN AA BELLAMY
Title: EVP/SECRETARY

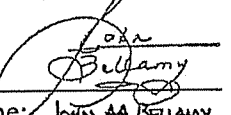
Graceway Holdings, LLC

By: 
Name: JOHN AA BELLAMY
Title: EVP/SECRETARY

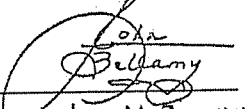
Graceway Pharmaceuticals, LLC

By: 
Name: JOHN AA BELLAMY
Title: EVP/SECRETARY

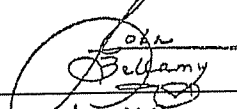
Chester Valley Holdings, LLC

By: 
Name: JOHN AA BELLAMY
Title: EVP/SECRETARY

Chester Valley Pharmaceuticals, LLC

By: 
Name: JOHN AA BELLAMY
Title: EVP/SECRETARY

Graceway Canada Holdings, Inc.

By: 
Name: JOHN AA BELLAMY
Title: EVP/SECRETARY

Graceway International, Inc.

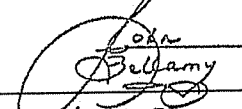
By: 
Name: JOHN AA BELLAMY
Title: EVP/SECRETARY

Exhibit 1

List of Debtors

The Debtors, along with the last four digits of each Debtor's federal tax identification number and each Debtor's Chapter 11 Case Number, include:

1. Graceway Pharma Holding Corp. (9175): Case No. 11-13037 (PJW)
2. Graceway Holdings, LLC (2502): Case No. 11-13038 (PJW)
3. Graceway Pharmaceuticals, LLC (5385): Case No. 11-13036 (PJW)
4. Chester Valley Holdings, LLC (9457): Case No. 11-13039 (PJW)
5. Chester Valley Pharmaceuticals, LLC (3713): Case No. 11-13041 (PJW)
6. Graceway Canada Holdings, Inc. (6663): Case No. 11-13042 (PJW)
7. Graceway International, Inc. (2399): Case No. 11-13043 (PJW)

Exhibit 2

Liquidating Trust Agreement

LIQUIDATING TRUST AGREEMENT

for the

Graceway Liquidating Trust

TABLE OF CONTENTS

Section I Definitions	5
1.1. Terms Defined Above.....	5
1.2. Terms Defined in the Plan.	5
Section II Authority of and Certain Directions to Liquidating Trustee: Declaration of Trust	6
2.1. Creation of Liquidating Trust.	6
2.2. Purpose of Liquidating Trust.	6
2.3. Title to Assets of the Debtors.....	7
2.4. Segregated Funds.....	7
2.5. Tax Treatment of Transfer of Trust Assets to the Liquidating Trust.....	8
2.6. Transfer Free and Clear of Claims.....	8
2.7. Transfer of Trust Assets.....	8
2.8. Property in the Liquidating Trust.....	9
2.9. Valuation of Trust Assets.....	9
2.10. Continuation of the Automatic Stay.	9
Section III Beneficial Interests.....	9
3.1. No Transfer or Exchange.....	9
3.2. No Certification.	10
3.3. Absolute Owners.....	10
3.4. Means of Payment.....	10
3.5. Amount of Payment.	10
3.6. Acceptance of Conveyance.....	10
3.7. Title.....	11
Section IV Administration of Trust Estate.....	11
4.1. Trust Administrative Fund.....	11
4.2. First Lien Trust Administrative Fund.	12
4.3. Disputed Claims Reserve.....	12
4.4. Administrative Powers of the Liquidating Trustee.....	13
4.5. Objections to Claims.....	15
4.6. Limitations on Liquidating Trustee; Investments.....	16
4.7. Limitations on Liquidating Trustee – Causes of Action.....	16
4.8. Transferee Liabilities	17

4.9.	Administration of Trust.....	17
4.10.	Payment of Expenses and Other Liabilities	17
4.11.	Payment of United States Trustee's Fees.....	18
4.12.	Liquidating Trustee Fees and Liquidating Trustee First Lien Fees	18
4.13.	Fiscal Year.	18
4.14.	Reports	18
4.15.	Liquidating Trust Committee.....	19
4.16.	Removal of the Liquidating Trustee	20
Section V Payments and Distributions.		20
5.1.	Distributions to Beneficiaries	20
5.2.	Frequency and Amounts of Cash Payments	21
5.3.	Establishment of the Claim Accounts.....	22
5.4.	Distributions from Trust Estate.....	22
5.5.	Fractional Distributions	22
5.6.	Final Distribution.....	22
5.7.	Termination Date	23
Section VI Other Duties of the Trustee.....		23
6.1.	Management of Trust Estate	23
6.2.	Tax and Related Matters	23
6.3.	No Implied Duties.....	24
Section VII Concerning the Liquidating Trustee.....		24
7.1.	Acceptance by Liquidating Trustee	24
7.2.	Discretionary Submission of Questions.....	24
7.3.	Liability of the Liquidating Trustee.....	25
7.4.	Reliance by Liquidating Trustee.....	25
7.5.	Reliance on Liquidating Trustee.....	25
7.6.	Indemnification	26
7.7.	Compensation of Liquidating Trustee	27
7.8.	Resignation and Removal	27
Section VIII Supplements and Amendments to this Liquidating Trust Agreement.		28
8.1.	Supplements and Amendments.....	28
8.2.	Declining to Execute Documents.....	29

8.3.	Notice of Form of Supplements and Amendments Requiring Vote or Consent	29
8.4.	Notice and Effect of Executed Amendment	29
Section IX Miscellaneous.		29
9.1.	Title to Trust Estate.....	29
9.2.	Sales of Assets of the Trust Estate.....	29
9.3.	Notices	29
9.4.	Severability	30
9.5.	Counterparts	30
9.6.	Binding Agreement.....	30
9.7.	No Personal Liability of Beneficiaries.....	30
9.8.	Headings	31
9.9.	Construction.....	31
9.10.	Governing Law	31
9.11.	Construction with the Plan.....	31
9.12.	Subject to Bankruptcy Court's Jurisdiction	31
9.13.	Intention of the Parties	31

LIQUIDATING TRUST AGREEMENT

This Liquidating Trust Agreement (the "Liquidating Trust Agreement"), dated as of [____], 2012, by and among Graceway Pharmaceuticals, LLC ("Graceway") and each of the other debtors listed on the signature pages hereto (collectively with Graceway, the "Debtors") and Kip Horton, as Liquidating Trustee ("Liquidating Trustee"), is made and executed in connection with the Joint Plan of Liquidation of Graceway Pharmaceuticals, LLC, et al. under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), dated January [25], 2012, (the "Plan"), filed by the Debtors in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), which Plan was confirmed by Order of the Bankruptcy Court dated [____], 2012. The Plan provides for the establishment of the liquidating trust evidenced hereby (which liquidating trust shall formally be known as the "Graceway Liquidating Trust") to liquidate the assets and property of the Debtors in accordance with the terms and conditions of the Plan and to resolve and realize upon certain of the Debtors' rights, claims and causes of action through enforcement by the Liquidating Trustee.

RECITALS

WHEREAS, on September 29, 2011 (the "Petition Date"), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code; and,

WHEREAS, the Debtors, thereafter, continued in the operation of their businesses and the management of their properties as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code; and,

WHEREAS, on January [25], 2012, the Debtors filed their Plan with the Bankruptcy Court; and,

WHEREAS, the Bankruptcy Court entered its Order confirming the Plan (the "Confirmation Order") on [____], 2012; and,

WHEREAS, the Plan provides for, among other things, (a) liquidation of the Debtors' Assets, and (b) distributions from the Reserve Accounts and, to the extent necessary, the Other Available Cash, to the holders of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims and Allowed Other Secured Claims to pay such Allowed Claims in full in accordance with the terms of the Plan, (c) distribution of the First Lien Available Cash to the holder of the Allowed First Lien Facility Claims as provided herein and in the Plan, and (d) distribution of the Other Available Cash to the holder of any Allowed Second Lien Facility Claims and to the holders of Allowed General Unsecured Claims as provided herein and in the Plan; and,

WHEREAS, the Plan provides for the creation of a liquidating trust to hold the Trust Assets in trust for the benefit of all Beneficiaries pursuant to the terms of this Liquidating Trust Agreement and the Plan; and,

WHEREAS, this Liquidating Trust Agreement is executed to establish the Liquidating Trust (as defined in Section 2 hereof) and to facilitate implementation of the Plan; and,

WHEREAS, the primary purpose of the Liquidating Trust is to liquidate the Trust Assets for the benefit of the Beneficiaries in accordance with Treasury Regulation Section 301.7701-4(d) and the Liquidating 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 liquidating purpose of the Liquidating Trust; and,

WHEREAS, except with respect to the Disputed Claims Reserve (defined below), the Liquidating Trust is intended to qualify as one or more liquidating trusts that are treated as “grantor trusts” for federal income tax purposes and the Liquidating Trustee shall operate and maintain the Liquidating 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 liquidating trusts issued by the Internal Revenue Service; and,

WHEREAS, as contemplated by the Plan, the Beneficiaries hereby exchange their Allowed Claims under the Plan for Beneficial Interests (as hereinafter defined) in the Liquidating Trust;

A G R E E M E N T S

NOW THEREFORE, for and in consideration of the premises, and the mutual promises and agreements contained herein and in the Plan, the receipt and sufficiency of which are hereby expressly acknowledged, the Debtors and Liquidating Trustee hereby agree as follows:

SECTION I DEFINITIONS

1.1. Terms Defined Above.

As used in this Liquidating Trust Agreement, each of the terms “Liquidating Trust Agreement,” “Graceway,” “Debtors,” “Liquidating Trustee,” “Bankruptcy Code,” “Plan,” “Bankruptcy Court,” “Petition Date,” and “Confirmation Order” shall have the meanings hereinabove set forth.

1.2. Terms Defined in the Plan.

Capitalized terms used in this Liquidating Trust Agreement without definition shall have the meanings assigned to them in the Plan. Terms defined in the Bankruptcy Code and not otherwise specifically defined in the Plan or herein shall, when used herein, have the meanings attributed to them in the Bankruptcy Code.

SECTION II AUTHORITY OF AND CERTAIN DIRECTIONS TO LIQUIDATING TRUSTEE: DECLARATION OF TRUST

2.1. Creation of Liquidating Trust.

Pursuant to Section 7.2 of the Plan and the Confirmation Order, and effective as of the Effective Date of the Plan, the Beneficiaries and the Debtors hereby create the Liquidating Trust, to be formally be known as the Graceway Liquidating Trust, for the benefit of the Beneficiaries. Pursuant to the terms of the Plan, the Debtors execute this Liquidating Trust Agreement and, subject to the provisions of Section 2.3 hereof, absolutely and irrevocably transfer, absolutely assign, convey, set over, and deliver to the Liquidating Trust, and its successors and assigns, all right, title and interest of the Debtors in and to the Trust Estate, in trust, to and for the benefit of the Beneficiaries for the uses and purposes stated herein and in the Plan, except as may otherwise be specifically provided by the Plan. The Debtors shall execute and deliver such other instruments of sale, transfer, conveyance, assignment and confirmation, and will cooperate and take such other actions as the Liquidating Trustee may deem reasonably necessary or desirable in order to more effectively transfer, convey and assign all rights, title and interests in and to the Trust Estate to the Liquidating Trust.

2.2. Purpose of Liquidating Trust.

This Liquidating Trust is created and organized for the sole purposes of collecting, holding, liquidating, and distributing the Trust Estate and administering, compromising, settling, withdrawing, objecting to, or litigating any and all Causes of Action and objections to the Claims under the Plan, with no objective to engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust. In accordance with such express and limited purposes, as of the Effective Date, the Liquidating Trust is hereby authorized and directed: (a) to take any and all steps necessary to maintain the Liquidating Trust (except with respect to the Disputed Claims Reserve) as one or more liquidating trusts for federal income tax purposes in accordance with Treasury Regulation § 301.7701-4(d) and as one or more “grantor trusts” subject to the provisions of Subchapter J, Subpart E of the IRC unless otherwise required; (b) to take all reasonable and necessary actions to conserve and protect the Trust Estate; (c) to administer, compromise, settle, and litigate any and all Causes of Action and any other Claims or causes of action belonging to the Liquidating Trust; (d) to the extent necessary and appropriate, object to any Claims asserted against the Debtors’ Estates and the Liquidating Trust; and (e) to maintain, operate or lease (for purposes of holding for sale), or sell or otherwise liquidate or dispose of the Trust Estate, in accordance with the terms of this Liquidating Trust Agreement, the Plan and the Confirmation Order, and to distribute the net proceeds of such disposition to the Beneficiaries, in as prompt, efficient and orderly a fashion as possible in accordance with the provisions of Section 5 hereof.

2.3. Title to Assets of the Debtors.

Upon the transfer of the Assets to the Liquidating Trust, the Liquidating Trustee shall succeed to all of the Debtors' right, title and interest in the Assets and the Debtors will have no further interest in or with respect to the Assets or the Liquidating Trust.

2.4. Segregated Funds.

a. On the Effective Date, the Liquidating Trustee shall establish a segregated deposit account to be used solely for the purpose of funding of the Trust Administrative Fund (defined below). The Liquidating Trustee Fee Amount shall be funded into the account by the First Lien Facility Agent from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled and shall be free and clear of all Liens and Claims of the First Lien Facility Agent or the First Lien Claimholders, including the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim. In addition, the Liquidating Trustee shall fund into the account any additional amount the Liquidating Trustee deems necessary to fund post-Effective Date operations other than fees and expenses incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash in connection with (i) the collection of accounts receivable, (ii) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (iii) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims, from the Other Assets. Any unspent Cash remaining in the Trust Administrative Fund immediately prior to the Final Distribution Date shall be distributed to the Beneficiaries as if such Cash were Other Assets.

b. The Liquidating Trustee shall establish a segregated deposit account to be used solely for the purpose of funding the First Lien Trust Administrative Fund (defined below). From time to time as agreed between the First Lien Facility Agent and the Liquidating Trustee, the First Lien Facility Agent shall fund amounts into the account to pay the Liquidating Trustee First Lien Fees incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash, in connection with (i) the collection of accounts receivable, (ii) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (iii) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled. Any unspent Cash remaining in the First Lien Trust Administrative Fund after the payment of all Liquidating Trustee First Lien Fees intended to be paid therefrom shall be treated as First Lien Available Cash and distributed to the First Lien Facility Agent for the benefit of the First Lien Claimholders.

c. On the Effective Date, to the extent the Liquidating Trustee determines that the amounts in the Reserve Accounts are insufficient to pay such Allowed Claims in full, the Liquidating Trustee may establish a segregated deposit account to be used solely for the payment of Other Available Cash to holders of Allowed Other Secured Claims (to the extent not

otherwise satisfied in accordance with the terms of the Plan), Allowed Administrative Expense Claims, Allowed Priority Tax Claims and Allowed Other Priority Claims. The account shall be funded solely from Other Available Cash. To the extent Cash remains in such account following the payment in full of all Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of the Plan), Allowed Administrative Expense Claims, Allowed Priority Tax Claims and Allowed Other Priority Claims, such Cash shall be distributed to the Beneficiaries as if such Cash were Other Assets.

2.5. Tax Treatment of Transfer of Trust Assets to the Liquidating Trust.

For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Beneficiaries) shall treat the transfer of Trust Assets to the Liquidating Trust, as set forth in Sections 2.1, 2.3 and 2.4 of this Liquidating Trust Agreement and in accordance with the Plan, as a transfer of such Assets to the Beneficiaries and a transfer by the Beneficiaries of such Assets to the Liquidating Trust. In all events, the Beneficiaries of the Liquidating Trust shall be treated as the grantors and deemed owners of the Liquidating Trust.

2.6. Transfer Free and Clear of Claims.

In accordance with Section 2.1 hereof, except as set forth in the Plan, the Debtors hereby transfer and assign the Trust Assets to the Liquidating Trust free and clear of any Liens, Claims, interests, encumbrances or any liability of any kind (except that the Assets other than the Other Assets shall remain subject to the Liens securing the First Lien Facility Secured Claim and any First Lien Facility Adequate Protection Claim as provided in Section 5.2 of the Plan)), and the Liquidating Trustee on behalf of the Liquidating Trust hereby assumes and agrees that, except as set forth in the Plan, all such Trust Assets will be transferred to the Liquidating Trust free and clear of any Liens, Claims, interests, encumbrances or any liability of any kind.

2.7. Transfer of Trust Assets.

Except as otherwise provided by the Plan or this Liquidating Trust Agreement, upon the Effective Date, title to the Trust Assets shall pass to the Liquidating Trust free and clear of all claims and Interests, in accordance with Section 1141 of the Bankruptcy Code. The Liquidating Trustee shall not be permitted to receive or retain Cash or Cash equivalents in excess of a reasonable amount to meet distributions as provided herein and the Plan or to maintain the value of the Trust Assets during liquidation.

On the Effective Date, (a) the Debtors' equity interests in Graceway Canada and (b) the Debtors' Claims against Graceway Canada arising from any Intercompany Claims, loans, notes, transfers or other obligations shall be transferred by the Debtors to the Liquidating Trust, and the equity interests in Graceway Canada shall continue to be subject to the Liens securing the First Lien Facility Secured Claim and any First Lien Facility Adequate Protection Claim as provided in Section 5.2 of the Plan and the Liens of the Second Lien Facility Agent in favor of the Second Lien Facility Lenders; *provided, however*, that the portion of the Canadian Distribution Amount used to fund the Estate Fund Amount shall be free and clear of the Liens of

the First Lien Facility Agent in accordance with the Committee Settlement. The Liquidating Trust shall exercise its powers as the sole shareholder to appoint the Liquidating Trustee as the sole officer and director of Graceway Canada and shall make distributions of the Canadian Distribution Amount as provided under the Plan.

2.8. Property in the Liquidating Trust.

The Liquidating Trust shall hold the legal title to all property at any time constituting a part of the Trust Estate and shall hold such property in trust to be administered and disposed of by it pursuant to the terms of this Liquidating Trust Agreement, the Plan and the Confirmation Order for the benefit of the Beneficiaries. The Liquidating Trustee is authorized to make disbursements and payments from the Trust Estate in accordance with the provisions of Sections 5 and 6 of this Liquidating Trust Agreement and pursuant to the Plan.

