

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re: : Chapter 11  
: :  
GRUMMAN OLSON INDUSTRIES, INC., : Case No. 02-16131 (SMB)  
: :  
Debtor. :  
-----X

**FIRST AMENDED DISCLOSURE STATEMENT  
FOR THE DEBTOR GRUMMAN OLSON INDUSTRIES,  
INC.'S AND ITS OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS' FIRST AMENDED JOINT LIQUIDATING  
CHAPTER 11 PLAN OF REORGANIZATION**

SANFORD P. ROSEN & ASSOCIATES, P.C.  
Counsel for the Debtor  
747 Third Avenue  
New York, New York 10017-2803  
(212) 223-1100  
Sanford P. Rosen (SR-4966)

HAHN & HESSEN LLP  
Counsel to the Official Committee of  
Unsecured Creditors  
488 Madison Avenue  
New York, New York 10022  
(212) 478-7200  
Mark T. Power (MP-1607)  
Katharine G. Craner (KC-1364)

Dated: October 19, 2004

## **Table of Contents**

	<u>Page</u>
I. INTRODUCTION.....	2
A. Holders of Claims and Interests Entitled to Vote .....	3
B. Voting Procedures .....	4
C. Confirmation Hearing.....	5
II. OVERVIEW OF THE PLAN .....	5
A. Introduction.....	5
B. Summary of Distributions.....	6
C. Summary of Classification and Treatment of Claims and Interests under the Plan .....	7
III. OVERVIEW OF CHAPTER 11.....	8
IV. DESCRIPTION OF THE DEBTOR’S BUSINESS.....	9
A. The Debtor .....	9
B. The Debtor's Business .....	9
C. Customer Markets.....	10
D. Sources of Chassis .....	10
E. Pre-Petition Financing Arrangements with TBCC .....	10
F. Other Relationships and Transactions .....	11
G. Chassis Converter Agreements.....	11
H. License Agreement with Terry Cawley.....	11
I. Events Leading to Chapter 11 Filing.....	12
V. THE CHAPTER 11 CASE .....	13
A. Post-Petition Financing.....	13
B. Employment of Professionals; Retention of Officers.....	14
1. The Initial Proposed Sale, Termination of the Olson Asset Purchase Agreement and the Occurrence of a Termination Event under the DIP Facility .....	15
C. Creditors' Committee .....	15
D. Sale of Substantially All of the Debtor’s Assets .....	15
1. Postpetition Marketing Efforts .....	15
2. The Consummation of the Sale.....	16
E. TBCC \$300,000 Carve Out .....	17
F. Claims Process.....	17
1. Last Date to File Proofs of Claim and Requests for Payment of Pre-August 31, 2004 Administrative Expenses.....	17
2. Claims Reconciliation.....	18
G. Preparation of Claims Estimates.....	18
H. Other Assets.....	18
1. Cash .....	18

2.	Potential Causes of Action.....	18
3.	Other Remaining Assets .....	19
I.	Other Matters .....	20
1.	Postpetition Litigation .....	20
(a)	Chassis Financing .....	20
(b)	Settlement with Workhorse Custom Chassis, LLC .....	21
(c)	Settlement with Freightliner Custom Chassis Corp.....	22
(d)	AFCO Insurance Financing .....	23
(e)	Litigation Stipulations .....	23
VI.	SUMMARY OF THE PLAN .....	23
A.	Introduction.....	23
B.	Overall Structure of the Plan .....	24
C.	Classification and Treatment of Administrative Claims, Claims and Interests under the Plan.....	24
	Unclassified — Administrative Expense Claims .....	26
	Unclassified — Priority Tax Claims.....	26
	Class 1 — Non-Tax Priority Claims.....	27
	Class 2 — Secured Claims .....	27
	Class 3 —Unsecured Claims .....	28
	Class 4 — Interests .....	28
	Special Provision Regarding Unimpaired Claims .....	28
D.	Bar Dates for Administrative Claims .....	28
E.	Fee Claims .....	29
F.	Treatment of Executory Contracts and Unexpired Leases .....	29
G.	Management of the Debtor .....	30
1.	The President .....	30
(a)	Effectuating Documents; Further Transactions .....	30
(b)	Compensation of the President .....	30
(c)	Indemnification of the President and Others .....	30
2.	Authority to Object to Claims and Interests and to Settle Disputed Claims and Interests .....	31
3.	Authority to Settle Avoidance Actions.....	32
H.	Creditors' Committee .....	32
1.	Post-Confirmation Creditors' Committee; Compensation and Expenses .....	32
2.	Liability.....	32
I.	Method of Distribution under the Plan .....	33
1.	Distributions for Claims Allowed as of the Effective Date.....	33
2.	Interest on Claims .....	33
3.	Distributions by the Debtor .....	33
4.	Date and Delivery of Distributions.....	33
5.	Distribution of Unclaimed Property .....	33
6.	Distribution of Cash.....	34
7.	Fractional Dollars; De Minimus Distributions .....	34
J.	Disputed Claims.....	34
1.	Objection Deadline; Prosecution of Objections .....	34