2.9. Valuation of Trust Assets.

As soon as possible after the Effective Date, but in no event later than ninety (90) days thereafter, the Liquidating Trustee, based upon his good faith determination after consultation with his counsel, shall inform the Beneficiaries in writing solely as to his estimate of the value of the Trust Assets. The valuation shall be used consistently by all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Beneficiaries) for all federal income tax purposes, and the parties shall file tax returns consistent with such valuation; *provided, however*, that such valuation shall not be binding on the Liquidating Trustee or any other party for any other purposes, including without limitation in regard to the liquidation of the Trust Assets; whether by disposition, liquidation, litigation, settlement, or otherwise.

2.10. Continuation of the Automatic Stay.

In furtherance of the implementation of the Plan, except as otherwise provided in the Plan, all injunctions or stays provided for in the Chapter 11 Cases pursuant to Sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect and apply to all creditors and Beneficiaries holding Claims against the Debtors, the Estates, the Assets, the Liquidating Trustee, the Liquidating Trust and the Trust Assets until the Final Distribution Date.

SECTION III BENEFICIAL INTERESTS.

3.1. No Transfer or Exchange.

Unless the Liquidating Trustee determines otherwise, beneficial interests in the Liquidating Trust (the "Beneficial Interests") shall not be transferable. In the event the Liquidating Trustee does authorize the transfer of Beneficial Interests, the Liquidating Trustee, based upon his good faith determination after consultation with his counsel, shall establish procedures to govern the registration and transfer of Beneficial Interests ("Permitted Transfer"). Once such procedures have been established, if ever, the Liquidating Trustee shall notify all holders of Beneficial Interests of such procedures. Notwithstanding the foregoing, a transfer of a

Beneficial Interest shall be not be permitted by the Liquidating Trustee if such transfer would be contrary to maintaining the Liquidating Trust as a liquidating trust for federal income tax purposes in accordance with Treasury Regulation § 301.7701-4(d) and as one or more “grantor trusts” subject to the provisions of Subchapter J, Subpart E of the IRC.

3.2. No Certification.

Unless the Liquidating Trustee determines otherwise, the Beneficial Interests will not be certificated and no security of any sort will be distributed to the Beneficiaries with respect to their interest in the Liquidating Trust. In the event the Liquidating Trustee does permit the certification of the Beneficial Interests, the Liquidating Trustee, based upon his good faith determination after consultation with his counsel, shall establish procedures to govern such certification. Once such procedures have been established, if ever, the Liquidating Trustee shall notify all Beneficiaries of such procedures.

3.3. Absolute Owners.

The Liquidating Trustee may deem and treat the persons who are Beneficiaries (as determined in accordance with the Plan) as the absolute owners of the Beneficial Interests in the Liquidating Trust for the purpose of receiving distributions and payments thereof, or on account thereof, and for all other purposes whatsoever. Unless the Liquidating Trustee receives actual written notice of a Permitted Transfer from the duly authorized transferee not less than thirty (30) days prior to a distribution made pursuant to the terms of this Liquidating Trust Agreement, and subject to the applicable provisions of Bankruptcy Rule 3001(e), the Liquidating Trustee shall have no duty or obligation to make or direct any distributions or payments to such transferee of a Permitted Transfer.

3.4. Means of Payment.

Cash payable to Beneficiaries pursuant to Section 5 hereof will be paid by checks drawn on a domestic bank account maintained by the Liquidating Trust or by wire transfer from a domestic bank account maintained by the Liquidating Trust at the sole option of the Liquidating Trustee.

3.5. Amount of Payment.

The amount of Cash payments and distributions to Beneficiaries shall be made and calculated in accordance with the Plan.

3.6. Acceptance of Conveyance.

The Liquidating Trustee is hereby directed to, and the Liquidating Trustee agrees that he will: (a) accept delivery of the Trust Estate on behalf of the Liquidating Trust; (b) accept all bills of sale, deeds, assumptions and assignments, and all other instruments of conveyance required to be delivered by the Debtors with respect to the Trust Estate transferred to the Liquidating Trustee on behalf of the Liquidating Trust pursuant to or in connection with the Plan,

the Confirmation Order, or this Liquidating Trust Agreement; and (c) take such other action as may be required of the Liquidating Trust hereunder, including the receipt and acceptance as part of the Trust Estate of any property or rights, including, without limitation, notes, other negotiable instruments, Claims, Causes of Action, and other choses-in-action belonging to the Debtors or their Estates.

3.7. Title.

On the Effective Date, legal title to all Trust Assets shall be vested in the Liquidating Trust in accordance with and pursuant to the terms of the Plan and this Liquidating Trust Agreement. Without limiting the foregoing, on the Effective Date, the Liquidating Trustee, on behalf of the Liquidating Trust, shall be: (a) authorized to act and have standing in any court of competent jurisdiction as representative of the Debtors' Estates in respect of any and all claims or causes of action that constitute Causes of Action; and (b) substituted as successor to the Debtors and/or the Creditors' Committee (i) in all actions and proceedings pending or thereafter commenced in the Bankruptcy Court or elsewhere in regard to the Causes of Action, (ii) in all actions and proceedings pending or thereafter commenced in the Bankruptcy Court or elsewhere in connection with or regarding all Claims, and (iii) in any agreement respecting the Trust Assets to which any of the Debtors is a party, including, without limitation, the Committee Settlement.

SECTION IV ADMINISTRATION OF TRUST ESTATE.

4.1. Trust Administrative Fund.

The Liquidating Trustee shall establish a reserve fund (the "Trust Administrative Fund") for the payment by the Liquidating Trustee of all liquidation expenses, including, without limitation, the compensation of the Liquidating Trustee, any attorney, accountant, advisor or other professional retained by the Liquidating Trustee, and the payment of all other reasonable and reasonably anticipated expenses, debts, charges, liabilities and obligations relating to the Trust Estate and its administration including the fees of the Indenture Trustee in connection with Plan distributions. On the Effective Date, the Liquidating Trustee Fee Amount shall be funded into the Trust Administrative Fund by the First Lien Facility Agent from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled and shall be free and clear of all Liens and Claims of the First Lien Facility Agent or the First Lien Claimholders, including the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim, for the sole purpose of paying the Liquidating Trustee Fees. Any additional amount the Liquidating Trustee deems reasonable and necessary to fund post-Effective Date operations other than fees and expenses incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims, shall be funded into the Trust Administrative Fund from the Other Assets. Any balance remaining in the Trust Administrative Fund after the payment of all expenses, debts, charges,

liabilities and obligations intended to be paid therefrom shall be treated as Other Assets and distributed to Beneficiaries as provided in Section 5 hereof. Any monies deposited in the Trust Administrative Fund pursuant to the terms of this Liquidating Trust Agreement shall be invested in interest-bearing deposits or investments specified in Section 4.6b of this Agreement, and the interest earned thereon shall be credited thereto. Any unspent Cash remaining in the Trust Administrative Fund immediately prior to the Final Distribution Date shall be distributed to the Beneficiaries as if such Cash were Other Assets.

4.2. First Lien Trust Administrative Fund.

The Liquidating Trustee shall establish a reserve fund (the "First Lien Trust Administrative Fund"), to be funded from time to time as agreed between the First Lien Facility Agent and the Liquidating Trustee, for the payment by the Liquidating Trustee of all reasonable fees and out-of-pocket expenses for services performed by the Liquidating Trustee, and any attorneys or other professionals hired by the Liquidating Trustee, incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash, in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled. Any balance remaining in the First Lien Trust Administrative Fund after the payment of all Liquidating Trustee First Lien Fees intended to be paid therefrom shall be treated as First Lien Available Cash and distributed to the First Lien Facility Agent for the benefit of the First Lien Claimholders. Any monies deposited in the First Lien Trust Administrative Fund pursuant to the terms of this Liquidating Trust Agreement shall be invested in interest-bearing deposits or investments specified in Section 4.6b of this Agreement, and the interest earned thereon shall be credited thereto.

4.3. Disputed Claims Reserve.

On the Effective Date, the Liquidating Trustee shall establish a reserve fund solely from the Other Assets other than the Liquidating Trustee Fee Amount (the "Disputed Claims Reserve") for the payment by the Liquidating Trustee of all Disputed Claims other than First Lien Facility Claims if and when Allowed; *provided, however*, that funds shall be added to the Disputed Claims Reserve for Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of the Plan), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims that are Disputed Claims only to the extent the amounts deposited in the applicable Reserve Account for the payment of such Claims are insufficient to pay the Face Amount of such Claims. With respect to any unliquidated Disputed Claim, the Disputed Claims Reserve shall be funded upon entry of and in accordance with an Order(s) of the Bankruptcy Court estimating the amount (the "Estimated Amount") of such unliquidated Disputed Claim. Upon ultimate determination that any Disputed Claim is not Allowed, the Liquidating Trustee shall immediately release the portion of the Disputed Claim Reserve on account of such Claim and distribute such portion in accordance with the Plan. Each time a distribution of Other Available Cash is made to any Class of Claims, the Liquidating Trustee shall deposit into the

Disputed Claims Reserve an amount equal to the distribution each holder of a Disputed Claim in such Class would have received were the Face Amount of its Disputed Claim in such Class an Allowed Claim solely from proceeds of Other Assets. Any Person whose Disputed Claim is so estimated shall be entitled to an Allowed Claim only up to an amount not to exceed the Estimated Amount even if such Person's Disputed Claim, as finally allowed, would have exceeded the maximum Estimated Amount thereof. At the time a Person's Disputed Claim becomes an Allowed Claim, such Person shall receive from the applicable Reserve Account and/or the Disputed Claims Reserve a distribution equal to the distributions such Person would have received on account of its Allowed Claim had it been an Allowed Claim at the time of such prior distributions, with any surplus Cash held in the Disputed Claims Reserve on account of such Disputed Claim becoming generally available for use by the Liquidating Trustee as Other Available Cash in accordance with the Plan and this Liquidating Trust Agreement and any surplus Cash held in any Reserve Account being becoming available for distribution by the Liquidating Trustee as First Lien Available Cash in accordance with the Plan.

4.4. Administrative Powers of the Liquidating Trustee.

During the Liquidating Trustee's administration of the Liquidating Trust, and subject to (i) all the other provisions of this Liquidating Trust Agreement (including, but not limited to, Sections 4.6 and 4.7) and (ii) the Plan, the Liquidating Trustee may exercise the power:

- a. To receive and hold all the Assets of the Trust Estate and to have exclusive possession and control thereof as permissible under applicable law;
- b. To manage, sell and convert all or any portion of the Assets in the Trust Estate to Cash and distribute the net distributable proceeds as specified in the Plan and this Liquidating Trust Agreement;
- c. To incur indebtedness;
- d. To enter into, perform and exercise rights under contracts binding upon the Liquidating Trust (but not upon the Liquidating Trustee in his respective individual or corporate capacity) which are reasonably incident to the administration of the Liquidating Trust and which the Liquidating Trustee, in the exercise of his best business judgment, reasonably believes to be in the best interests of the Liquidating Trust;
- e. To delegate his authority under this Liquidating Trust to other persons, provided that such delegation must be made pursuant to a written agreement that either has been approved by the Bankruptcy Court in conjunction with the Confirmation of the Plan or is approved by the Liquidating Trust Committee (defined below);
- f. To establish and maintain accounts at banks and other financial institutions, in a clearly specified fiduciary capacity, into which the Trust Administrative Fund, First Lien Trust Administrative Fund, Disputed Claims Reserve or other Cash and property of the Liquidating Trust may be deposited, and draw checks or make withdrawals from such

accounts, and to pay or distribute such amounts of the Trust Estate as permitted or required under the Plan and this Liquidating Trust Agreement;

g. To employ attorneys, accountants, appraisers, expert witnesses, insurance adjusters or other persons whose services may be reasonably necessary or advisable, in the sole judgment of the Liquidating Trustee after consultation with the Liquidating Trust Committee, to advise or assist him in the discharge of his duties as Liquidating Trustee or otherwise in the exercise of any powers vested in the Liquidating Trustee, and to pay from the Trust Administrative Fund or First Lien Trust Administrative Fund, as applicable, reasonable compensation to such attorneys, accountants, appraisers, expert witnesses, insurance adjusters or other persons;

h. To pay any and all reasonable and necessary expenses attributable or relating to the management, maintenance, operation, preservation or liquidation of the Trust Estate;

i. To investigate, file, compromise, settle, withdraw or litigate in the Bankruptcy Court or on appeal (or pursuant to a withdrawal of the reference of jurisdiction) objections to Claims filed against the Debtors' Estates, the Trust Estate or the Liquidating Trust; *provided, however*, that on and after the Effective Date and until such time as the First Lien Facility Claims are paid in full in Cash, in order to compromise, settle, otherwise resolve, or withdraw any objections to Disputed Claims, the Liquidating Trustee shall be required to obtain (i) the prior written consent of the Approving Majority First Lien Lenders or (ii) an Order of the Bankruptcy Court approving such compromise, settlement, other resolution, or withdrawal of any objections to Disputed Claims;

j. To investigate, analyze, compromise, adjust, arbitrate, sue on or defend, pursue, prosecute, abandon, or otherwise deal with and settle, in accordance with the terms set forth in this Liquidating Trust Agreement, any and all Causes of Action and claims in favor of or against the Liquidating Trust as the Liquidating Trustee shall deem advisable; *provided, however*, that on and after the Effective Date and until such time as the First Lien Facility Claims are paid in full in Cash, in order to settle or abandon Causes of Action, the Liquidating Trustee shall be required to obtain (i) the prior written consent of the Approving Majority First Lien Lenders or (ii) an Order of the Bankruptcy Court approving such settlement or abandonment after notice and a hearing;

k. To avoid and recover transfers of the Debtors' property as may be permitted by the Bankruptcy Code or applicable state law, including, without limitation, those transfers identified in the Disclosure Statement;

l. To take all appropriate action with respect to the Trust Estate, including, without limitation, the filing, prosecution, settlement or other resolution of Claims and Causes of Action, subject to the limitations set forth in subsections (i) and (j) above;

m. To sue or be sued in connection with any matter arising from or related to the Plan or this Liquidating Trust Agreement that affects in any way the rights or obligations of the Liquidating Trust, the Liquidating Trustee or the Beneficiaries;

n. To represent the interests of the Beneficiaries with respect to any matters relating to the Plan, this Liquidating Trust Agreement, or the Liquidating Trust affecting the rights of such Beneficiaries;

o. If the Liquidating Trust shall become subject to federal or state income tax, the Liquidating Trustee shall have the power, exercisable at his reasonable discretion, to take any action reasonably necessary to minimize any adverse federal or state income tax consequences to the Beneficiaries resulting from any distribution made by the Liquidating Trust to such Beneficiaries;

p. In general, without in any manner limiting any of the foregoing or the following, to deal with the Trust Assets or any part or parts thereof in all other ways as would be lawful for any person owning the same to deal therewith; *provided, however*, that the investment powers of the Liquidating Trustee, other than those reasonably necessary to maintain the value of the Trust Assets of the Liquidating Trust and to further the liquidating purpose of the Liquidating Trust, are limited by the terms herein;

q. To do any and all other things not in violation of any other terms of the Plan, the Confirmation Order and this Liquidating Trust Agreement that, in the reasonable business judgment of the Liquidating Trustee, are necessary or appropriate for the proper liquidation, management, investment and distribution of the Assets of the Trust Estate in accordance with the provisions of this Liquidating Trust Agreement and the Plan;

r. To file final tax returns for each of the Debtors; and

s. At the appropriate time, to request that the Bankruptcy Court enter a final decree closing each of the Debtors' Chapter 11 Cases; *provided, however*, that, in light of the substantive consolidation of the Debtors' estates for distribution purposes, the Liquidating Trustee may, in the Liquidating Trustee's sole discretion, seek authority from the Bankruptcy Court to close all of the Debtors' Chapter 11 Cases except for the Graceway Chapter 11 Case immediately upon satisfaction of all Other Secured Claims..

4.5. Objections to Claims.

From and after the Effective Date of the Plan, the Liquidating Trust, through the Liquidating Trustee, shall be the sole representative of the Debtors' Estates for all purposes, including, without limitation, investigating, settling, compromising, objecting to, and litigating in the Bankruptcy Court or on appeal (or pursuant to a withdrawal of the reference of jurisdiction) objections to Claims.

4.6. Limitations on Liquidating Trustee; Investments.

a. No Trade or Business. The Liquidating Trustee shall carry out the purposes of the Liquidating Trust and the directions contained herein and shall not at any time cause the Liquidating Trust to enter into or engage in any trade or business (except as may be consistent with the limited purposes of the Liquidating Trust), including, without limitation, the purchase of any assets or property (other than such assets or property as are reasonably necessary to carry out the purposes of the Liquidating Trust Agreement, on behalf of the Liquidating Trust or the Beneficiaries). The Liquidating Trustee is directed to take all reasonable and necessary actions to dispose of the Trust Estate in as prompt, efficient and orderly a fashion as possible, to make timely distributions of the proceeds of the Trust Estate, and to otherwise not unduly prolong the duration of the Liquidating Trust.

b. Investments. The Liquidating Trustee shall invest any monies held at any time as part of this Trust Estate, including, without limitation, in the Trust Administrative Fund, First Lien Trust Administrative Fund and every other reserve or escrow fund established pursuant to the terms of this Liquidating Trust Agreement, only in interest-bearing deposits or certificates of deposit issued by any federally insured banking institution or short-term investments, including short-term obligations of, or unconditionally guaranteed as to payment by, the United States of America and its agencies or instrumentalities, pending the need for the disbursement thereof in payment of costs, expenses, and liabilities of the Liquidating Trust or in making distributions pursuant to Section 5 of this Liquidating Trust Agreement. The Liquidating Trustee shall be restricted to the collection and holding of such monies and any income earned on such monies and to the payment and distribution thereof (at least annually if such monies are not necessary to maintain the value of the Trust Estate or to satisfy Claims against the Trust Estate) for the purposes set forth in the Plan and this Liquidating Trust Agreement, and to the conservation and protection of the Trust Estate in accordance with the provisions hereof.