2.	Accounts and Reserves .....	34
K.	Implementation and Effect of Confirmation of the Plan .....	35
1.	Discharge of Claims – Termination of Interests .....	35
2.	Exculpation and Limitation of Liability .....	35
3.	Injunction .....	35
4.	Preservation/Waiver of Causes of Action .....	36
5.	Preservation of Insurance .....	36
L.	Conditions Precedent to Consummation of Plan .....	36
M.	Retention of Jurisdiction .....	37
N.	Miscellaneous Provisions .....	38
1.	Payment of Statutory Fees .....	38
2.	Amendment or Modification of the Plan .....	39
3.	Governing Law .....	39
4.	Withholding and Reporting Requirements .....	39
5.	Exemption from Transfer Taxes .....	39
6.	Waiver of Federal Rule of Civil Procedure 62(a) .....	39
7.	Headings .....	39
8.	Exhibits .....	40
9.	Notices .....	40
10.	Conflict .....	40
VII.	CERTAIN RISK FACTORS TO BE CONSIDERED .....	40
1.	Possible Dilution of Claims and Interests .....	40
2.	Uncertainty of Recoveries to be Realized from Avoidance Actions .....	41
3.	Certain Bankruptcy Law Considerations .....	41
VIII.	CONFIRMATION PROCEDURE .....	41
A.	Solicitation of Votes .....	41
B.	The Confirmation Hearing .....	43
C.	Confirmation .....	43
1.	Acceptance .....	44
2.	Unfair Discrimination and Fair and Equitable Tests .....	44
3.	Feasibility .....	44
4.	Best Interests Test .....	45
IX.	EFFECTIVENESS OF THE PLAN .....	46
A.	Confirmation of the Plan .....	46
B.	Conditions Precedent to Effectiveness .....	46
X.	ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN .....	46
XI.	CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN .....	46
XII.	CONCLUSION AND RECOMMENDATION .....	47

ALL CREDITORS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, THE EXHIBITS ANNEXED HERETO, AND THIS DISCLOSURE STATEMENT. THE TERMS OF THE PLAN GOVERN IN THE EVENT OF ANY INCONSISTENCY WITH THE SUMMARIES IN THIS DISCLOSURE STATEMENT. ALL EXHIBITS TO THE DISCLOSURE STATEMENT ARE INCORPORATED INTO AND ARE A PART OF THIS DISCLOSURE STATEMENT AS IF SET FORTH IN FULL HEREIN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF UNLESS OTHERWISE SPECIFIED, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER SUCH DATE. ALL CREDITORS SHOULD READ CAREFULLY THE "RISK FACTORS" SECTION HEREOF BEFORE VOTING FOR OR AGAINST THE PLAN. SEE "CERTAIN RISK FACTORS TO BE CONSIDERED" SECTION VII.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH OTHER APPLICABLE LAW.

THE INFORMATION IN THIS DISCLOSURE STATEMENT IS BEING PROVIDED SOLELY FOR PURPOSES OF VOTING TO ACCEPT OR REJECT THE PLAN. NOTHING IN THIS DISCLOSURE STATEMENT MAY BE USED BY ANY ENTITY FOR ANY OTHER PURPOSE. THE FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING THE DESCRIPTION OF THE DEBTOR, ITS BUSINESS, AND EVENTS LEADING TO THE COMMENCEMENT OF THE CHAPTER 11 CASE, HAS BEEN OBTAINED FROM VARIOUS DOCUMENTS, AGREEMENTS, AND OTHER WRITINGS RELATING TO THE DEBTOR. NEITHER THE DEBTOR, THE CREDITORS' COMMITTEE, NOR ANY OTHER PARTY MAKES ANY REPRESENTATION OR WARRANTY REGARDING SUCH INFORMATION.

AS TO CONTESTED MATTERS, EXISTING LITIGATION INVOLVING, OR POSSIBLE ADDITIONAL LITIGATION TO BE BROUGHT BY THE DEBTOR OR THE CREDITORS' COMMITTEE, PENDING ADVERSARY PROCEEDINGS, AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, BUT RATHER AS A STATEMENT MADE WITHOUT PREJUDICE SOLELY FOR SETTLEMENT PURPOSES, WITH FULL RESERVATION OF RIGHTS, AND IS NOT TO BE USED FOR ANY LITIGATION PURPOSE WHATSOEVER. AS SUCH, THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NONBANKRUPTCY PROCEEDING, ADVERSARY PROCEEDING OR OTHER ACTION INVOLVING THE DEBTOR, OR ANY OTHER PARTY IN INTEREST, NOR SHALL IT BE CONSTRUED TO BE CONCLUSIVE ADVICE ON THE TAX, FINANCIAL OR OTHER EFFECTS OF THE PLAN AS TO HOLDERS OF CLAIMS AGAINST THE DEBTOR.

## I.

### INTRODUCTION

Grumman Olson Industries, Inc. ("the Debtor"), the above-captioned debtor (the "Debtor"), along with the Official Committee of Unsecured Creditors of the Debtor (the "Creditors' Committee" or the "Committee"; together with the Debtor, the "Plan Proponents"), submit this disclosure statement (the "Disclosure Statement"), pursuant to section 1125 of title 11 of the United States Code (the "Bankruptcy Code"), to holders of Claims against the Debtor in connection with (i) the solicitation of acceptances of the First Amended Joint Liquidating Plan of Reorganization dated October 5, 2004, as such plan may be amended (the "Plan"), filed by the Plan Proponents with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court"), and (ii) the hearing to consider confirmation of the Plan (the "Confirmation Hearing") scheduled for November 23, 2004, at 10:00 a.m., prevailing Eastern Time. Unless otherwise defined herein, all capitalized terms contained herein have the meanings ascribed to them in the Plan.

Concurrently with the filing of this Disclosure Statement, the Plan Proponents filed their Plan which sets forth how Claims against and Interests in the Debtor will be treated. This Disclosure Statement describes certain aspects of the Plan, the Debtor's prior operations, significant events occurring in the Debtor's Chapter 11 Case and other related matters. FOR A COMPLETE UNDERSTANDING OF THE PLAN, YOU SHOULD READ THIS DISCLOSURE STATEMENT, THE PLAN AND THE EXHIBITS HERETO IN THEIR ENTIRETY.

The Plan provides for the liquidation of the Debtor's remaining assets, including the pursuit of any causes of action the Debtor or its estate may have, and the use of the net proceeds thereof to make distributions to Creditors in order of their relative priority of distribution under the Bankruptcy Code. As discussed below, the distribution to creditors is primarily dependent on the successful outcome of various causes of action that the Debtor intends to pursue against third parties. While the Plan Proponents believe that the Debtor's estate will ultimately realize sufficient recoveries to make the projected distribution to creditors described in this Disclosure Statement, there is no certainty as to the amount or timing of any such distributions. The Plan Proponents believe, however, that the Plan offers creditors the best opportunity available to maximize the potential recovery on their claims. The Debtor is not reorganizing its business; it is liquidating, and does not now, nor will it following confirmation of the Plan, conduct any business operations.

Upon the Confirmation Date, the Plan further contemplates that the Debtor shall remain in existence for the limited purpose of implementing the Plan and making distributions to creditors as provided in the Plan. Paul Gunther, selected by the Debtor and the Creditors' Committee and approved by the Bankruptcy Court by Order Filed on September 10, 2004, will serve as the sole officer, director and president (the "President") of the Debtor. The President will be responsible for implementing and administering the Plan in accordance with the Plan's terms.

Attached as Exhibits to this Disclosure Statement are copies of the following:

- The Plan (Exhibit A);
- Order of the Bankruptcy Court (the “Solicitation Procedures Order”), which, among other things, approves the Disclosure Statement and establishes certain procedures with respect to the solicitation and tabulation of votes to accept or to reject the Plan (Exhibit B);
- Chapter 11 Orderly Liquidation Analysis (Exhibit C)
- Chapter 7 Liquidation Analysis (Exhibit D)
- Résumé of President Paul Gunther (Exhibit E)

In addition, a proposed Ballot for the acceptance or rejection of the Plan is enclosed with the Disclosure Statement submitted to the holders of Claims that the Plan Proponents believe are entitled to vote to accept or reject the Plan.