4.7. Limitations on Liquidating Trustee – Causes of Action.

a. The Liquidating Trustee shall be obligated to consult with the Liquidating Trust Committee regarding all matters affecting the Trust Estate involving \$1,000,000 or more, including, but not limited to, Claims objections, litigation, and contested matters. Notwithstanding anything contained herein, a member of the Liquidating Trust Committee must recuse itself from the Liquidating Trust Committee regarding any contested matter, objection to Claim, or other Cause of Action to which it is a party or otherwise has a conflict of interest.

b. Subject to Sections 7.11 and 8.2 of the Plan, on and after the Effective Date, the Liquidating Trustee shall have the exclusive authority to settle or abandon Causes of Action owned by the Liquidating Trust. On and after the Effective Date and until such time as the First Lien Facility Claims are paid in full in Cash, in order to settle or abandon Causes of Action owned by the Liquidating Trust, the Liquidating Trustee shall be required to obtain (i) the prior written consent of the Approving Majority First Lien Lenders or (ii) an Order of the Bankruptcy Court approving such settlement or abandonment after notice and a hearing. After the First Lien Facility Claims are paid in full in Cash, except as otherwise set forth in the Plan, the Confirmation Order or the Liquidating Trust Agreement, the Liquidating Trustee shall not be

required to obtain approval of the Approving Majority First Lien Lenders or the Bankruptcy Court to abandon Causes of Action or other Assets owned by the Liquidating Trust.

c. In all other events, unless otherwise set forth herein, the Liquidating Trustee is authorized to compromise or settle an action without any notice or consent if the Liquidating Trustee reasonably believes such settlement or compromise to be in the best interests of the Liquidating Trust, and shall be held harmless by the Beneficiaries in taking such action.

d. Notwithstanding anything herein to the contrary, the Liquidating Trustee shall be authorized to pay the reasonable fees and expenses incurred by professionals after the Effective Date without providing notice to or obtaining the approval of any party; *provided, however*, that such payments may be made only from the Trust Administrative Fund or First Lien Trust Administrative Fund, as applicable.

4.8. Transferee Liabilities.

If any liability shall be asserted against the Liquidating Trust as transferee of the Trust Estate on account of any claimed liability of or through the Debtors, the Liquidating Trustee may use such part of the Trust Administrative Fund or First Lien Trust Administrative Fund, as applicable, as may be necessary in contesting any such claimed liability and in payment, compromise, settlement and discharge thereof on terms reasonably satisfactory to the Liquidating Trustee. In no event shall the Liquidating Trustee be required or obligated to use his own property, funds or assets for any such purposes.

4.9. Administration of Trust.

In administering the Liquidating Trust, the Liquidating Trustee, subject to the express limitations contained herein, is authorized and directed to do and perform all such acts, to execute and deliver such deeds, bills of sale, instruments of conveyance, and other documents as he may deem reasonably necessary or advisable to carry out the purposes of the Liquidating Trust.

4.10. Payment of Expenses and Other Liabilities.

To the extent that the amount of funds in the Trust Administrative Fund is at any time insufficient, the Liquidating Trustee shall pay solely from the Other Assets all reasonable expenses, charges, liabilities and obligations of the Liquidating Trust other than fees and expenses incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims, including, without limiting the generality of the foregoing, such debts, liabilities, or obligations as may be payable from the Trust Estate, interest, taxes, assessments, and public charges of every kind and nature, and the costs, charges and expenses in connection with or arising out of the execution or administration of the Liquidating

Trust and the Trust Estate, and such other payments and disbursements as are provided for in this Liquidating Trust Agreement or which may be reasonably determined by the Liquidating Trustee to be proper charges against the Liquidating Trust and the Trust Estate, and which the Liquidating Trustee, in his reasonable discretion and business judgment, may determine to be necessary or advisable to meet or satisfy unascertained, unliquidated or contingent liabilities of the Liquidating Trust. To the extent that the amount of funds in the First Lien Trust Administrative Fund is at any time insufficient after a request by the Liquidating Trustee to the First Lien Facility Agent to make a deposit into the First Lien Trust Administrative Fund, the Liquidating Trustee may, in the Liquidating Trustee's sole discretion, pay from any of the Reserve Accounts all reasonable expenses, charges, liabilities and obligations of the Liquidating Trust incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims. The Liquidating Trustee shall make such payments without application to or Order of the Bankruptcy Court, except as otherwise herein provided.

4.11. Payment of United States Trustee's Fees.

After the occurrence of the Effective Date, fees payable to the Office of the United States Trustee during the administration of the Plan and until the case is converted, dismissed or closed shall be paid by the Liquidating Trustee from the Trust Administrative Fund.

4.12. Liquidating Trustee Fees and Liquidating Trustee First Lien Fees.

The Liquidating Trustee is entitled to reasonable fees and out-of-pocket expenses for services performed by the Liquidating Trustee and any attorneys or other professionals hired by the Liquidating Trustee. The Liquidating Trustee Fees and Liquidating Trustee First Lien Fees will be paid in accordance with Schedule 4.11 hereto, provided that Liquidating Trustee Fees shall be paid solely from the Liquidating Trustee Fee Amount and the Other Assets and Liquidating Trustee First Lien Fees shall be paid solely from the Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled.

4.13. Fiscal Year.

The Liquidating Trust's fiscal year shall end on December 31 of each year, unless the Liquidating Trustee deems it advisable to establish some other date on which the fiscal year of the Liquidating Trust shall end.

4.14. Reports.

The Liquidating Trustee shall:

a. Prepare and file unaudited interim financial reports as may be required by regulatory authorities, applicable laws, rules or regulations or as the Liquidating Trustee deems advisable during the fiscal year;

b. Prepare, file and mail, within the time required by applicable law or regulation, necessary income tax information, tax returns or reports to the Beneficiaries and applicable taxing authorities, including, on an annual basis, the manner and calculation of the Liquidating Trust's taxable gain or loss which the Liquidating Trust would recognize if it were a separate taxable entity. In this connection, the Liquidating Trustee shall file returns for the Liquidating Trust, except with respect to the Disputed Claims Reserve, as one or more grantor trusts pursuant to Treasury Regulation Section 1.671-4(a); and

c. Once each quarter, the Liquidating Trustee shall File with the Bankruptcy Court and serve on the United States Trustee, the Liquidating Trust Committee, and any Beneficiary who requests copies of such quarterly report after the Confirmation Date, an unaudited written report and account showing:

- (i) the Assets and liabilities of the Liquidating Trust as of the beginning and end of each calendar quarter;
- (ii) the amounts and timing of all distributions made and expenses paid pursuant to the Plan and the Liquidating Trust Agreement during that calendar quarter, and the recipients thereof;
- (iii) any changes in the Trust Assets that have not been previously reported; and
- (iv) any material action taken by the Liquidating Trustee in the performance of his or her duties under the Liquidating Trust Agreement that has not been previously reported.

Quarterly reports shall be provided no later than the fifteenth (15th) day of each January, April, July and October until all Final Distributions under the Plan have been made.

4.15. Liquidating Trust Committee.

An administrative trust committee (the "Liquidating Trust Committee"), consisting of no more than five (5) members, shall consult from time to time on various matters as set forth in this Liquidating Trust Agreement. The Liquidating Trust Committee initially shall consist of (a) the Liquidating Trustee, (b) two (2) members appointed by the First Lien Facility Agent, (c) one (1) member appointed by the Second Lien Facility Agent, and (d) one (1) member appointed by the Creditors' Committee. Other than the Liquidating Trustee, each member of the Liquidating Trust Committee shall serve for a term of three (3) years. Upon the conclusion of a member's term, or in the event that a member resigns prior to the expiration of his term or is otherwise unable to serve out his term (other than due to the payment in full of the First Lien Facility Claims as discussed below), he shall appoint a successor to serve on the Liquidating

Trust Committee. If, for any reason, such member is unable to appoint a successor member, the Liquidating Trustee shall appoint such member. Within ten (10) Business Days following payment in full of the First Lien Facility Claims, the two (2) members appointed by the First Lien Facility Agent (or its successors) shall resign from the Liquidating Trust Committee. Thereafter, the member appointed by the Second Lien Facility Agent (or his successor) shall appoint one (1) additional member and the member appointed by the Creditors' Committee (or his successor) shall appoint (1) additional member. Unless otherwise specified herein, approval of a majority of the members of such Liquidating Trust Committee shall be required for the Liquidating Trust Committee to act. The Liquidating Trust Committee shall have the rights and powers set forth in this Liquidating Trust Agreement. In the event that a Liquidating Trust Committee shall not be formed and continuing to exist under this Liquidating Trust Agreement, all references herein to required approval or other action of such Liquidating Trust Committee shall be of no force or effect. In performance of their duties hereunder, members of the Liquidating Trust Committee shall be entitled to receive reimbursement of reasonable costs, expenses and obligations as set forth in Section 7.6e(iii) of the Liquidating Trust Agreement.

4.16. Removal of the Liquidating Trustee.

The Liquidating Trust Committee shall be authorized, by unanimous vote of the members other than the Liquidating Trustee, to remove the Liquidating Trustee for reasonable cause and to select a replacement or successor liquidating trustee in accordance with the provisions of this Liquidating Trust Agreement.

SECTION V PAYMENTS AND DISTRIBUTIONS.

5.1. Distributions to Beneficiaries.

a. Distributions to holders of Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of the Plan), Allowed Administrative Expense Claims (other than Administrative Expense Claims that are Assumed Liabilities), Allowed Priority Tax Claims and Allowed Other Priority Claims shall be made from the Reserve Accounts to the extent permitted by the Budget and/or the Sale Support Agreement. To the extent any of such Allowed Claims are not satisfied from the Reserve Accounts (and, with respect to Allowed Other Secured Claims, are not otherwise satisfied in accordance with the terms of the Plan), such Allowed Claims shall be paid from the Other Available Cash in accordance with the Plan.

b. Distributions to holders of Allowed First Lien Facility Claims shall be made from First Lien Available Cash in accordance with the Plan.

c. Distributions to holders of any Allowed Second Lien Facility Secured Claims or Allowed Second Lien Facility Adequate Protection Claims shall be made solely from any Other Available Cash upon which the Second Lien Facility Agent has a Lien unless and until the Allowed First Lien Facility Claims are paid in full in cash, and from the Other Available Cash and First Lien Available Cash thereafter, all in accordance with the Plan.

d. Distributions to holders of Allowed General Unsecured Claims shall be made solely from the Other Available Cash after payment in full in Cash of the Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, Allowed Other Secured Claims, Allowed Second Lien Facility Secured Claims and Allowed Second Lien Facility Adequate Protection Claims, if any.

e. Payments to the Beneficiaries hereunder shall be made only from the proceeds of the Trust Assets, and only to the extent that the Liquidating Trustee shall have sufficient proceeds from the Trust Assets to make such payments in accordance with this Section 5. Each Beneficiary shall look solely to the Assets of the Liquidating Trust available for distribution to such Beneficiary as herein provided.

5.2. Frequency and Amounts of Cash Payments.

a. The Liquidating Trustee shall make distributions to Beneficiaries holding Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of the Plan), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims in accordance with the Plan as soon as such Claims become Allowed Claims.

b. From time to time in accordance with Sections 10.8.2 and 10.8.3 of the Plan, the Liquidating Trustee shall make distributions to the First Lien Agent for the benefit of the First Lien Claimholders from the First Lien Available Cash.

c. From time to time in accordance with Section 10.8.3 of the Plan, the Liquidating Trustee shall make distributions to the Second Lien Facility Agent for the benefit of the Second Lien Facility Lenders from the Other Available Cash upon which the Second Lien Facility Agent has a Lien, unless and until the First Lien Facility Claims are paid in full in Cash, at which point such distributions shall be from the Other Available Cash upon which the Second Lien Facility Agent has a Lien in accordance with Section 10.8.3 of the Plan and the First Lien Available Cash in accordance with Sections 10.8.2 and 10.8.3 of the Plan.

d. As often as in the reasonable discretion and judgment of the Liquidating Trustee there shall be Other Available Cash in an amount sufficient to render feasible a distribution of Cash to the holders of Allowed General Unsecured Claims, the Liquidating Trustee shall transfer and pay, or cause to be transferred and paid, to the holders of Allowed General Unsecured Claims (subject to the provisions of Section 3 hereof) such aggregate amount of Other Available Cash, if any, as shall then be held in the Liquidating Trust, excluding reasonable amounts of Cash held in the Trust Administrative Fund pursuant to Section 4.1 hereof or otherwise needed to pay the expenses, debts, charges, liabilities and obligations of the Liquidating Trust (the "Distribution Amount"). The aggregate amounts required to be distributed to the holders of Allowed General Unsecured Claims shall be determined by the Liquidating Trustee pursuant to and in accordance with the terms of the Plan and this Liquidating Trust Agreement. The Distribution Amount(s) shall be paid to the holders of Allowed General Unsecured Claims at least once every three (3) months and shall be determined by the Liquidating Trustee in his reasonable discretion, and his determination shall be final and conclusive on all persons, in the absence of gross negligence or willful misconduct on the part of

the Liquidating Trustee, and shall not be reviewed by the Bankruptcy Court. In determining the amount of any such distribution, the Liquidating Trust may rely and shall be fully protected in relying upon the advice and opinion of independent public accountants or of counsel to the Liquidating Trust.

5.3. Establishment of the Claim Accounts.

The Liquidating Trustee will establish on the Liquidating Trust's books and records an account representing each Allowed or Disputed Claim as set forth on the official claims register maintained by BMC Group, Inc. as claims agent or its successor (each, a "Claim Account"). It is expressly understood that the establishment of the Claim Accounts by the Liquidating Trustee or his agents is solely for administrative convenience, and that amounts allocable to such Claim Accounts need not be segregated and may be commingled for investment purposes as specified herein. The Liquidating Trustee may rely on the official claims register as correct.

5.4. Distributions from Trust Estate.

Distributions will be made to the Beneficiaries in accordance with the terms of the Plan and the Claim Accounts will be adjusted by the Liquidating Trustee to reflect such distributions.

5.5. Fractional Distributions.

No distribution in fractions of cents shall be issued. If the Distribution Amount allocated to an Allowed Claim at the time of a distribution hereunder would include fractions of cents, the amount to be distributed shall be rounded down to the highest integral number of cents in the applicable Claim Account, but such rounding down shall not affect such allocation. The aggregate amount of the retained fractional distributions from the Distribution Amount shall be retained in the Liquidating Trust by the Liquidating Trustee and shall remain part of the Trust Estate.

5.6. Final Distribution.

From time to time, but in no event less than once every three (3) months, the Liquidating Trustee shall distribute all Other Available Cash and any First Lien Available Cash not already distributed pursuant to Section 10.8.2 of the Plan as set forth in the Plan. After (a) the distribution of the payments described in Section 10.8.1 of the Plan, (b) the liquidation into Cash of all Assets owned by the Liquidating Trust (other than those Assets abandoned by the Liquidating Trustee), (c) the collection of other sums due or otherwise remitted or returned to the Estates, (d) the resolution of all Disputed Claims and (e) the payment in full in Cash of all Liquidating Trustee Fees and Liquidating Trustee First Lien Fees, the Liquidating Trustee shall prepare a final accounting of any and all monies remaining in any accounts maintained by the Liquidating Trustee on behalf of the Liquidating Trust, including the Trust Administrative Fund, First Lien Trust Administrative Fund and any escrow funds, or otherwise remaining in the Trust Estate (the "Final Cash"). Once the amount of the Final Cash has been determined, the

Liquidating Trustee shall make the Final Distribution, in accordance with the Plan and this Liquidating Trust Agreement; *provided, however*, that if the Final Cash consisting of Other Available Cash is less than \$10,000, and the Liquidating Trustee, in his sole discretion, determines that it would cost more than \$5,000 to distribute such funds, the Liquidating Trustee may donate such funds to a charity of his choice.

5.7. Termination Date.

The Liquidating Trust shall terminate on such date when (a) a final decree has been entered closing all of the Chapter 11 Cases, (b) all Assets in the Trust Estate have been distributed and (c) all claims have been pursued or abandoned pursuant to, and in accordance with, the Plan and this Liquidating Trust Agreement (the "Termination Date"). However, the term of the Liquidating Trust shall not exceed five (5) years from the Effective Date; provided that, upon a finding that an extension is necessary to the liquidating purpose of the Liquidating Trust and upon approval by the Bankruptcy Court, the term may be extended for a finite term based on the particular facts and circumstances. Each such extension must be approved by the Bankruptcy Court within six (6) months of the beginning of the extended term. The Liquidating Trustee shall be released of all liabilities and discharged from his obligations under the Plan or the Liquidating Trust Agreement once the Liquidating Trust has terminated pursuant to this section.

SECTION VI OTHER DUTIES OF THE TRUSTEE.

6.1. Management of Trust Estate.

With respect to the Assets of the Trust Estate, the Liquidating Trustee may, if sufficient funds are available from the Trust Administrative Fund or Other Available Cash, purchase and maintain in existence such insurance as the Liquidating Trustee deems reasonable and necessary or appropriate from time to time to protect the Liquidating Trust, the Trust Assets, the Liquidating Trustee, the Liquidating Trust Committee, and the Beneficiaries' interests in the Assets of the Trust Estate or from any potential claims or liabilities relating thereto or the distribution thereof.

6.2. Tax and Related Matters.

Pursuant to and in accordance with the Plan, the Liquidating Trustee shall be responsible for all tax matters of the Trust Estate, including, but not limited to, the filing of all tax returns and other filings with governmental authorities on behalf of the Trust Estate, the Debtors' Estates and any subsidiaries (whether organized as a corporation, limited liability company or partnership and whether owned in whole or in part) for time periods ending on or before the last day in the taxable year of the Liquidating Trust including the Termination Date, including the filing of tax returns for the Liquidating Trust, except with respect to the Disputed Claims Reserve, as one or more grantor trusts pursuant to § 1.671-4(a) of the United States Income Tax Regulations, the filing of determination requests under Section 505(b) of the Bankruptcy Code, and responding to any tax audits of the Trust Estate. The Liquidating Trustee shall provide 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. The Liquidating Trustee is authorized to act as agent for the Trust Estate in withholding or paying over any amounts required by law (including tax law) to be withheld or paid with respect to the Trust Estate. Except as otherwise set forth in this Liquidating Trust Agreement or the Plan, any items of income, deduction, credit, or loss of the Liquidating Trust not allocable to the Disputed Claims Reserve shall be allocated for federal income tax purposes among the Class 2 First Lien Facility Claims, Class 3 Second Lien Facility Claims and the Class 5 General Unsecured Claims as required by law. The Liquidating Trust shall file all income tax returns with respect to any income attributable to the Disputed Claims Reserve and shall pay the federal, state and local income taxes attributable to the Disputed Claims Reserve, based on the items of income, deduction, credit or loss allocable thereto. The Liquidating Trustee shall be entitled to deduct any federal or state withholding taxes from any payments made with respect to Allowed Claims, as appropriate, and shall otherwise comply with Section 346 of the Bankruptcy Code.

6.3. No Implied Duties.

The Liquidating Trustee shall not manage, control, use, sell, dispose, collect or otherwise deal with the Trust Estate or otherwise take any action hereunder except as expressly provided herein, and no implied duties or obligations whatsoever of the Liquidating Trustee shall be read into this Liquidating Trust Agreement.

SECTION VII CONCERNING THE LIQUIDATING TRUSTEE.

7.1. Acceptance by Liquidating Trustee.

The Liquidating Trustee accepts the Liquidating Trust hereby created for the benefit of the Beneficiaries and agrees to act as Liquidating Trustee of the Liquidating Trust pursuant to the terms of this Liquidating Trust Agreement and the Plan. The Liquidating Trustee shall have and exercise the rights and powers herein granted and shall be charged solely with the performance of the duties herein declared on the part of Liquidating Trustee. The Liquidating Trustee also agrees to receive and disburse all monies actually received by him constituting part of the Trust Estate pursuant to the terms of this Liquidating Trust Agreement and the Plan.

7.2. Discretionary Submission of Questions.

Subject to the provisions of this Section VII, the Liquidating Trustee, in his sole discretion, may, but shall not be required to, submit to the Bankruptcy Court, from time to time, any question or questions with respect to which the Liquidating Trustee may desire to have explicit approval of the Bankruptcy Court for the taking of any specific action proposed to be taken by the Liquidating Trustee with respect to the Trust Estate, or any part thereof, and the administration and distribution of the Trust Estate. The written authorization of the Bankruptcy Court set forth in a Final Order shall constitute approval by the Bankruptcy Court of the proposed action to be taken by the Liquidating Trustee. All costs and expenses incurred by the Liquidating Trust in the exercise of any right, power or authority conferred by this Section 7.2 shall be costs and reasonable expenses of the Trust Estate, payable solely from the Trust Administrative Fund or Other Available Cash.

7.3. Liability of the Liquidating Trustee.

a. **Limitation on Liability.** No provision of this Liquidating Trust Agreement shall be construed to impart any liability upon the Liquidating Trustee unless it shall be proven in a court of competent jurisdiction that the Liquidating Trustee's actions or omissions constituted gross negligence or willful misconduct in the exercise of or failure to exercise any right or power vested in the Liquidating Trustee under this Liquidating Trust Agreement.

b. **Reliance on Certificates or Opinions.** In the absence of gross negligence or willful misconduct on the part of the Liquidating Trustee, the Liquidating Trust may conclusively rely on the truth of the statements and correctness of the opinions expressed upon any certificates or opinions furnished to the Liquidating Trustee and conforming to the requirements of this Liquidating Trust Agreement.

c. **Discretion of Liquidating Trustee.** The Liquidating Trustee, within the limitations and restrictions expressed and imposed by this Liquidating Trust Agreement, may act freely under all or any of the rights, powers and authority conferred hereby, in all matters concerning the Trust Estate, after forming his best reasonable business judgment based upon the circumstances of any particular question or situation as to the best course to pursue, without the necessity of obtaining the consent or permission or authorization of the Beneficiaries, the Bankruptcy Court, or of any official or officer; and the rights, powers and authority conferred on the Liquidating Trustee by this Liquidating Trust Agreement are conferred in contemplation of such freedom of reasonable business judgment and action within the limitations and restrictions so expressed and imposed; *provided, however*, that the Liquidating Trustee shall not be liable for any error or exercise of judgment, unless it shall be proved in court of competent jurisdiction that such Liquidating Trustee was grossly negligent or acted in a manner that constituted willful misconduct.

7.4. Reliance by Liquidating Trustee.

a. **Genuineness of Documents.** The Liquidating Trustee may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, objection, Order, judgment, decree, or other paper or document reasonably believed by him to be genuine and to have been signed, made, entered or presented by the proper party, parties, official, officials, entity or entities.

b. **Retention of Counsel.** The Liquidating Trustee, after consultation with the Liquidating Trust Committee, may retain and consult with legal counsel, independent public accountants and other experts. The Liquidating Trustee shall not be liable for any action taken or suffered by him or omitted to be taken by him without gross negligence or willful misconduct in reliance on any opinion or certification of such accountants or in accordance with the advice of such counsel or experts, provided that such accountants, counsel and experts were selected and retained with reasonable care. It shall not be a conflict of interest for the Liquidating Trustee to be represented by counsel to the Liquidating Trust Committee.

7.5. Reliance on Liquidating Trustee.

No person dealing with the Liquidating Trustee shall be obligated to see to the application of any monies, securities, or other property paid or delivered to them or to inquire into the expediency or propriety of any transaction or the right, power, or authority of the Liquidating Trustee to enter into or consummate the same upon such terms as the Liquidating Trustee may deem advisable. Persons dealing with the Liquidating Trustee shall look only to the Trust Estate to satisfy any liability incurred by the Liquidating Trustee to such persons in carrying out the terms of this Liquidating Trust Agreement, and, except as otherwise expressly provided herein, the Liquidating Trustee shall have no personal, individual or corporate obligation to satisfy any such liability.

7.6. Indemnification.

a. **Indemnification of Liquidating Trustee and Agents.** The Liquidating Trust hereby agrees to indemnify to the full extent of the Trust Estate any person or entity who was or is a party, or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that such person or entity is or was a Liquidating Trustee or an employee, attorney or agent of the Liquidating Trust or Liquidating Trustee, from and against any and all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person or entity in connection with such action, suit or proceeding, including appeals thereof, if such person or entity acted without gross negligence and willful misconduct in the exercise and performance of any power or duties of such person or entity in accordance with this Liquidating Trust Agreement.

b. **Payment of Expenses.** Expenses (including reasonable attorneys' fees) incurred in defending any action, suit or proceeding referred to in this Section 7.6 may be paid by the Liquidating Trust from the Trust Administrative Fund or Other Available Cash in advance of the final disposition of such action, suit or proceeding, upon an undertaking by the Liquidating Trustee or an employee or agent of the Liquidating Trust entitled to be indemnified.

c. **Insurance.** The Liquidating Trust may maintain insurance during its existence and after its termination, at its expense, to protect itself and the Liquidating Trustee, officers, employees or agents of the Liquidating Trust of and from any liability, whether or not the Liquidating Trust would have the legal power to directly indemnify the Liquidating Trustee, officers, employees or agents of the Liquidating Trust against such liability. The terms "Liquidating Trustee," "officers," "employees" or "agents" as used herein, where applicable, include the heirs, successors, executors, administrators, personal representatives, or estates of such persons or entities.

d. **Bond.** As a condition to serving as Liquidating Trustee hereunder, the Liquidating Trustee and any successor trustee is required to and shall post a bond in favor of the Liquidating Trust in an amount not less than one million dollars (\$1,000,000), which bond shall be in substantially the form as that required by the United States Trustee's Office for trustees serving in bankruptcy cases within the District of Delaware, or such alternative form of financial surety or financial insurance policy as the Liquidating Trust Committee deems appropriate.

e. **Costs and Expenses of Liquidating Trustee.** The Liquidating Trustee shall pay out of the Trust Administrative Fund or First Lien Trust Administrative Fund, as applicable, all reasonable costs, expenses and obligations incurred by the Liquidating Trustee in carrying out his duties under this Liquidating Trust Agreement or in any manner connected, incidental or related to the administration of the Liquidating Trust without application to the Bankruptcy Court, including, without limitation:

- (i) Any reasonable, documented fees and out-of-pocket expenses of attorneys, accountants, investment advisors, expert witnesses, insurance adjusters, professionals or other persons whom the Liquidating Trustee may reasonably deem advisable to employ in connection with the Liquidating Trust, or on their own behalf in accordance with the terms of this Liquidating Trust Agreement;
- (ii) Any taxes, charges and assessments which may be owed by, or levied or assessed against, the Trust Estate or any property held in trust hereunder; and
- (iii) Any reasonable, documented costs, and out-of-pocket expenses incurred by the Liquidating Trust Committee in carrying out its duties under the Plan.

7.7. Compensation of Liquidating Trustee.

The Liquidating Trustee will be compensated from the Trust Administrative Fund according to the terms of Schedule 4.11.

7.8. Resignation and Removal.

a. **Resignation.** The Liquidating Trustee may resign and be discharged from any future obligations and liabilities hereunder by giving written notice thereof to the Bankruptcy Court and the Liquidating Trust Committee at least thirty (30) days prior to the effective date of such resignation. Subject to the expiration of such notice period, such resignation shall become effective on the day specified in such notice.

b. **Removal.** The Liquidating Trustee may be removed with cause at any time by Order of the Bankruptcy Court upon motion by any party in interest or in accordance with Section 4.16 hereof. Upon any such removal, such removed Liquidating Trustee shall be entitled to any reimbursement and indemnification set forth in this Liquidating Trust Agreement that remain due and owing to such Liquidating Trustee at the time of such removal.

c. **Appointment of a Successor Trustee.** If, at any time, the Liquidating Trustee shall give notice of his intent to resign pursuant to Section 7.8 hereof or be removed or become incapable of acting, counsel to the Liquidating Trustee shall provide notice thereof to the Bankruptcy Court and the Liquidating Trust Committee shall designate a successor Liquidating Trustee to act under this Liquidating Trust Agreement.

d. **Acceptance of Appointment by Successor Liquidating Trustee.** Any successor Liquidating Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall deliver counterparts thereof to the Bankruptcy Court. Thereupon, such successor Liquidating Trustee shall, without any further act, become vested with all of the estates, properties, rights, powers, trusts and duties of his predecessor in the Liquidating Trust hereunder with like effect as if originally named herein.

e. **Trust Continuance.** The death, resignation, incompetency or removal of the Liquidating Trustee shall operate neither to terminate the Liquidating Trust created by this Liquidating Trust Agreement nor to revoke any existing agency created pursuant to the terms of this Liquidating Trust Agreement or invalidate any action theretofore taken by such Liquidating Trustee. In the event of the resignation or removal of the Liquidating Trustee, such Liquidating Trustee shall (i) promptly execute and deliver any such documents, instruments, and other writing as may be necessary to effect the termination of such Liquidating Trustee's capacity under this Liquidating Trust Agreement and the conveyance of the Trust Estate then held by such Liquidating Trustee to the temporary or successor trustee; (ii) deliver to the temporary or successor trustee all documents, instruments, records, and other writings relating to the Liquidating Trust or Trust Estate as may be in the possession of such Liquidating Trustee; and (iii) otherwise assist and cooperate in effecting the transfer and assumption of his obligations and functions by the temporary or successor trustee.

SECTION VIII SUPPLEMENTS AND AMENDMENTS TO THIS LIQUIDATING TRUST AGREEMENT.

8.1. Supplements and Amendments.

Subject to the provisions of Sections 2, 8.2 and 8.3 hereof, at any time and from time to time, and subject to approval by the Bankruptcy Court if sought by the Liquidating Trustee pursuant to Section 7.2 of this Liquidating Trust Agreement, the Liquidating Trustee may execute a supplement or amendment hereto for the purpose of adding provisions to, or changing or eliminating provisions of, this Liquidating Trust Agreement, or amendments thereto, as specified in such vote or consent; *provided, however*, that no such supplement or amendment shall (a) require any Beneficiary to furnish or advance funds to the Liquidating Trustee or shall entail any additional personal liability or the surrender of any individual right on the part of any Beneficiary except with the written consent of such Beneficiary, (b) without the prior written consent of the holder of an Allowed Administrative Expense Claim, Allowed Priority Tax Claim, Allowed Other Priority Claim, Allowed Other Secured Claim, Allowed First Lien Facility Claim, or Allowed Second Lien Facility Claim, change or modify the Liquidating Trustee's obligations with respect to such Claim, including, without limitation, provisions for payment of such Claim, or (c) without the consent of those holders of General Unsecured Claims holding not less than seventy-five percent (in aggregate dollar amount) of the General Unsecured Claims, change or modify any other provisions for distribution of the Trust Estate. In no event shall this Liquidating Trust Agreement be amended so as to change the purposes of the Liquidating Trust as set forth in Section 2 or the treatment of Claims under the Plan and this Liquidating Trust Agreement.

8.2. Declining to Execute Documents.

If, in the reasonable opinion of the Liquidating Trustee, any document required to be executed pursuant to the terms of Section 8.1 hereof materially and adversely affects any immunity or indemnity in favor of the Liquidating Trustee under this Liquidating Trust Agreement, the Liquidating Trustee may in his discretion decline to execute such document.

8.3. Notice of Form of Supplements and Amendments Requiring Vote or Consent.

A copy of each amendment or supplement (or a fair summary thereof) shall be furnished to the Beneficiaries promptly after the execution thereof, except that with respect to any proposed amendment or supplement for which the consent of the Beneficiaries is required, the form of such proposed supplement or amendment (or a fair summary thereof) shall be furnished to the applicable Beneficiaries prior to the Liquidating Trustee's seeking the approval thereof by vote or consent of such necessary parties.

8.4. Notice and Effect of Executed Amendment.

Upon the execution of any declaration of amendment or supplement, this Liquidating Trust Agreement shall be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Liquidating Trust Agreement of the Liquidating Trustee and the Beneficiaries shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such amendment or supplement shall be thereby deemed to be part of the terms and conditions of this Liquidating Trust Agreement for any and all purposes.

SECTION IX MISCELLANEOUS.

9.1. Title to Trust Estate.

No Beneficiary or any other party other than the Liquidating Trust shall have title to any part of the Trust Estate.

9.2. Sales of Assets of the Trust Estate.

Any sale or other conveyance of any Assets of the Trust Estate, or part thereof, by the Liquidating Trustee made in accordance with the terms of this Liquidating Trust Agreement shall bind the Beneficiaries and shall be effective to transfer or convey all right, title and interest of the Liquidating Trustee and the Beneficiaries in and to such asset of the Trust Estate.

9.3. Notices.

Unless otherwise expressly specified or permitted by the terms of the Plan or this Liquidating Trust Agreement, all notices shall be in writing and delivered by registered or certified mail, return receipt requested, or by a hand or facsimile transmission (and confirmed by mail), in any such case addressed as follows:

If to the Liquidating Trustee:

Kip Horton
RPA Advisors, LLC
45 Eisenhower Drive
Paramus, New Jersey 07652
Phone: (201) 527-6653
Email: khorton@rpaadvisors.com

and if to any Beneficiary, addressed to its latest mailing address reflected on the official claims register maintained by BMC Group, Inc..

9.4. Severability.

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

9.5. Counterparts.

This Liquidating Trust Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument.

9.6. Binding Agreement.

All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Liquidating Trustee and his respective successors and assigns and any successor Liquidating Trustee provided for in Section VII, his respective successors and assigns, and the Beneficiaries, and their respective personal representatives, successors and assigns. Any request, notice, direction, consent, waiver or other instrument or action by any party hereto or any Beneficiary shall bind their respective heirs, personal representatives, successors and assigns.

9.7. No Personal Liability of Beneficiaries.

The Beneficiaries will not incur any personal liability through their ownership or possession of their Beneficial Interests, except for taxes imposed on the Beneficiaries pursuant to applicable provisions of federal, state or local law with respect to the receipt of such Beneficial Interests or distributions from or transactions of the Liquidating Trust and other charges specified herein. Liabilities of the Liquidating Trust are to be satisfied in all events (including the exhaustion of the Trust Estate) exclusively from the Trust Estate and such liabilities are not to attach to or be paid from any amounts distributed to the Beneficiaries, regardless of the time at which such distribution took place, or from the assets of the Beneficiaries.

9.8. Headings.

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

9.9. Construction.

Except where the context otherwise requires, words importing the masculine gender shall include the feminine and the neuter, if appropriate; words importing the singular number shall include the plural number and vice versa; and words importing persons shall include partnerships, associations, and corporations.

9.10. Governing Law.

This Liquidating Trust Agreement, including all matters of construction, validity and performance hereof, shall in all respects be governed by, and construed and interpreted in accordance with, the internal laws of the State of Delaware.

9.11. Construction with the Plan.

The Plan is hereby incorporated fully by reference and is made a part hereof for all purposes. In the event of any inconsistency or conflict between the terms, conditions, definitions and provisions of this Liquidating Trust Agreement and the terms, conditions and provisions of the Plan, the terms, conditions, definitions and provisions of the Plan shall control.

9.12. Subject to Bankruptcy Court's Jurisdiction.

The Bankruptcy Court shall retain jurisdiction over this Liquidating Trust Agreement, the Liquidating Trust, the Trust Estate, the Liquidating Trustee and the Debtors to issue any and all Orders and to take other actions necessary to the implementation of this Liquidating Trust Agreement, such jurisdiction to include, without limitation, the jurisdiction contemplated by Section 1142 of the Bankruptcy Code.

9.13. Intention of the Parties.

The Debtors, the Beneficiaries and the Liquidating Trustee hereby express their intent to create and maintain the Liquidating Trust as a liquidating trust for Federal income tax purposes in accordance with Treasury Regulation §301.7701-4(d) and as one or more "grantor trusts" subject to the provisions of Subchapter J, Subpart E of the IRC, and the Liquidating Trustee further represents that the Liquidating Trust shall not: (a) receive transfers of listed stocks or securities, any readily-marketable assets (other than those constituting the trust estate), or any assets of a going business; or (b) receive and will not retain Cash in excess of a reasonable amount to meet claims and contingent liabilities, determined in the reasonable discretion of the Liquidating Trustee in accordance with the provisions of Sections IV and V hereof.

[signature page follows]

Dated: _____, 2012

Graceway Pharma Holding Corp.

By: _____
Name: _____
Title: _____

Graceway Holdings, LLC

By: _____
Name: _____
Title: _____

Graceway Pharmaceuticals, LLC

By: _____
Name: _____
Title: _____

Chester Valley Holdings, LLC

By: _____
Name: _____
Title: _____

Chester Valley Pharmaceuticals, LLC

By: _____
Name: _____
Title: _____

Graceway Canada Holdings, Inc.

By: _____
Name: _____
Title: _____

Graceway International, Inc.

By: _____
Name: _____
Title: _____

Liquidating Trustee

By: _____
Name: Kip Horton

Schedule 4.11

Compensation of Liquidating Trustee

The Liquidating Trustee will receive a fee of \$640 per hour.