On October 25, 2004, the Bankruptcy Court signed the Solicitation Procedures Order, a copy of which is annexed hereto as Exhibit B, approving this Disclosure Statement as containing adequate information of a kind and in sufficient detail to enable hypothetical, reasonable investors typical of the Debtor’s creditors to make an informed judgment about whether to accept or reject the Plan. APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT, HOWEVER, CONSTITUTE A DETERMINATION BY THE BANKRUPTCY COURT AS TO THE FAIRNESS OR MERITS OF THE PLAN.

The Solicitation Procedures Order sets forth in detail the deadlines, procedures and instructions for voting to accept or reject the Plan and for filing objections to confirmation of the Plan and the applicable standards for tabulating Ballots. In addition, detailed voting instructions are on the back of each Ballot. Each holder of a Claim entitled to vote on the Plan should read in their entirety the Disclosure Statement, the Plan, the Solicitation Procedures Order and the instructions on the back of the Ballots before voting on the Plan. These documents contain, among other things, important information concerning the classification of Claims and Interests for voting purposes and the tabulation of votes. No solicitation of votes to accept the Plan may be made except pursuant to section 1125 of the Bankruptcy Code.

#### **A. Holders of Claims and Interests Entitled to Vote**

Pursuant to the provisions of the Bankruptcy Code, only holders of “allowed” claims or equity interests in classes of claims or equity interests that are “impaired” are entitled to vote to accept or reject a proposed chapter 11 plan. Classes of claims in which the holders of claims are unimpaired under a chapter 11 plan are deemed to have accepted the plan and are not entitled to vote to accept or reject the plan.

Class 1 of the Plan is unimpaired. Holders of Claims in Class 1 (Non-Tax Priority Claims) are conclusively deemed to have accepted the Plan. Classes 2 (Secured Claims) and 3 (General Unsecured Claims) of the Plan are impaired. To the extent Claims in Class 3 are Allowed Claims, the holders of such Claims are entitled to vote to accept or reject the Plan.

Holders of Equity Interests in Class 4 are deemed to have rejected the Plan and are, therefore, not entitled to vote. Accordingly, the Plan Proponents are soliciting acceptances only from holders of Allowed Claims in Classes 2 and 3.

The Bankruptcy Code defines “acceptance” of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds in dollar amount and more than one-half in number of the claims that cast ballots for acceptance or rejection of the plan. For a more detailed description of the requirements for confirmation of the Plan, see Section VIII, “Confirmation Procedure.”

Section 1129(b) of the Bankruptcy Code permits the confirmation of a plan notwithstanding the nonacceptance of a plan by one or more impaired classes of claims or interests. Under that section, a plan may be confirmed by a court if it does not “discriminate unfairly” and is “fair and equitable” with respect to each nonaccepting class. For a more detailed description of the requirements for confirmation of a nonconsensual plan, see Section VIII.C.2, “Confirmation Procedure — Unfair Discrimination and Fair and Equitable Tests.” The Plan Proponents intend to seek confirmation pursuant to section 1129(b) of the Bankruptcy Code with respect to Class 4, which is deemed to reject the Plan.

In addition, if any other impaired class of claims or interests entitled to vote shall not accept the Plan by the requisite majorities provided in section 1126(c) or 1126(d) of the Bankruptcy Code, as applicable, the Plan Proponents reserve the right to seek to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code. The determination as to whether to seek confirmation of the Plan under such circumstances will be announced before or at the Confirmation Hearing.

#### **B. Voting Procedures**

If you are entitled to vote to accept or reject the Plan, a Ballot is enclosed for the purpose of voting on the Plan. Please vote and return your Ballot(s) to:

GRUMMAN OLSON INDUSTRIES, INC.  
c/o Bankruptcy Management Corp.  
1330 E. Franklin Avenue  
El Segundo, CA 90245  
Attn: Grumman Olson Industries Balloting Center

TO BE COUNTED, YOUR BALLOT INDICATING ACCEPTANCE OR REJECTION OF THE PLAN MUST BE RECEIVED NO LATER THAN 5:00 P.M., EASTERN STANDARD TIME, ON NOVEMBER 17, 2004 (THE “VOTING DEADLINE”).