Exhibit 3

Assumption Schedule

[to come]

	Contract Counterparty	Type of Contract	Contract Date	Notice Address	Brief Summary	Cure Amount
1.						
2.						

Exhibit 1

List of Debtors

The Debtors, along with the last four digits of each Debtor's federal tax identification number and each Debtor's Chapter 11 Case Number, include:

1. Graceway Pharma Holding Corp. (9175): Case No. 11-13037 (PJW)
2. Graceway Holdings, LLC (2502): Case No. 11-13038 (PJW)
3. Graceway Pharmaceuticals, LLC (5385): Case No. 11-13036 (PJW)
4. Chester Valley Holdings, LLC (9457): Case No. 11-13039 (PJW)
5. Chester Valley Pharmaceuticals, LLC (3713): Case No. 11-13041 (PJW)
6. Graceway Canada Holdings, Inc. (6663): Case No. 11-13042 (PJW)
7. Graceway International, Inc. (2399): Case No. 11-13043 (PJW)

Exhibit 2

Liquidating Trust Agreement

LIQUIDATING TRUST AGREEMENT

for the

Graceway Liquidating Trust

TABLE OF CONTENTS

Section I Definitions	5
1.1. Terms Defined Above.....	5
1.2. Terms Defined in the Plan.	5
Section II Authority of and Certain Directions to Liquidating Trustee: Declaration of Trust	6
2.1. Creation of Liquidating Trust.	6
2.2. Purpose of Liquidating Trust.	6
2.3. Title to Assets of the Debtors.....	7
2.4. Segregated Funds.	7
2.5. Tax Treatment of Transfer of Trust Assets to the Liquidating Trust.....	8
2.6. Transfer Free and Clear of Claims.....	8
2.7. Transfer of Trust Assets.....	8
2.8. Property in the Liquidating Trust.....	9
2.9. Valuation of Trust Assets.....	9
2.10. Continuation of the Automatic Stay.	9
Section III Beneficial Interests.....	9
3.1. No Transfer or Exchange.	9
3.2. No Certification.	10
3.3. Absolute Owners.....	10
3.4. Means of Payment.....	10
3.5. Amount of Payment.	10
3.6. Acceptance of Conveyance.....	10
3.7. Title.	11
Section IV Administration of Trust Estate.....	11
4.1. Trust Administrative Fund.....	11
4.2. First Lien Trust Administrative Fund.	12
4.3. Disputed Claims Reserve.....	12
4.4. Administrative Powers of the Liquidating Trustee.....	13
4.5. Objections to Claims.....	15
4.6. Limitations on Liquidating Trustee; Investments.	16
4.7. Limitations on Liquidating Trustee – Causes of Action.....	16
4.8. Transferee Liabilities	17

4.9.	Administration of Trust.....	17
4.10.	Payment of Expenses and Other Liabilities	17
4.11.	Payment of United States Trustee’s Fees.....	18
4.12.	Liquidating Trustee Fees and Liquidating Trustee First Lien Fees	18
4.13.	Fiscal Year.	18
4.14.	Reports	18
4.15.	Liquidating Trust Committee.....	19
4.16.	Removal of the Liquidating Trustee	20
Section V Payments and Distributions.		20
5.1.	Distributions to Beneficiaries	20
5.2.	Frequency and Amounts of Cash Payments	21
5.3.	Establishment of the Claim Accounts.....	22
5.4.	Distributions from Trust Estate.....	22
5.5.	Fractional Distributions	22
5.6.	Final Distribution	22
5.7.	Termination Date	23
Section VI Other Duties of the Trustee.....		23
6.1.	Management of Trust Estate	23
6.2.	Tax and Related Matters	23
6.3.	No Implied Duties.....	24
Section VII Concerning the Liquidating Trustee.....		24
7.1.	Acceptance by Liquidating Trustee	24
7.2.	Discretionary Submission of Questions.....	24
7.3.	Liability of the Liquidating Trustee.....	25
7.4.	Reliance by Liquidating Trustee.....	25
7.5.	Reliance on Liquidating Trustee.....	25
7.6.	Indemnification	26
7.7.	Compensation of Liquidating Trustee	27
7.8.	Resignation and Removal	27
Section VIII Supplements and Amendments to this Liquidating Trust Agreement.		28
8.1.	Supplements and Amendments.....	28
8.2.	Declining to Execute Documents.....	29

8.3.	Notice of Form of Supplements and Amendments Requiring Vote or Consent	29
8.4.	Notice and Effect of Executed Amendment	29
Section IX Miscellaneous.		29
9.1.	Title to Trust Estate.....	29
9.2.	Sales of Assets of the Trust Estate	29
9.3.	Notices	29
9.4.	Severability	30
9.5.	Counterparts	30
9.6.	Binding Agreement.....	30
9.7.	No Personal Liability of Beneficiaries.....	30
9.8.	Headings	31
9.9.	Construction.....	31
9.10.	Governing Law	31
9.11.	Construction with the Plan.....	31
9.12.	Subject to Bankruptcy Court's Jurisdiction	31
9.13.	Intention of the Parties	31

LIQUIDATING TRUST AGREEMENT

This Liquidating Trust Agreement (the "Liquidating Trust Agreement"), dated as of [____], 2012, by and among Graceway Pharmaceuticals, LLC ("Graceway") and each of the other debtors listed on the signature pages hereto (collectively with Graceway, the "Debtors") and Kip Horton, as Liquidating Trustee ("Liquidating Trustee"), is made and executed in connection with the Joint Plan of Liquidation of Graceway Pharmaceuticals, LLC, et al. under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), dated January [25], 2012, (the "Plan"), filed by the Debtors in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"), which Plan was confirmed by Order of the Bankruptcy Court dated [____], 2012. The Plan provides for the establishment of the liquidating trust evidenced hereby (which liquidating trust shall formally be known as the "Graceway Liquidating Trust") to liquidate the assets and property of the Debtors in accordance with the terms and conditions of the Plan and to resolve and realize upon certain of the Debtors' rights, claims and causes of action through enforcement by the Liquidating Trustee.

RECITALS

WHEREAS, on September 29, 2011 (the "Petition Date"), the Debtors each filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code; and,

WHEREAS, the Debtors, thereafter, continued in the operation of their businesses and the management of their properties as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code; and,

WHEREAS, on January [25], 2012, the Debtors filed their Plan with the Bankruptcy Court; and,

WHEREAS, the Bankruptcy Court entered its Order confirming the Plan (the "Confirmation Order") on [____], 2012; and,

WHEREAS, the Plan provides for, among other things, (a) liquidation of the Debtors' Assets, and (b) distributions from the Reserve Accounts and, to the extent necessary, the Other Available Cash, to the holders of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims and Allowed Other Secured Claims to pay such Allowed Claims in full in accordance with the terms of the Plan, (c) distribution of the First Lien Available Cash to the holder of the Allowed First Lien Facility Claims as provided herein and in the Plan, and (d) distribution of the Other Available Cash to the holder of any Allowed Second Lien Facility Claims and to the holders of Allowed General Unsecured Claims as provided herein and in the Plan; and,

WHEREAS, the Plan provides for the creation of a liquidating trust to hold the Trust Assets in trust for the benefit of all Beneficiaries pursuant to the terms of this Liquidating Trust Agreement and the Plan; and,

WHEREAS, this Liquidating Trust Agreement is executed to establish the Liquidating Trust (as defined in Section 2 hereof) and to facilitate implementation of the Plan; and,

WHEREAS, the primary purpose of the Liquidating Trust is to liquidate the Trust Assets for the benefit of the Beneficiaries in accordance with Treasury Regulation Section 301.7701-4(d) and the Liquidating 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 liquidating purpose of the Liquidating Trust; and,

WHEREAS, except with respect to the Disputed Claims Reserve (defined below), the Liquidating Trust is intended to qualify as one or more liquidating trusts that are treated as “grantor trusts” for federal income tax purposes and the Liquidating Trustee shall operate and maintain the Liquidating 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 liquidating trusts issued by the Internal Revenue Service; and,

WHEREAS, as contemplated by the Plan, the Beneficiaries hereby exchange their Allowed Claims under the Plan for Beneficial Interests (as hereinafter defined) in the Liquidating Trust;

A G R E E M E N T S

NOW THEREFORE, for and in consideration of the premises, and the mutual promises and agreements contained herein and in the Plan, the receipt and sufficiency of which are hereby expressly acknowledged, the Debtors and Liquidating Trustee hereby agree as follows:

SECTION I DEFINITIONS

1.1. Terms Defined Above.

As used in this Liquidating Trust Agreement, each of the terms “Liquidating Trust Agreement,” “Graceway,” “Debtors,” “Liquidating Trustee,” “Bankruptcy Code,” “Plan,” “Bankruptcy Court,” “Petition Date,” and “Confirmation Order” shall have the meanings hereinabove set forth.

1.2. Terms Defined in the Plan.

Capitalized terms used in this Liquidating Trust Agreement without definition shall have the meanings assigned to them in the Plan. Terms defined in the Bankruptcy Code and not otherwise specifically defined in the Plan or herein shall, when used herein, have the meanings attributed to them in the Bankruptcy Code.

SECTION II AUTHORITY OF AND CERTAIN DIRECTIONS TO LIQUIDATING TRUSTEE: DECLARATION OF TRUST

2.1. Creation of Liquidating Trust.

Pursuant to Section 7.2 of the Plan and the Confirmation Order, and effective as of the Effective Date of the Plan, the Beneficiaries and the Debtors hereby create the Liquidating Trust, to be formally be known as the Graceway Liquidating Trust, for the benefit of the Beneficiaries. Pursuant to the terms of the Plan, the Debtors execute this Liquidating Trust Agreement and, subject to the provisions of Section 2.3 hereof, absolutely and irrevocably transfer, absolutely assign, convey, set over, and deliver to the Liquidating Trust, and its successors and assigns, all right, title and interest of the Debtors in and to the Trust Estate, in trust, to and for the benefit of the Beneficiaries for the uses and purposes stated herein and in the Plan, except as may otherwise be specifically provided by the Plan. The Debtors shall execute and deliver such other instruments of sale, transfer, conveyance, assignment and confirmation, and will cooperate and take such other actions as the Liquidating Trustee may deem reasonably necessary or desirable in order to more effectively transfer, convey and assign all rights, title and interests in and to the Trust Estate to the Liquidating Trust.

2.2. Purpose of Liquidating Trust.

This Liquidating Trust is created and organized for the sole purposes of collecting, holding, liquidating, and distributing the Trust Estate and administering, compromising, settling, withdrawing, objecting to, or litigating any and all Causes of Action and objections to the Claims under the Plan, with no objective to engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust. In accordance with such express and limited purposes, as of the Effective Date, the Liquidating Trust is hereby authorized and directed: (a) to take any and all steps necessary to maintain the Liquidating Trust (except with respect to the Disputed Claims Reserve) as one or more liquidating trusts for federal income tax purposes in accordance with Treasury Regulation § 301.7701-4(d) and as one or more “grantor trusts” subject to the provisions of Subchapter J, Subpart E of the IRC unless otherwise required; (b) to take all reasonable and necessary actions to conserve and protect the Trust Estate; (c) to administer, compromise, settle, and litigate any and all Causes of Action and any other Claims or causes of action belonging to the Liquidating Trust; (d) to the extent necessary and appropriate, object to any Claims asserted against the Debtors’ Estates and the Liquidating Trust; and (e) to maintain, operate or lease (for purposes of holding for sale), or sell or otherwise liquidate or dispose of the Trust Estate, in accordance with the terms of this Liquidating Trust Agreement, the Plan and the Confirmation Order, and to distribute the net proceeds of such disposition to the Beneficiaries, in as prompt, efficient and orderly a fashion as possible in accordance with the provisions of Section 5 hereof.

2.3. Title to Assets of the Debtors.

Upon the transfer of the Assets to the Liquidating Trust, the Liquidating Trustee shall succeed to all of the Debtors' right, title and interest in the Assets and the Debtors will have no further interest in or with respect to the Assets or the Liquidating Trust.

2.4. Segregated Funds.

a. On the Effective Date, the Liquidating Trustee shall establish a segregated deposit account to be used solely for the purpose of funding of the Trust Administrative Fund (defined below). The Liquidating Trustee Fee Amount shall be funded into the account by the First Lien Facility Agent from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled and shall be free and clear of all Liens and Claims of the First Lien Facility Agent or the First Lien Claimholders, including the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim. In addition, the Liquidating Trustee shall fund into the account any additional amount the Liquidating Trustee deems necessary to fund post-Effective Date operations other than fees and expenses incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash in connection with (i) the collection of accounts receivable, (ii) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (iii) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims, from the Other Assets. Any unspent Cash remaining in the Trust Administrative Fund immediately prior to the Final Distribution Date shall be distributed to the Beneficiaries as if such Cash were Other Assets.

b. The Liquidating Trustee shall establish a segregated deposit account to be used solely for the purpose of funding the First Lien Trust Administrative Fund (defined below). From time to time as agreed between the First Lien Facility Agent and the Liquidating Trustee, the First Lien Facility Agent shall fund amounts into the account to pay the Liquidating Trustee First Lien Fees incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash, in connection with (i) the collection of accounts receivable, (ii) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (iii) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled. Any unspent Cash remaining in the First Lien Trust Administrative Fund after the payment of all Liquidating Trustee First Lien Fees intended to be paid therefrom shall be treated as First Lien Available Cash and distributed to the First Lien Facility Agent for the benefit of the First Lien Claimholders.

c. On the Effective Date, to the extent the Liquidating Trustee determines that the amounts in the Reserve Accounts are insufficient to pay such Allowed Claims in full, the Liquidating Trustee may establish a segregated deposit account to be used solely for the payment of Other Available Cash to holders of Allowed Other Secured Claims (to the extent not

otherwise satisfied in accordance with the terms of the Plan), Allowed Administrative Expense Claims, Allowed Priority Tax Claims and Allowed Other Priority Claims. The account shall be funded solely from Other Available Cash. To the extent Cash remains in such account following the payment in full of all Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of the Plan), Allowed Administrative Expense Claims, Allowed Priority Tax Claims and Allowed Other Priority Claims, such Cash shall be distributed to the Beneficiaries as if such Cash were Other Assets.

2.5. Tax Treatment of Transfer of Trust Assets to the Liquidating Trust.

For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Beneficiaries) shall treat the transfer of Trust Assets to the Liquidating Trust, as set forth in Sections 2.1, 2.3 and 2.4 of this Liquidating Trust Agreement and in accordance with the Plan, as a transfer of such Assets to the Beneficiaries and a transfer by the Beneficiaries of such Assets to the Liquidating Trust. In all events, the Beneficiaries of the Liquidating Trust shall be treated as the grantors and deemed owners of the Liquidating Trust.

2.6. Transfer Free and Clear of Claims.

In accordance with Section 2.1 hereof, except as set forth in the Plan, the Debtors hereby transfer and assign the Trust Assets to the Liquidating Trust free and clear of any Liens, Claims, interests, encumbrances or any liability of any kind (except that the Assets other than the Other Assets shall remain subject to the Liens securing the First Lien Facility Secured Claim and any First Lien Facility Adequate Protection Claim as provided in Section 5.2 of the Plan)), and the Liquidating Trustee on behalf of the Liquidating Trust hereby assumes and agrees that, except as set forth in the Plan, all such Trust Assets will be transferred to the Liquidating Trust free and clear of any Liens, Claims, interests, encumbrances or any liability of any kind.

2.7. Transfer of Trust Assets.

Except as otherwise provided by the Plan or this Liquidating Trust Agreement, upon the Effective Date, title to the Trust Assets shall pass to the Liquidating Trust free and clear of all claims and Interests, in accordance with Section 1141 of the Bankruptcy Code. The Liquidating Trustee shall not be permitted to receive or retain Cash or Cash equivalents in excess of a reasonable amount to meet distributions as provided herein and the Plan or to maintain the value of the Trust Assets during liquidation.

On the Effective Date, (a) the Debtors' equity interests in Graceway Canada and (b) the Debtors' Claims against Graceway Canada arising from any Intercompany Claims, loans, notes, transfers or other obligations shall be transferred by the Debtors to the Liquidating Trust, and the equity interests in Graceway Canada shall continue to be subject to the Liens securing the First Lien Facility Secured Claim and any First Lien Facility Adequate Protection Claim as provided in Section 5.2 of the Plan and the Liens of the Second Lien Facility Agent in favor of the Second Lien Facility Lenders; *provided, however*, that the portion of the Canadian Distribution Amount used to fund the Estate Fund Amount shall be free and clear of the Liens of

the First Lien Facility Agent in accordance with the Committee Settlement. The Liquidating Trust shall exercise its powers as the sole shareholder to appoint the Liquidating Trustee as the sole officer and director of Graceway Canada and shall make distributions of the Canadian Distribution Amount as provided under the Plan.

2.8. Property in the Liquidating Trust.

The Liquidating Trust shall hold the legal title to all property at any time constituting a part of the Trust Estate and shall hold such property in trust to be administered and disposed of by it pursuant to the terms of this Liquidating Trust Agreement, the Plan and the Confirmation Order for the benefit of the Beneficiaries. The Liquidating Trustee is authorized to make disbursements and payments from the Trust Estate in accordance with the provisions of Sections 5 and 6 of this Liquidating Trust Agreement and pursuant to the Plan.

2.9. Valuation of Trust Assets.

As soon as possible after the Effective Date, but in no event later than ninety (90) days thereafter, the Liquidating Trustee, based upon his good faith determination after consultation with his counsel, shall inform the Beneficiaries in writing solely as to his estimate of the value of the Trust Assets. The valuation shall be used consistently by all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Beneficiaries) for all federal income tax purposes, and the parties shall file tax returns consistent with such valuation; *provided, however*, that such valuation shall not be binding on the Liquidating Trustee or any other party for any other purposes, including without limitation in regard to the liquidation of the Trust Assets, whether by disposition, liquidation, litigation, settlement, or otherwise.

2.10. Continuation of the Automatic Stay.

In furtherance of the implementation of the Plan, except as otherwise provided in the Plan, all injunctions or stays provided for in the Chapter 11 Cases pursuant to Sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect and apply to all creditors and Beneficiaries holding Claims against the Debtors, the Estates, the Assets, the Liquidating Trustee, the Liquidating Trust and the Trust Assets until the Final Distribution Date.

SECTION III BENEFICIAL INTERESTS.

3.1. No Transfer or Exchange.

Unless the Liquidating Trustee determines otherwise, beneficial interests in the Liquidating Trust (the "Beneficial Interests") shall not be transferable. In the event the Liquidating Trustee does authorize the transfer of Beneficial Interests, the Liquidating Trustee, based upon his good faith determination after consultation with his counsel, shall establish procedures to govern the registration and transfer of Beneficial Interests ("Permitted Transfer"). Once such procedures have been established, if ever, the Liquidating Trustee shall notify all holders of Beneficial Interests of such procedures. Notwithstanding the foregoing, a transfer of a

Beneficial Interest shall be not be permitted by the Liquidating Trustee if such transfer would be contrary to maintaining the Liquidating Trust as a liquidating trust for federal income tax purposes in accordance with Treasury Regulation § 301.7701-4(d) and as one or more “grantor trusts” subject to the provisions of Subchapter J, Subpart E of the IRC.

3.2. No Certification.

Unless the Liquidating Trustee determines otherwise, the Beneficial Interests will not be certificated and no security of any sort will be distributed to the Beneficiaries with respect to their interest in the Liquidating Trust. In the event the Liquidating Trustee does permit the certification of the Beneficial Interests, the Liquidating Trustee, based upon his good faith determination after consultation with his counsel, shall establish procedures to govern such certification. Once such procedures have been established, if ever, the Liquidating Trustee shall notify all Beneficiaries of such procedures.

3.3. Absolute Owners.

The Liquidating Trustee may deem and treat the persons who are Beneficiaries (as determined in accordance with the Plan) as the absolute owners of the Beneficial Interests in the Liquidating Trust for the purpose of receiving distributions and payments thereof, or on account thereof, and for all other purposes whatsoever. Unless the Liquidating Trustee receives actual written notice of a Permitted Transfer from the duly authorized transferee not less than thirty (30) days prior to a distribution made pursuant to the terms of this Liquidating Trust Agreement, and subject to the applicable provisions of Bankruptcy Rule 3001(e), the Liquidating Trustee shall have no duty or obligation to make or direct any distributions or payments to such transferee of a Permitted Transfer.

3.4. Means of Payment.

Cash payable to Beneficiaries pursuant to Section 5 hereof will be paid by checks drawn on a domestic bank account maintained by the Liquidating Trust or by wire transfer from a domestic bank account maintained by the Liquidating Trust at the sole option of the Liquidating Trustee.

3.5. Amount of Payment.

The amount of Cash payments and distributions to Beneficiaries shall be made and calculated in accordance with the Plan.

3.6. Acceptance of Conveyance.

The Liquidating Trustee is hereby directed to, and the Liquidating Trustee agrees that he will: (a) accept delivery of the Trust Estate on behalf of the Liquidating Trust; (b) accept all bills of sale, deeds, assumptions and assignments, and all other instruments of conveyance required to be delivered by the Debtors with respect to the Trust Estate transferred to the Liquidating Trustee on behalf of the Liquidating Trust pursuant to or in connection with the Plan,

the Confirmation Order, or this Liquidating Trust Agreement; and (c) take such other action as may be required of the Liquidating Trust hereunder, including the receipt and acceptance as part of the Trust Estate of any property or rights, including, without limitation, notes, other negotiable instruments, Claims, Causes of Action, and other choses-in-action belonging to the Debtors or their Estates.

3.7. Title.

On the Effective Date, legal title to all Trust Assets shall be vested in the Liquidating Trust in accordance with and pursuant to the terms of the Plan and this Liquidating Trust Agreement. Without limiting the foregoing, on the Effective Date, the Liquidating Trustee, on behalf of the Liquidating Trust, shall be: (a) authorized to act and have standing in any court of competent jurisdiction as representative of the Debtors' Estates in respect of any and all claims or causes of action that constitute Causes of Action; and (b) substituted as successor to the Debtors and/or the Creditors' Committee (i) in all actions and proceedings pending or thereafter commenced in the Bankruptcy Court or elsewhere in regard to the Causes of Action, (ii) in all actions and proceedings pending or thereafter commenced in the Bankruptcy Court or elsewhere in connection with or regarding all Claims, and (iii) in any agreement respecting the Trust Assets to which any of the Debtors is a party, including, without limitation, the Committee Settlement.

SECTION IV ADMINISTRATION OF TRUST ESTATE.

4.1. Trust Administrative Fund.

The Liquidating Trustee shall establish a reserve fund (the "Trust Administrative Fund") for the payment by the Liquidating Trustee of all liquidation expenses, including, without limitation, the compensation of the Liquidating Trustee, any attorney, accountant, advisor or other professional retained by the Liquidating Trustee, and the payment of all other reasonable and reasonably anticipated expenses, debts, charges, liabilities and obligations relating to the Trust Estate and its administration including the fees of the Indenture Trustee in connection with Plan distributions. On the Effective Date, the Liquidating Trustee Fee Amount shall be funded into the Trust Administrative Fund by the First Lien Facility Agent from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled and shall be free and clear of all Liens and Claims of the First Lien Facility Agent or the First Lien Claimholders, including the First Lien Facility Secured Claim, any First Lien Facility Adequate Protection Claim and any First Lien Facility Deficiency Claim, for the sole purpose of paying the Liquidating Trustee Fees. Any additional amount the Liquidating Trustee deems reasonable and necessary to fund post-Effective Date operations other than fees and expenses incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims, shall be funded into the Trust Administrative Fund from the Other Assets. Any balance remaining in the Trust Administrative Fund after the payment of all expenses, debts, charges,

liabilities and obligations intended to be paid therefrom shall be treated as Other Assets and distributed to Beneficiaries as provided in Section 5 hereof. Any monies deposited in the Trust Administrative Fund pursuant to the terms of this Liquidating Trust Agreement shall be invested in interest-bearing deposits or investments specified in Section 4.6b of this Agreement, and the interest earned thereon shall be credited thereto. Any unspent Cash remaining in the Trust Administrative Fund immediately prior to the Final Distribution Date shall be distributed to the Beneficiaries as if such Cash were Other Assets.

4.2. First Lien Trust Administrative Fund.

The Liquidating Trustee shall establish a reserve fund (the "First Lien Trust Administrative Fund"), to be funded from time to time as agreed between the First Lien Facility Agent and the Liquidating Trustee, for the payment by the Liquidating Trustee of all reasonable fees and out-of-pocket expenses for services performed by the Liquidating Trustee, and any attorneys or other professionals hired by the Liquidating Trustee, incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash, in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims from Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled. Any balance remaining in the First Lien Trust Administrative Fund after the payment of all Liquidating Trustee First Lien Fees intended to be paid therefrom shall be treated as First Lien Available Cash and distributed to the First Lien Facility Agent for the benefit of the First Lien Claimholders. Any monies deposited in the First Lien Trust Administrative Fund pursuant to the terms of this Liquidating Trust Agreement shall be invested in interest-bearing deposits or investments specified in Section 4.6b of this Agreement, and the interest earned thereon shall be credited thereto.

4.3. Disputed Claims Reserve.

On the Effective Date, the Liquidating Trustee shall establish a reserve fund solely from the Other Assets other than the Liquidating Trustee Fee Amount (the "Disputed Claims Reserve") for the payment by the Liquidating Trustee of all Disputed Claims other than First Lien Facility Claims if and when Allowed; *provided, however*, that funds shall be added to the Disputed Claims Reserve for Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of the Plan), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims that are Disputed Claims only to the extent the amounts deposited in the applicable Reserve Account for the payment of such Claims are insufficient to pay the Face Amount of such Claims. With respect to any unliquidated Disputed Claim, the Disputed Claims Reserve shall be funded upon entry of and in accordance with an Order(s) of the Bankruptcy Court estimating the amount (the "Estimated Amount") of such unliquidated Disputed Claim. Upon ultimate determination that any Disputed Claim is not Allowed, the Liquidating Trustee shall immediately release the portion of the Disputed Claim Reserve on account of such Claim and distribute such portion in accordance with the Plan. Each time a distribution of Other Available Cash is made to any Class of Claims, the Liquidating Trustee shall deposit into the

Disputed Claims Reserve an amount equal to the distribution each holder of a Disputed Claim in such Class would have received were the Face Amount of its Disputed Claim in such Class an Allowed Claim solely from proceeds of Other Assets. Any Person whose Disputed Claim is so estimated shall be entitled to an Allowed Claim only up to an amount not to exceed the Estimated Amount even if such Person's Disputed Claim, as finally allowed, would have exceeded the maximum Estimated Amount thereof. At the time a Person's Disputed Claim becomes an Allowed Claim, such Person shall receive from the applicable Reserve Account and/or the Disputed Claims Reserve a distribution equal to the distributions such Person would have received on account of its Allowed Claim had it been an Allowed Claim at the time of such prior distributions, with any surplus Cash held in the Disputed Claims Reserve on account of such Disputed Claim becoming generally available for use by the Liquidating Trustee as Other Available Cash in accordance with the Plan and this Liquidating Trust Agreement and any surplus Cash held in any Reserve Account being becoming available for distribution by the Liquidating Trustee as First Lien Available Cash in accordance with the Plan.

4.4. Administrative Powers of the Liquidating Trustee.

During the Liquidating Trustee's administration of the Liquidating Trust, and subject to (i) all the other provisions of this Liquidating Trust Agreement (including, but not limited to, Sections 4.6 and 4.7) and (ii) the Plan, the Liquidating Trustee may exercise the power:

- a. To receive and hold all the Assets of the Trust Estate and to have exclusive possession and control thereof as permissible under applicable law;
- b. To manage, sell and convert all or any portion of the Assets in the Trust Estate to Cash and distribute the net distributable proceeds as specified in the Plan and this Liquidating Trust Agreement;
- c. To incur indebtedness;
- d. To enter into, perform and exercise rights under contracts binding upon the Liquidating Trust (but not upon the Liquidating Trustee in his respective individual or corporate capacity) which are reasonably incident to the administration of the Liquidating Trust and which the Liquidating Trustee, in the exercise of his best business judgment, reasonably believes to be in the best interests of the Liquidating Trust;
- e. To delegate his authority under this Liquidating Trust to other persons, provided that such delegation must be made pursuant to a written agreement that either has been approved by the Bankruptcy Court in conjunction with the Confirmation of the Plan or is approved by the Liquidating Trust Committee (defined below);
- f. To establish and maintain accounts at banks and other financial institutions, in a clearly specified fiduciary capacity, into which the Trust Administrative Fund, First Lien Trust Administrative Fund, Disputed Claims Reserve or other Cash and property of the Liquidating Trust may be deposited, and draw checks or make withdrawals from such

accounts, and to pay or distribute such amounts of the Trust Estate as permitted or required under the Plan and this Liquidating Trust Agreement;

g. To employ attorneys, accountants, appraisers, expert witnesses, insurance adjusters or other persons whose services may be reasonably necessary or advisable, in the sole judgment of the Liquidating Trustee after consultation with the Liquidating Trust Committee, to advise or assist him in the discharge of his duties as Liquidating Trustee or otherwise in the exercise of any powers vested in the Liquidating Trustee, and to pay from the Trust Administrative Fund or First Lien Trust Administrative Fund, as applicable, reasonable compensation to such attorneys, accountants, appraisers, expert witnesses, insurance adjusters or other persons;

h. To pay any and all reasonable and necessary expenses attributable or relating to the management, maintenance, operation, preservation or liquidation of the Trust Estate;

i. To investigate, file, compromise, settle, withdraw or litigate in the Bankruptcy Court or on appeal (or pursuant to a withdrawal of the reference of jurisdiction) objections to Claims filed against the Debtors' Estates, the Trust Estate or the Liquidating Trust; *provided, however*, that on and after the Effective Date and until such time as the First Lien Facility Claims are paid in full in Cash, in order to compromise, settle, otherwise resolve, or withdraw any objections to Disputed Claims, the Liquidating Trustee shall be required to obtain (i) the prior written consent of the Approving Majority First Lien Lenders or (ii) an Order of the Bankruptcy Court approving such compromise, settlement, other resolution, or withdrawal of any objections to Disputed Claims;

j. To investigate, analyze, compromise, adjust, arbitrate, sue on or defend, pursue, prosecute, abandon, or otherwise deal with and settle, in accordance with the terms set forth in this Liquidating Trust Agreement, any and all Causes of Action and claims in favor of or against the Liquidating Trust as the Liquidating Trustee shall deem advisable; *provided, however*, that on and after the Effective Date and until such time as the First Lien Facility Claims are paid in full in Cash, in order to settle or abandon Causes of Action, the Liquidating Trustee shall be required to obtain (i) the prior written consent of the Approving Majority First Lien Lenders or (ii) an Order of the Bankruptcy Court approving such settlement or abandonment after notice and a hearing;

k. To avoid and recover transfers of the Debtors' property as may be permitted by the Bankruptcy Code or applicable state law, including, without limitation, those transfers identified in the Disclosure Statement;

l. To take all appropriate action with respect to the Trust Estate, including, without limitation, the filing, prosecution, settlement or other resolution of Claims and Causes of Action, subject to the limitations set forth in subsections (i) and (j) above;

m. To sue or be sued in connection with any matter arising from or related to the Plan or this Liquidating Trust Agreement that affects in any way the rights or obligations of the Liquidating Trust, the Liquidating Trustee or the Beneficiaries;

n. To represent the interests of the Beneficiaries with respect to any matters relating to the Plan, this Liquidating Trust Agreement, or the Liquidating Trust affecting the rights of such Beneficiaries;

o. If the Liquidating Trust shall become subject to federal or state income tax, the Liquidating Trustee shall have the power, exercisable at his reasonable discretion, to take any action reasonably necessary to minimize any adverse federal or state income tax consequences to the Beneficiaries resulting from any distribution made by the Liquidating Trust to such Beneficiaries;

p. In general, without in any manner limiting any of the foregoing or the following, to deal with the Trust Assets or any part or parts thereof in all other ways as would be lawful for any person owning the same to deal therewith; *provided, however*, that the investment powers of the Liquidating Trustee, other than those reasonably necessary to maintain the value of the Trust Assets of the Liquidating Trust and to further the liquidating purpose of the Liquidating Trust, are limited by the terms herein;

q. To do any and all other things not in violation of any other terms of the Plan, the Confirmation Order and this Liquidating Trust Agreement that, in the reasonable business judgment of the Liquidating Trustee, are necessary or appropriate for the proper liquidation, management, investment and distribution of the Assets of the Trust Estate in accordance with the provisions of this Liquidating Trust Agreement and the Plan;

r. To file final tax returns for each of the Debtors; and

s. At the appropriate time, to request that the Bankruptcy Court enter a final decree closing each of the Debtors' Chapter 11 Cases; *provided, however*, that, in light of the substantive consolidation of the Debtors' estates for distribution purposes, the Liquidating Trustee may, in the Liquidating Trustee's sole discretion, seek authority from the Bankruptcy Court to close all of the Debtors' Chapter 11 Cases except for the Graceway Chapter 11 Case immediately upon satisfaction of all Other Secured Claims..

4.5. Objections to Claims.

From and after the Effective Date of the Plan, the Liquidating Trust, through the Liquidating Trustee, shall be the sole representative of the Debtors' Estates for all purposes, including, without limitation, investigating, settling, compromising, objecting to, and litigating in the Bankruptcy Court or on appeal (or pursuant to a withdrawal of the reference of jurisdiction) objections to Claims.

4.6. Limitations on Liquidating Trustee; Investments.

a. No Trade or Business. The Liquidating Trustee shall carry out the purposes of the Liquidating Trust and the directions contained herein and shall not at any time cause the Liquidating Trust to enter into or engage in any trade or business (except as may be consistent with the limited purposes of the Liquidating Trust), including, without limitation, the purchase of any assets or property (other than such assets or property as are reasonably necessary to carry out the purposes of the Liquidating Trust Agreement, on behalf of the Liquidating Trust or the Beneficiaries). The Liquidating Trustee is directed to take all reasonable and necessary actions to dispose of the Trust Estate in as prompt, efficient and orderly a fashion as possible, to make timely distributions of the proceeds of the Trust Estate, and to otherwise not unduly prolong the duration of the Liquidating Trust.

b. Investments. The Liquidating Trustee shall invest any monies held at any time as part of this Trust Estate, including, without limitation, in the Trust Administrative Fund, First Lien Trust Administrative Fund and every other reserve or escrow fund established pursuant to the terms of this Liquidating Trust Agreement, only in interest-bearing deposits or certificates of deposit issued by any federally insured banking institution or short-term investments, including short-term obligations of, or unconditionally guaranteed as to payment by, the United States of America and its agencies or instrumentalities, pending the need for the disbursement thereof in payment of costs, expenses, and liabilities of the Liquidating Trust or in making distributions pursuant to Section 5 of this Liquidating Trust Agreement. The Liquidating Trustee shall be restricted to the collection and holding of such monies and any income earned on such monies and to the payment and distribution thereof (at least annually if such monies are not necessary to maintain the value of the Trust Estate or to satisfy Claims against the Trust Estate) for the purposes set forth in the Plan and this Liquidating Trust Agreement, and to the conservation and protection of the Trust Estate in accordance with the provisions hereof.

4.7. Limitations on Liquidating Trustee – Causes of Action.

a. The Liquidating Trustee shall be obligated to consult with the Liquidating Trust Committee regarding all matters affecting the Trust Estate involving \$1,000,000 or more, including, but not limited to, Claims objections, litigation, and contested matters. Notwithstanding anything contained herein, a member of the Liquidating Trust Committee must recuse itself from the Liquidating Trust Committee regarding any contested matter, objection to Claim, or other Cause of Action to which it is a party or otherwise has a conflict of interest.

b. Subject to Sections 7.11 and 8.2 of the Plan, on and after the Effective Date, the Liquidating Trustee shall have the exclusive authority to settle or abandon Causes of Action owned by the Liquidating Trust. On and after the Effective Date and until such time as the First Lien Facility Claims are paid in full in Cash, in order to settle or abandon Causes of Action owned by the Liquidating Trust, the Liquidating Trustee shall be required to obtain (i) the prior written consent of the Approving Majority First Lien Lenders or (ii) an Order of the Bankruptcy Court approving such settlement or abandonment after notice and a hearing. After the First Lien Facility Claims are paid in full in Cash, except as otherwise set forth in the Plan, the Confirmation Order or the Liquidating Trust Agreement, the Liquidating Trustee shall not be

required to obtain approval of the Approving Majority First Lien Lenders or the Bankruptcy Court to abandon Causes of Action or other Assets owned by the Liquidating Trust.

c. In all other events, unless otherwise set forth herein, the Liquidating Trustee is authorized to compromise or settle an action without any notice or consent if the Liquidating Trustee reasonably believes such settlement or compromise to be in the best interests of the Liquidating Trust, and shall be held harmless by the Beneficiaries in taking such action.

d. Notwithstanding anything herein to the contrary, the Liquidating Trustee shall be authorized to pay the reasonable fees and expenses incurred by professionals after the Effective Date without providing notice to or obtaining the approval of any party; *provided, however*, that such payments may be made only from the Trust Administrative Fund or First Lien Trust Administrative Fund, as applicable.