Any Claim in an impaired Class as to which (i) an objection or request for estimation is pending or (ii) a proof of claim has not been filed and which is scheduled by the Debtor as unliquidated, disputed or contingent, is not entitled to vote unless the Holder of such Claim has obtained an order of the Bankruptcy Court temporarily allowing such Claim for the purpose of voting on the Plan. For additional information on voting, see Section VIII.A, “Confirmation Procedure — Solicitation of Votes.”



If you are a holder of a Claim entitled to vote on the Plan and did not receive a Ballot, received a damaged Ballot or lost your Ballot, or if you have any questions concerning the Disclosure Statement, the Plan or the procedures for voting on the Plan, please call Bankruptcy Management at (310) 321-5555, Attention: Grumman Olson Industries Balloting Center.

### **C. Confirmation Hearing**

Pursuant to section 1128 of the Bankruptcy Code, the Confirmation Hearing will be held on November 23, 2004 at 10:00 a.m., prevailing Eastern Time, before the Honorable Stuart M. Bernstein, Chief United States Bankruptcy Judge for the Southern District of New York, One Bowling Green, New York, New York 10004. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan be served and filed so that they are received on or before November 17, 2004 at 5:00 p.m., prevailing Eastern Time, in the manner described in the Solicitation Procedures Order. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing.

THE PLAN PROPONENTS BELIEVE THAT THE PLAN WILL ENABLE THE DEBTOR TO MAXIMIZE THE RECOVERY TO ITS CREDITORS AND THAT ACCEPTANCE OF THE PLAN IS IN THE BEST INTERESTS OF THE DEBTOR AND ITS CREDITORS. THE PLAN PROPONENTS, THEREFORE, URGE ALL CREDITORS TO VOTE TO ACCEPT THE PLAN.

## **II.**

### **OVERVIEW OF THE PLAN**

#### **A. Introduction**

In June, 2003, the Bankruptcy Court granted the Debtor's motions, seeking approval of the sale of substantially all of the Debtor's assets to various purchasers. Except for a \$300,000 carve out obtained through negotiations by the Creditors' Committee which is earmarked to fund estate winddown expenses, the proceeds realized from these sales were distributed to Transamerica Business Credit Corporation ("TBCC"), the Debtor's secured lender with pre- and post- Filing Date security interests in and liens against substantially all of the Debtor's assets. According to TBCC, the sale proceeds were insufficient to satisfy TBCC's Secured Claim in full. TBCC has indicated that it has a remaining unsecured deficiency claim against the Debtor in the approximate amount of \$2,000,000. The Plan Proponents have not yet verified this amount.

The Plan contemplates that all of the Debtor's remaining assets, principally causes of action the Debtor or its estate may have against third parties, will be liquidated and the proceeds derived therefrom shall be distributed in accordance with the priority of the distribution scheme under the Bankruptcy Code.

## **B. Summary of Distributions**

Under the Plan, Claims against and Interests in the Debtor are divided into Classes. Certain unclassified Claims, including Administrative Expense Claims and Priority Tax Claims, will be paid in full in Cash once their Claims become Allowed Claims and the Effective Date of the Plan has occurred. All other Claims and Interests will be divided into four Classes and will receive the distributions and recoveries (if any) described in the table below.

The table (set forth below in Section II.C.) briefly summarizes the classification and treatment of Claims and Interests under the Plan.

Class 3 General Unsecured Creditors will receive their pro-rata share of the pool of Distributable Funds available for distribution to all Class 3 unsecured creditors. The aggregate amount of Class 3 Claims, as reflected in proofs of claim filed by holders of Class 3 Claims (including any Secured Creditor deficiency claim) or, in the event no proof of claim was filed, in the Schedules, is believed to be approximately \$19 million excluding (i) Class 3 Claims for which no amounts were specified, (ii) unliquidated Class 3 Claims, and (iii) Class 3 Claims the Plan Proponents believe are duplicates.

Class 3 recoveries are projected to range from approximately .1% - 9.35%, with a midpoint of 5.4%. To the extent that the amounts realized from the Disposition of Assets, including the net amounts realized from the pursuit of causes of action, and/or the actual amount of Allowed Claims varies from the amounts estimated by the Plan Proponents, the percentage recovery realized by holders of Allowed Class 3 Claims may be higher or lower than the estimated amount. There is also significant uncertainty as to the timing of any distributions.