4.8. Transferee Liabilities.

If any liability shall be asserted against the Liquidating Trust as transferee of the Trust Estate on account of any claimed liability of or through the Debtors, the Liquidating Trustee may use such part of the Trust Administrative Fund or First Lien Trust Administrative Fund, as applicable, as may be necessary in contesting any such claimed liability and in payment, compromise, settlement and discharge thereof on terms reasonably satisfactory to the Liquidating Trustee. In no event shall the Liquidating Trustee be required or obligated to use his own property, funds or assets for any such purposes.

4.9. Administration of Trust.

In administering the Liquidating Trust, the Liquidating Trustee, subject to the express limitations contained herein, is authorized and directed to do and perform all such acts, to execute and deliver such deeds, bills of sale, instruments of conveyance, and other documents as he may deem reasonably necessary or advisable to carry out the purposes of the Liquidating Trust.

4.10. Payment of Expenses and Other Liabilities.

To the extent that the amount of funds in the Trust Administrative Fund is at any time insufficient, the Liquidating Trustee shall pay solely from the Other Assets all reasonable expenses, charges, liabilities and obligations of the Liquidating Trust other than fees and expenses incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims, including, without limiting the generality of the foregoing, such debts, liabilities, or obligations as may be payable from the Trust Estate, interest, taxes, assessments, and public charges of every kind and nature, and the costs, charges and expenses in connection with or arising out of the execution or administration of the Liquidating

Trust and the Trust Estate, and such other payments and disbursements as are provided for in this Liquidating Trust Agreement or which may be reasonably determined by the Liquidating Trustee to be proper charges against the Liquidating Trust and the Trust Estate, and which the Liquidating Trustee, in his reasonable discretion and business judgment, may determine to be necessary or advisable to meet or satisfy unascertained, unliquidated or contingent liabilities of the Liquidating Trust. To the extent that the amount of funds in the First Lien Trust Administrative Fund is at any time insufficient after a request by the Liquidating Trustee to the First Lien Facility Agent to make a deposit into the First Lien Trust Administrative Fund, the Liquidating Trustee may, in the Liquidating Trustee's sole discretion, pay from any of the Reserve Accounts all reasonable expenses, charges, liabilities and obligations of the Liquidating Trust incurred from the Effective Date through and including the date all First Lien Facility Claims are paid in full in Cash in connection with (a) the collection of accounts receivable, (b) the pursuit of Causes of Action (including 549 Avoidance Actions but excluding for the avoidance of doubt Avoidance Actions), and (c) the objection to, and settlement of, Other Secured Claims (including Possessory Lienholder Claims), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims. The Liquidating Trustee shall make such payments without application to or Order of the Bankruptcy Court, except as otherwise herein provided.

4.11. Payment of United States Trustee's Fees.

After the occurrence of the Effective Date, fees payable to the Office of the United States Trustee during the administration of the Plan and until the case is converted, dismissed or closed shall be paid by the Liquidating Trustee from the Trust Administrative Fund.

4.12. Liquidating Trustee Fees and Liquidating Trustee First Lien Fees.

The Liquidating Trustee is entitled to reasonable fees and out-of-pocket expenses for services performed by the Liquidating Trustee and any attorneys or other professionals hired by the Liquidating Trustee. The Liquidating Trustee Fees and Liquidating Trustee First Lien Fees will be paid in accordance with Schedule 4.11 hereto, provided that Liquidating Trustee Fees shall be paid solely from the Liquidating Trustee Fee Amount and the Other Assets and Liquidating Trustee First Lien Fees shall be paid solely from the Sale Proceeds to which the First Lien Facility Agent or First Lien Claimholders would otherwise be entitled.

4.13. Fiscal Year.

The Liquidating Trust's fiscal year shall end on December 31 of each year, unless the Liquidating Trustee deems it advisable to establish some other date on which the fiscal year of the Liquidating Trust shall end.

4.14. Reports.

The Liquidating Trustee shall:

a. Prepare and file unaudited interim financial reports as may be required by regulatory authorities, applicable laws, rules or regulations or as the Liquidating Trustee deems advisable during the fiscal year;

b. Prepare, file and mail, within the time required by applicable law or regulation, necessary income tax information, tax returns or reports to the Beneficiaries and applicable taxing authorities, including, on an annual basis, the manner and calculation of the Liquidating Trust's taxable gain or loss which the Liquidating Trust would recognize if it were a separate taxable entity. In this connection, the Liquidating Trustee shall file returns for the Liquidating Trust, except with respect to the Disputed Claims Reserve, as one or more grantor trusts pursuant to Treasury Regulation Section 1.671-4(a); and

c. Once each quarter, the Liquidating Trustee shall File with the Bankruptcy Court and serve on the United States Trustee, the Liquidating Trust Committee, and any Beneficiary who requests copies of such quarterly report after the Confirmation Date, an unaudited written report and account showing:

- (i) the Assets and liabilities of the Liquidating Trust as of the beginning and end of each calendar quarter;
- (ii) the amounts and timing of all distributions made and expenses paid pursuant to the Plan and the Liquidating Trust Agreement during that calendar quarter, and the recipients thereof;
- (iii) any changes in the Trust Assets that have not been previously reported; and
- (iv) any material action taken by the Liquidating Trustee in the performance of his or her duties under the Liquidating Trust Agreement that has not been previously reported.

Quarterly reports shall be provided no later than the fifteenth (15th) day of each January, April, July and October until all Final Distributions under the Plan have been made.

4.15. Liquidating Trust Committee.

An administrative trust committee (the "Liquidating Trust Committee"), consisting of no more than five (5) members, shall consult from time to time on various matters as set forth in this Liquidating Trust Agreement. The Liquidating Trust Committee initially shall consist of (a) the Liquidating Trustee, (b) two (2) members appointed by the First Lien Facility Agent, (c) one (1) member appointed by the Second Lien Facility Agent, and (d) one (1) member appointed by the Creditors' Committee. Other than the Liquidating Trustee, each member of the Liquidating Trust Committee shall serve for a term of three (3) years. Upon the conclusion of a member's term, or in the event that a member resigns prior to the expiration of his term or is otherwise unable to serve out his term (other than due to the payment in full of the First Lien Facility Claims as discussed below), he shall appoint a successor to serve on the Liquidating

Trust Committee. If, for any reason, such member is unable to appoint a successor member, the Liquidating Trustee shall appoint such member. Within ten (10) Business Days following payment in full of the First Lien Facility Claims, the two (2) members appointed by the First Lien Facility Agent (or its successors) shall resign from the Liquidating Trust Committee. Thereafter, the member appointed by the Second Lien Facility Agent (or his successor) shall appoint one (1) additional member and the member appointed by the Creditors' Committee (or his successor) shall appoint (1) additional member. Unless otherwise specified herein, approval of a majority of the members of such Liquidating Trust Committee shall be required for the Liquidating Trust Committee to act. The Liquidating Trust Committee shall have the rights and powers set forth in this Liquidating Trust Agreement. In the event that a Liquidating Trust Committee shall not be formed and continuing to exist under this Liquidating Trust Agreement, all references herein to required approval or other action of such Liquidating Trust Committee shall be of no force or effect. In performance of their duties hereunder, members of the Liquidating Trust Committee shall be entitled to receive reimbursement of reasonable costs, expenses and obligations as set forth in Section 7.6e(iii) of the Liquidating Trust Agreement.

4.16. Removal of the Liquidating Trustee.

The Liquidating Trust Committee shall be authorized, by unanimous vote of the members other than the Liquidating Trustee, to remove the Liquidating Trustee for reasonable cause and to select a replacement or successor liquidating trustee in accordance with the provisions of this Liquidating Trust Agreement.

SECTION V PAYMENTS AND DISTRIBUTIONS.

5.1. Distributions to Beneficiaries.

a. Distributions to holders of Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of the Plan), Allowed Administrative Expense Claims (other than Administrative Expense Claims that are Assumed Liabilities), Allowed Priority Tax Claims and Allowed Other Priority Claims shall be made from the Reserve Accounts to the extent permitted by the Budget and/or the Sale Support Agreement. To the extent any of such Allowed Claims are not satisfied from the Reserve Accounts (and, with respect to Allowed Other Secured Claims, are not otherwise satisfied in accordance with the terms of the Plan), such Allowed Claims shall be paid from the Other Available Cash in accordance with the Plan.

b. Distributions to holders of Allowed First Lien Facility Claims shall be made from First Lien Available Cash in accordance with the Plan.

c. Distributions to holders of any Allowed Second Lien Facility Secured Claims or Allowed Second Lien Facility Adequate Protection Claims shall be made solely from any Other Available Cash upon which the Second Lien Facility Agent has a Lien unless and until the Allowed First Lien Facility Claims are paid in full in cash, and from the Other Available Cash and First Lien Available Cash thereafter, all in accordance with the Plan.

d. Distributions to holders of Allowed General Unsecured Claims shall be made solely from the Other Available Cash after payment in full in Cash of the Allowed Administrative Expense Claims, Allowed Priority Tax Claims, Allowed Other Priority Claims, Allowed Other Secured Claims, Allowed Second Lien Facility Secured Claims and Allowed Second Lien Facility Adequate Protection Claims, if any.

e. Payments to the Beneficiaries hereunder shall be made only from the proceeds of the Trust Assets, and only to the extent that the Liquidating Trustee shall have sufficient proceeds from the Trust Assets to make such payments in accordance with this Section 5. Each Beneficiary shall look solely to the Assets of the Liquidating Trust available for distribution to such Beneficiary as herein provided.

5.2. Frequency and Amounts of Cash Payments.

a. The Liquidating Trustee shall make distributions to Beneficiaries holding Allowed Other Secured Claims (to the extent not otherwise satisfied in accordance with the terms of the Plan), Administrative Expense Claims, Priority Tax Claims and Other Priority Claims in accordance with the Plan as soon as such Claims become Allowed Claims.

b. From time to time in accordance with Sections 10.8.2 and 10.8.3 of the Plan, the Liquidating Trustee shall make distributions to the First Lien Agent for the benefit of the First Lien Claimholders from the First Lien Available Cash.

c. From time to time in accordance with Section 10.8.3 of the Plan, the Liquidating Trustee shall make distributions to the Second Lien Facility Agent for the benefit of the Second Lien Facility Lenders from the Other Available Cash upon which the Second Lien Facility Agent has a Lien, unless and until the First Lien Facility Claims are paid in full in Cash, at which point such distributions shall be from the Other Available Cash upon which the Second Lien Facility Agent has a Lien in accordance with Section 10.8.3 of the Plan and the First Lien Available Cash in accordance with Sections 10.8.2 and 10.8.3 of the Plan.

d. As often as in the reasonable discretion and judgment of the Liquidating Trustee there shall be Other Available Cash in an amount sufficient to render feasible a distribution of Cash to the holders of Allowed General Unsecured Claims, the Liquidating Trustee shall transfer and pay, or cause to be transferred and paid, to the holders of Allowed General Unsecured Claims (subject to the provisions of Section 3 hereof) such aggregate amount of Other Available Cash, if any, as shall then be held in the Liquidating Trust, excluding reasonable amounts of Cash held in the Trust Administrative Fund pursuant to Section 4.1 hereof or otherwise needed to pay the expenses, debts, charges, liabilities and obligations of the Liquidating Trust (the "Distribution Amount"). The aggregate amounts required to be distributed to the holders of Allowed General Unsecured Claims shall be determined by the Liquidating Trustee pursuant to and in accordance with the terms of the Plan and this Liquidating Trust Agreement. The Distribution Amount(s) shall be paid to the holders of Allowed General Unsecured Claims at least once every three (3) months and shall be determined by the Liquidating Trustee in his reasonable discretion, and his determination shall be final and conclusive on all persons, in the absence of gross negligence or willful misconduct on the part of

the Liquidating Trustee, and shall not be reviewed by the Bankruptcy Court. In determining the amount of any such distribution, the Liquidating Trust may rely and shall be fully protected in relying upon the advice and opinion of independent public accountants or of counsel to the Liquidating Trust.

5.3. Establishment of the Claim Accounts.

The Liquidating Trustee will establish on the Liquidating Trust's books and records an account representing each Allowed or Disputed Claim as set forth on the official claims register maintained by BMC Group, Inc. as claims agent or its successor (each, a "Claim Account"). It is expressly understood that the establishment of the Claim Accounts by the Liquidating Trustee or his agents is solely for administrative convenience, and that amounts allocable to such Claim Accounts need not be segregated and may be commingled for investment purposes as specified herein. The Liquidating Trustee may rely on the official claims register as correct.

5.4. Distributions from Trust Estate.

Distributions will be made to the Beneficiaries in accordance with the terms of the Plan and the Claim Accounts will be adjusted by the Liquidating Trustee to reflect such distributions.

5.5. Fractional Distributions.

No distribution in fractions of cents shall be issued. If the Distribution Amount allocated to an Allowed Claim at the time of a distribution hereunder would include fractions of cents, the amount to be distributed shall be rounded down to the highest integral number of cents in the applicable Claim Account, but such rounding down shall not affect such allocation. The aggregate amount of the retained fractional distributions from the Distribution Amount shall be retained in the Liquidating Trust by the Liquidating Trustee and shall remain part of the Trust Estate.

5.6. Final Distribution.

From time to time, but in no event less than once every three (3) months, the Liquidating Trustee shall distribute all Other Available Cash and any First Lien Available Cash not already distributed pursuant to Section 10.8.2 of the Plan as set forth in the Plan. After (a) the distribution of the payments described in Section 10.8.1 of the Plan, (b) the liquidation into Cash of all Assets owned by the Liquidating Trust (other than those Assets abandoned by the Liquidating Trustee), (c) the collection of other sums due or otherwise remitted or returned to the Estates, (d) the resolution of all Disputed Claims and (e) the payment in full in Cash of all Liquidating Trustee Fees and Liquidating Trustee First Lien Fees, the Liquidating Trustee shall prepare a final accounting of any and all monies remaining in any accounts maintained by the Liquidating Trustee on behalf of the Liquidating Trust, including the Trust Administrative Fund, First Lien Trust Administrative Fund and any escrow funds, or otherwise remaining in the Trust Estate (the "Final Cash"). Once the amount of the Final Cash has been determined, the

Liquidating Trustee shall make the Final Distribution, in accordance with the Plan and this Liquidating Trust Agreement; *provided, however*, that if the Final Cash consisting of Other Available Cash is less than \$10,000, and the Liquidating Trustee, in his sole discretion, determines that it would cost more than \$5,000 to distribute such funds, the Liquidating Trustee may donate such funds to a charity of his choice.

5.7. Termination Date.

The Liquidating Trust shall terminate on such date when (a) a final decree has been entered closing all of the Chapter 11 Cases, (b) all Assets in the Trust Estate have been distributed and (c) all claims have been pursued or abandoned pursuant to, and in accordance with, the Plan and this Liquidating Trust Agreement (the "Termination Date"). However, the term of the Liquidating Trust shall not exceed five (5) years from the Effective Date; provided that, upon a finding that an extension is necessary to the liquidating purpose of the Liquidating Trust and upon approval by the Bankruptcy Court, the term may be extended for a finite term based on the particular facts and circumstances. Each such extension must be approved by the Bankruptcy Court within six (6) months of the beginning of the extended term. The Liquidating Trustee shall be released of all liabilities and discharged from his obligations under the Plan or the Liquidating Trust Agreement once the Liquidating Trust has terminated pursuant to this section.

SECTION VI OTHER DUTIES OF THE TRUSTEE.

6.1. Management of Trust Estate.

With respect to the Assets of the Trust Estate, the Liquidating Trustee may, if sufficient funds are available from the Trust Administrative Fund or Other Available Cash, purchase and maintain in existence such insurance as the Liquidating Trustee deems reasonable and necessary or appropriate from time to time to protect the Liquidating Trust, the Trust Assets, the Liquidating Trustee, the Liquidating Trust Committee, and the Beneficiaries' interests in the Assets of the Trust Estate or from any potential claims or liabilities relating thereto or the distribution thereof.

6.2. Tax and Related Matters.

Pursuant to and in accordance with the Plan, the Liquidating Trustee shall be responsible for all tax matters of the Trust Estate, including, but not limited to, the filing of all tax returns and other filings with governmental authorities on behalf of the Trust Estate, the Debtors' Estates and any subsidiaries (whether organized as a corporation, limited liability company or partnership and whether owned in whole or in part) for time periods ending on or before the last day in the taxable year of the Liquidating Trust including the Termination Date, including the filing of tax returns for the Liquidating Trust, except with respect to the Disputed Claims Reserve, as one or more grantor trusts pursuant to § 1.671-4(a) of the United States Income Tax Regulations, the filing of determination requests under Section 505(b) of the Bankruptcy Code, and responding to any tax audits of the Trust Estate. The Liquidating Trustee shall provide 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. The Liquidating Trustee is authorized to act as agent for the Trust Estate in withholding or paying over any amounts required by law (including tax law) to be withheld or paid with respect to the Trust Estate. Except as otherwise set forth in this Liquidating Trust Agreement or the Plan, any items of income, deduction, credit, or loss of the Liquidating Trust not allocable to the Disputed Claims Reserve shall be allocated for federal income tax purposes among the Class 2 First Lien Facility Claims, Class 3 Second Lien Facility Claims and the Class 5 General Unsecured Claims as required by law. The Liquidating Trust shall file all income tax returns with respect to any income attributable to the Disputed Claims Reserve and shall pay the federal, state and local income taxes attributable to the Disputed Claims Reserve, based on the items of income, deduction, credit or loss allocable thereto. The Liquidating Trustee shall be entitled to deduct any federal or state withholding taxes from any payments made with respect to Allowed Claims, as appropriate, and shall otherwise comply with Section 346 of the Bankruptcy Code.