ALTHOUGH THE PLAN PROPONENTS BELIEVE THAT THE ESTIMATED PERCENTAGE RECOVERIES IN THE TABLE BELOW ARE REASONABLE AND WITHIN THE RANGE OF ASSUMED RECOVERIES, THERE IS NO ASSURANCE THAT THE ACTUAL AMOUNTS REALIZED FROM THE DISPOSITION OF ASSETS WILL EQUAL THE PROJECTED AMOUNTS OR ALLOWED CLAIMS IN EACH CLASS WILL NOT MATERIALLY EXCEED THE ESTIMATED AGGREGATE AMOUNTS SHOWN IN THE TABLE BELOW.

The actual recoveries under the Plan by the Debtor's creditors will be dependent upon a variety of factors including, but not limited to, the net amounts recovered from the pursuit of causes of action and whether, and in what amount, contingent claims against the Debtor become non-contingent and fixed and whether, and to what extent, Disputed Claims are resolved in favor of the Debtor rather than the claimants. Accordingly, no representation can be or is being made with respect to whether each Estimated Recovery shown in the table below will be realized by the holder of an Allowed Claim in any particular class.

**C. Summary of Classification and Treatment of Claims and Interests under the Plan<sup>1</sup>**

<u>Class and Estimated Amount</u>	<u>Type of Claim or Interest</u>	<u>Treatment</u>	<u>Estimated Recovery</u>
-- Approximately \$617,000	Administrative Expense Claims (including estimated unfunded professional fees through Confirmation Date)	<b>Non-Voting.</b> Unless agreed otherwise, each holder will receive payment in full (in cash) of the unpaid portion of an Allowed Administrative Claim on the Plan effective date (the "Effective Date") or as soon thereafter as practicable.	100%
-- Approximately \$90,000	Priority Tax Claims	<b>Non-Voting.</b> Unless agreed otherwise, each holder will receive payment in full (in cash) of an Allowed Priority Tax Claim on the Effective Date or as soon thereafter as practicable.	100%
1 Approximately \$9,000	Non-Tax Priority Claims	<b>Unimpaired; Non-Voting.</b> Unless agreed otherwise, each holder will receive payment in full (in cash) of an Allowed Non-Tax Priority Claim on the Effective Date or as soon thereafter as practicable.	100%
2 Approximately \$156,000	Secured Claims (Impaired)	<b>Impaired; Voting.</b> Class 2 consists of the Secured Claims. Each Holder of an Allowed Secured Claim will retain the Lien securing such Claim. In the event the Debtor makes a Disposition of the property against which such Holder has a Lien, free and clear of such Lien, such Lien shall attach to the Disposition Proceeds. As soon as practicable after the Effective Date, at the election of the Reorganized Debtor (with the consent of the Creditors' Committee), each holder of an Allowed Class 2 Secured Claim shall receive either (i) the property	100%

<sup>1</sup> This table is only a summary of the classification and treatment of Claims and Interests under the Plan. Reference should be made to the entire Disclosure Statement and the Plan for a complete description of the classification and treatment of Claims and Interests.

<u>Class and Estimated Amount</u>	<u>Type of Claim or Interest</u>	<u>Treatment</u>	<u>Estimated Recovery</u>
		against which such Holder has a Lien, and the surrender of such Property shall be in full satisfaction of such Holder's Allowed Secured Claim, with any deficiency claim treated as a Class 3 Unsecured Claim, or (ii) the Disposition Proceeds from the Disposition of the property against which such Holder has a Lien until such Claim has been paid in full.	
3 Approximately \$14,000,000 to \$24,000,000	Unsecured Claims	<b>Impaired; Voting.</b> Class 3 consists of the Unsecured Claims. Allowed Unsecured Claims will receive their pro rata share of the remaining Distributable Funds. Any Secured Creditor's unsecured deficiency claim shall constitute a Class 3 Claim.	.1% - 9.35%  Midpoint 5.4%
4  \$0	Interests	<b>Impaired; Non-Voting.</b> Class 4 shall receive no distributions.	0%

### III.

#### OVERVIEW OF CHAPTER 11

Chapter 11 is one of the principal business chapters of the Bankruptcy Code. Under chapter 11 of the Bankruptcy Code, a debtor is authorized to reorganize or liquidate its business for the benefit of itself, its creditors and interest holders. Another goal of chapter 11 is to promote equality of treatment for similarly situated creditors and similarly situated interest holders with respect to the distribution of a debtor's assets.