6.3. No Implied Duties.

The Liquidating Trustee shall not manage, control, use, sell, dispose, collect or otherwise deal with the Trust Estate or otherwise take any action hereunder except as expressly provided herein, and no implied duties or obligations whatsoever of the Liquidating Trustee shall be read into this Liquidating Trust Agreement.

SECTION VII CONCERNING THE LIQUIDATING TRUSTEE.

7.1. Acceptance by Liquidating Trustee.

The Liquidating Trustee accepts the Liquidating Trust hereby created for the benefit of the Beneficiaries and agrees to act as Liquidating Trustee of the Liquidating Trust pursuant to the terms of this Liquidating Trust Agreement and the Plan. The Liquidating Trustee shall have and exercise the rights and powers herein granted and shall be charged solely with the performance of the duties herein declared on the part of Liquidating Trustee. The Liquidating Trustee also agrees to receive and disburse all monies actually received by him constituting part of the Trust Estate pursuant to the terms of this Liquidating Trust Agreement and the Plan.

7.2. Discretionary Submission of Questions.

Subject to the provisions of this Section VII, the Liquidating Trustee, in his sole discretion, may, but shall not be required to, submit to the Bankruptcy Court, from time to time, any question or questions with respect to which the Liquidating Trustee may desire to have explicit approval of the Bankruptcy Court for the taking of any specific action proposed to be taken by the Liquidating Trustee with respect to the Trust Estate, or any part thereof, and the administration and distribution of the Trust Estate. The written authorization of the Bankruptcy Court set forth in a Final Order shall constitute approval by the Bankruptcy Court of the proposed action to be taken by the Liquidating Trustee. All costs and expenses incurred by the Liquidating Trust in the exercise of any right, power or authority conferred by this Section 7.2 shall be costs and reasonable expenses of the Trust Estate, payable solely from the Trust Administrative Fund or Other Available Cash.

7.3. Liability of the Liquidating Trustee.

a. **Limitation on Liability.** No provision of this Liquidating Trust Agreement shall be construed to impart any liability upon the Liquidating Trustee unless it shall be proven in a court of competent jurisdiction that the Liquidating Trustee's actions or omissions constituted gross negligence or willful misconduct in the exercise of or failure to exercise any right or power vested in the Liquidating Trustee under this Liquidating Trust Agreement.

b. **Reliance on Certificates or Opinions.** In the absence of gross negligence or willful misconduct on the part of the Liquidating Trustee, the Liquidating Trust may conclusively rely on the truth of the statements and correctness of the opinions expressed upon any certificates or opinions furnished to the Liquidating Trustee and conforming to the requirements of this Liquidating Trust Agreement.

c. **Discretion of Liquidating Trustee.** The Liquidating Trustee, within the limitations and restrictions expressed and imposed by this Liquidating Trust Agreement, may act freely under all or any of the rights, powers and authority conferred hereby, in all matters concerning the Trust Estate, after forming his best reasonable business judgment based upon the circumstances of any particular question or situation as to the best course to pursue, without the necessity of obtaining the consent or permission or authorization of the Beneficiaries, the Bankruptcy Court, or of any official or officer; and the rights, powers and authority conferred on the Liquidating Trustee by this Liquidating Trust Agreement are conferred in contemplation of such freedom of reasonable business judgment and action within the limitations and restrictions so expressed and imposed; *provided, however*, that the Liquidating Trustee shall not be liable for any error or exercise of judgment, unless it shall be proved in court of competent jurisdiction that such Liquidating Trustee was grossly negligent or acted in a manner that constituted willful misconduct.

7.4. Reliance by Liquidating Trustee.

a. **Genuineness of Documents.** The Liquidating Trustee may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, objection, Order, judgment, decree, or other paper or document reasonably believed by him to be genuine and to have been signed, made, entered or presented by the proper party, parties, official, officials, entity or entities.

b. **Retention of Counsel.** The Liquidating Trustee, after consultation with the Liquidating Trust Committee, may retain and consult with legal counsel, independent public accountants and other experts. The Liquidating Trustee shall not be liable for any action taken or suffered by him or omitted to be taken by him without gross negligence or willful misconduct in reliance on any opinion or certification of such accountants or in accordance with the advice of such counsel or experts, provided that such accountants, counsel and experts were selected and retained with reasonable care. It shall not be a conflict of interest for the Liquidating Trustee to be represented by counsel to the Liquidating Trust Committee.

7.5. Reliance on Liquidating Trustee.

No person dealing with the Liquidating Trustee shall be obligated to see to the application of any monies, securities, or other property paid or delivered to them or to inquire into the expediency or propriety of any transaction or the right, power, or authority of the Liquidating Trustee to enter into or consummate the same upon such terms as the Liquidating Trustee may deem advisable. Persons dealing with the Liquidating Trustee shall look only to the Trust Estate to satisfy any liability incurred by the Liquidating Trustee to such persons in carrying out the terms of this Liquidating Trust Agreement, and, except as otherwise expressly provided herein, the Liquidating Trustee shall have no personal, individual or corporate obligation to satisfy any such liability.

7.6. Indemnification.

a. **Indemnification of Liquidating Trustee and Agents.** The Liquidating Trust hereby agrees to indemnify to the full extent of the Trust Estate any person or entity who was or is a party, or is threatened to be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that such person or entity is or was a Liquidating Trustee or an employee, attorney or agent of the Liquidating Trust or Liquidating Trustee, from and against any and all expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by such person or entity in connection with such action, suit or proceeding, including appeals thereof, if such person or entity acted without gross negligence and willful misconduct in the exercise and performance of any power or duties of such person or entity in accordance with this Liquidating Trust Agreement.

b. **Payment of Expenses.** Expenses (including reasonable attorneys' fees) incurred in defending any action, suit or proceeding referred to in this Section 7.6 may be paid by the Liquidating Trust from the Trust Administrative Fund or Other Available Cash in advance of the final disposition of such action, suit or proceeding, upon an undertaking by the Liquidating Trustee or an employee or agent of the Liquidating Trust entitled to be indemnified.

c. **Insurance.** The Liquidating Trust may maintain insurance during its existence and after its termination, at its expense, to protect itself and the Liquidating Trustee, officers, employees or agents of the Liquidating Trust of and from any liability, whether or not the Liquidating Trust would have the legal power to directly indemnify the Liquidating Trustee, officers, employees or agents of the Liquidating Trust against such liability. The terms "Liquidating Trustee," "officers," "employees" or "agents" as used herein, where applicable, include the heirs, successors, executors, administrators, personal representatives, or estates of such persons or entities.

d. **Bond.** As a condition to serving as Liquidating Trustee hereunder, the Liquidating Trustee and any successor trustee is required to and shall post a bond in favor of the Liquidating Trust in an amount not less than one million dollars (\$1,000,000), which bond shall be in substantially the form as that required by the United States Trustee's Office for trustees serving in bankruptcy cases within the District of Delaware, or such alternative form of financial surety or financial insurance policy as the Liquidating Trust Committee deems appropriate.

e. **Costs and Expenses of Liquidating Trustee.** The Liquidating Trustee shall pay out of the Trust Administrative Fund or First Lien Trust Administrative Fund, as applicable, all reasonable costs, expenses and obligations incurred by the Liquidating Trustee in carrying out his duties under this Liquidating Trust Agreement or in any manner connected, incidental or related to the administration of the Liquidating Trust without application to the Bankruptcy Court, including, without limitation:

- (i) Any reasonable, documented fees and out-of-pocket expenses of attorneys, accountants, investment advisors, expert witnesses, insurance adjusters, professionals or other persons whom the Liquidating Trustee may reasonably deem advisable to employ in connection with the Liquidating Trust, or on their own behalf in accordance with the terms of this Liquidating Trust Agreement;
- (ii) Any taxes, charges and assessments which may be owed by, or levied or assessed against, the Trust Estate or any property held in trust hereunder; and
- (iii) Any reasonable, documented costs, and out-of-pocket expenses incurred by the Liquidating Trust Committee in carrying out its duties under the Plan.

7.7. Compensation of Liquidating Trustee.

The Liquidating Trustee will be compensated from the Trust Administrative Fund according to the terms of Schedule 4.11.

7.8. Resignation and Removal.

a. **Resignation.** The Liquidating Trustee may resign and be discharged from any future obligations and liabilities hereunder by giving written notice thereof to the Bankruptcy Court and the Liquidating Trust Committee at least thirty (30) days prior to the effective date of such resignation. Subject to the expiration of such notice period, such resignation shall become effective on the day specified in such notice.

b. **Removal.** The Liquidating Trustee may be removed with cause at any time by Order of the Bankruptcy Court upon motion by any party in interest or in accordance with Section 4.16 hereof. Upon any such removal, such removed Liquidating Trustee shall be entitled to any reimbursement and indemnification set forth in this Liquidating Trust Agreement that remain due and owing to such Liquidating Trustee at the time of such removal.

c. **Appointment of a Successor Trustee.** If, at any time, the Liquidating Trustee shall give notice of his intent to resign pursuant to Section 7.8 hereof or be removed or become incapable of acting, counsel to the Liquidating Trustee shall provide notice thereof to the Bankruptcy Court and the Liquidating Trust Committee shall designate a successor Liquidating Trustee to act under this Liquidating Trust Agreement.

d. **Acceptance of Appointment by Successor Liquidating Trustee.** Any successor Liquidating Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall deliver counterparts thereof to the Bankruptcy Court. Thereupon, such successor Liquidating Trustee shall, without any further act, become vested with all of the estates, properties, rights, powers, trusts and duties of his predecessor in the Liquidating Trust hereunder with like effect as if originally named herein.

e. **Trust Continuance.** The death, resignation, incompetency or removal of the Liquidating Trustee shall operate neither to terminate the Liquidating Trust created by this Liquidating Trust Agreement nor to revoke any existing agency created pursuant to the terms of this Liquidating Trust Agreement or invalidate any action theretofore taken by such Liquidating Trustee. In the event of the resignation or removal of the Liquidating Trustee, such Liquidating Trustee shall (i) promptly execute and deliver any such documents, instruments, and other writing as may be necessary to effect the termination of such Liquidating Trustee's capacity under this Liquidating Trust Agreement and the conveyance of the Trust Estate then held by such Liquidating Trustee to the temporary or successor trustee; (ii) deliver to the temporary or successor trustee all documents, instruments, records, and other writings relating to the Liquidating Trust or Trust Estate as may be in the possession of such Liquidating Trustee; and (iii) otherwise assist and cooperate in effecting the transfer and assumption of his obligations and functions by the temporary or successor trustee.

SECTION VIII SUPPLEMENTS AND AMENDMENTS TO THIS LIQUIDATING TRUST AGREEMENT.

8.1. Supplements and Amendments.

Subject to the provisions of Sections 2, 8.2 and 8.3 hereof, at any time and from time to time, and subject to approval by the Bankruptcy Court if sought by the Liquidating Trustee pursuant to Section 7.2 of this Liquidating Trust Agreement, the Liquidating Trustee may execute a supplement or amendment hereto for the purpose of adding provisions to, or changing or eliminating provisions of, this Liquidating Trust Agreement, or amendments thereto, as specified in such vote or consent; *provided, however*, that no such supplement or amendment shall (a) require any Beneficiary to furnish or advance funds to the Liquidating Trustee or shall entail any additional personal liability or the surrender of any individual right on the part of any Beneficiary except with the written consent of such Beneficiary, (b) without the prior written consent of the holder of an Allowed Administrative Expense Claim, Allowed Priority Tax Claim, Allowed Other Priority Claim, Allowed Other Secured Claim, Allowed First Lien Facility Claim, or Allowed Second Lien Facility Claim, change or modify the Liquidating Trustee's obligations with respect to such Claim, including, without limitation, provisions for payment of such Claim, or (c) without the consent of those holders of General Unsecured Claims holding not less than seventy-five percent (in aggregate dollar amount) of the General Unsecured Claims, change or modify any other provisions for distribution of the Trust Estate. In no event shall this Liquidating Trust Agreement be amended so as to change the purposes of the Liquidating Trust as set forth in Section 2 or the treatment of Claims under the Plan and this Liquidating Trust Agreement.

8.2. Declining to Execute Documents.

If, in the reasonable opinion of the Liquidating Trustee, any document required to be executed pursuant to the terms of Section 8.1 hereof materially and adversely affects any immunity or indemnity in favor of the Liquidating Trustee under this Liquidating Trust Agreement, the Liquidating Trustee may in his discretion decline to execute such document.

8.3. Notice of Form of Supplements and Amendments Requiring Vote or Consent.

A copy of each amendment or supplement (or a fair summary thereof) shall be furnished to the Beneficiaries promptly after the execution thereof, except that with respect to any proposed amendment or supplement for which the consent of the Beneficiaries is required, the form of such proposed supplement or amendment (or a fair summary thereof) shall be furnished to the applicable Beneficiaries prior to the Liquidating Trustee's seeking the approval thereof by vote or consent of such necessary parties.

8.4. Notice and Effect of Executed Amendment.

Upon the execution of any declaration of amendment or supplement, this Liquidating Trust Agreement shall be deemed to be modified and amended in accordance therewith and the respective rights, limitations of rights, obligations, duties and immunities under this Liquidating Trust Agreement of the Liquidating Trustee and the Beneficiaries shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any such amendment or supplement shall be thereby deemed to be part of the terms and conditions of this Liquidating Trust Agreement for any and all purposes.

SECTION IX MISCELLANEOUS.

9.1. Title to Trust Estate.

No Beneficiary or any other party other than the Liquidating Trust shall have title to any part of the Trust Estate.

9.2. Sales of Assets of the Trust Estate.

Any sale or other conveyance of any Assets of the Trust Estate, or part thereof, by the Liquidating Trustee made in accordance with the terms of this Liquidating Trust Agreement shall bind the Beneficiaries and shall be effective to transfer or convey all right, title and interest of the Liquidating Trustee and the Beneficiaries in and to such asset of the Trust Estate.

9.3. Notices.

Unless otherwise expressly specified or permitted by the terms of the Plan or this Liquidating Trust Agreement, all notices shall be in writing and delivered by registered or certified mail, return receipt requested, or by a hand or facsimile transmission (and confirmed by mail), in any such case addressed as follows:

If to the Liquidating Trustee:

Kip Horton
RPA Advisors, LLC
45 Eisenhower Drive
Paramus, New Jersey 07652
Phone: (201) 527-6653
Email: khorton@rpaadvisors.com

and if to any Beneficiary, addressed to its latest mailing address reflected on the official claims register maintained by BMC Group, Inc..

9.4. Severability.

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

9.5. Counterparts.

This Liquidating Trust Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which together shall constitute one and the same instrument.

9.6. Binding Agreement.

All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the Liquidating Trustee and his respective successors and assigns and any successor Liquidating Trustee provided for in Section VII, his respective successors and assigns, and the Beneficiaries, and their respective personal representatives, successors and assigns. Any request, notice, direction, consent, waiver or other instrument or action by any party hereto or any Beneficiary shall bind their respective heirs, personal representatives, successors and assigns.

9.7. No Personal Liability of Beneficiaries.

The Beneficiaries will not incur any personal liability through their ownership or possession of their Beneficial Interests, except for taxes imposed on the Beneficiaries pursuant to applicable provisions of federal, state or local law with respect to the receipt of such Beneficial Interests or distributions from or transactions of the Liquidating Trust and other charges specified herein. Liabilities of the Liquidating Trust are to be satisfied in all events (including the exhaustion of the Trust Estate) exclusively from the Trust Estate and such liabilities are not to attach to or be paid from any amounts distributed to the Beneficiaries, regardless of the time at which such distribution took place, or from the assets of the Beneficiaries.

9.8. Headings.

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

9.9. Construction.

Except where the context otherwise requires, words importing the masculine gender shall include the feminine and the neuter, if appropriate; words importing the singular number shall include the plural number and vice versa; and words importing persons shall include partnerships, associations, and corporations.

9.10. Governing Law.

This Liquidating Trust Agreement, including all matters of construction, validity and performance hereof, shall in all respects be governed by, and construed and interpreted in accordance with, the internal laws of the State of Delaware.

9.11. Construction with the Plan.

The Plan is hereby incorporated fully by reference and is made a part hereof for all purposes. In the event of any inconsistency or conflict between the terms, conditions, definitions and provisions of this Liquidating Trust Agreement and the terms, conditions and provisions of the Plan, the terms, conditions, definitions and provisions of the Plan shall control.

9.12. Subject to Bankruptcy Court's Jurisdiction.

The Bankruptcy Court shall retain jurisdiction over this Liquidating Trust Agreement, the Liquidating Trust, the Trust Estate, the Liquidating Trustee and the Debtors to issue any and all Orders and to take other actions necessary to the implementation of this Liquidating Trust Agreement, such jurisdiction to include, without limitation, the jurisdiction contemplated by Section 1142 of the Bankruptcy Code.

9.13. Intention of the Parties.

The Debtors, the Beneficiaries and the Liquidating Trustee hereby express their intent to create and maintain the Liquidating Trust as a liquidating trust for Federal income tax purposes in accordance with Treasury Regulation §301.7701-4(d) and as one or more "grantor trusts" subject to the provisions of Subchapter J, Subpart E of the IRC, and the Liquidating Trustee further represents that the Liquidating Trust shall not: (a) receive transfers of listed stocks or securities, any readily-marketable assets (other than those constituting the trust estate), or any assets of a going business; or (b) receive and will not retain Cash in excess of a reasonable amount to meet claims and contingent liabilities, determined in the reasonable discretion of the Liquidating Trustee in accordance with the provisions of Sections IV and V hereof.

[signature page follows]

Dated: _____, 2012

Graceway Pharma Holding Corp.

By: _____
Name: _____
Title: _____

Graceway Holdings, LLC

By: _____
Name: _____
Title: _____

Graceway Pharmaceuticals, LLC

By: _____
Name: _____
Title: _____

Chester Valley Holdings, LLC

By: _____
Name: _____
Title: _____

Chester Valley Pharmaceuticals, LLC

By: _____
Name: _____
Title: _____

Graceway Canada Holdings, Inc.

By: _____
Name: _____
Title: _____

Graceway International, Inc.

By: _____
Name: _____
Title: _____

Liquidating Trustee

By: _____
Name: Kip Horton

Schedule 4.11

Compensation of Liquidating Trustee

The Liquidating Trustee will receive a fee of \$640 per hour.

Exhibit 3

Assumption Schedule

[to come]

	Contract Counterparty	Type of Contract	Contract Date	Notice Address	Brief Summary	Cure Amount
1.						
2.						