The commencement of a chapter 11 case creates an estate that is comprised of all of the legal and equitable interests of the debtor as of the filing date. The Bankruptcy Code provides that the debtor may continue to operate its business and remain in possession of its property as a "debtor-in-possession."

The consummation of a chapter 11 plan is the principal objective of a chapter 11 case. A chapter 11 plan sets forth the means for satisfying claims against and interests in a debtor. Confirmation of a plan by the bankruptcy court makes the plan binding upon a debtor,

any issuer of securities under the plan, any person acquiring property under the plan and any creditor or interest holder of a debtor.

After a plan has been filed, the holders of claims against or interests in a debtor are permitted to vote to accept or reject the plan. Before soliciting acceptances of the proposed plan, however, section 1125 of the Bankruptcy Code requires a proponent of a plan to prepare a disclosure statement containing adequate information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment about the plan. The Plan Proponents are submitting this Disclosure Statement to holders of Claims against the Debtor to satisfy the requirements of section 1125 of the Bankruptcy Code.

#### **IV.**

### **DESCRIPTION OF THE DEBTOR'S BUSINESS**

#### **A. The Debtor**

The Debtor is a New York corporation formed in 1974.

The Debtor had its principal office and still maintains its books and records at 1801 Nottawa Street, Sturgis, Michigan (certain of the Debtor's books and records are in the possession of the Debtor's and Committee's professionals). The Debtor owned and operated production facilities located in Sturgis, Michigan, Montgomery, Pennsylvania and Tulare, California. The Debtor also owned a plant located in Alvaton, Georgia, which it operated until September, 2002, and then leased to a third party.

Prior to December 1997, the Debtor was a wholly-owned subsidiary of Northrop Grumman ("Northrop"), which acquired the Debtor as part of a 1994 merger. Subsequent to the merger, Northrop decided to focus on its core aerospace and defense businesses and to sell the Debtor and other non-core businesses. In December 1997, Olson Holdings LLC ("Holdings"), an Indiana limited liability company, acquired the Debtor in conjunction with a management-led buyout. The members of Holdings, all of whom are current or former key management employees of the Debtor, and their respective percentage membership interests in Holdings, are as follows: James McConnell (55.3%), William Wachino (21.8%), Thomas Byrne (5.3%), Albert Freve (5.3%), John Sundquist (3.2%), Joseph Grecu (2.7%), James Rose (2.2%), Lawrence Martin (2.2%), Thomas Whitten (1.1%), Robert Zeaton (.8%) and Ronald Magargle (0.1%).

James McConnell, the majority membership owner of Holdings, served as President of Debtor from 1994 (prior to Holdings' acquisition of the Debtor) until September 2004, and since 1997, was also the Debtor's Chief Executive Officer. As of the Filing Date, Mr. McConnell was the Company's sole director.

#### **B. The Debtor's Business**

The Debtor was a designer and manufacturer of truck bodies. The Debtor, either directly or through predecessor companies, was engaged in that business for approximately 55 years. The Debtor's main product lines were aluminum walk-in truck bodies and dry freight van bodies. The Debtor also produced specialty truck bodies, including the body for the United

States Postal Service ("USPS") Long Life Vehicle program, which the Debtor produced from 1987 through 1995. The Debtor maintained service parts operations associated with the specialty truck body lines and in support of its other product lines. The Debtor also manufactured a line of refrigerated truck bodies it introduced in 1999.

### **C. Customer Markets**

The Debtor traditionally marketed its truck body products to a customer base composed of three major segments. One segment consisted of owners of large truck fleets, and included major national and regional delivery services such as Federal Express Corporation (Ground) and United Parcel Service, Inc. The second segment included truck leasing companies, such as Enterprise, Penske Truck Leasing Co., Inc., and G.E. Capital Corp. The third segment of the Debtor's customer base was made up of truck sales dealerships and distributors who placed orders for resale to their customers.

### **D. Sources of Chassis**

The Debtor's products were designed for a variety of truck chassis sizes. Workhorse Custom Chassis, LLP ("Workhorse"), Freightliner Custom Chassis Corporation ("Freightliner"), Ford Motor Company ("Ford") and International Truck Engine Corp. ("International") manufactured chassis on which the Debtor's "walk-in" products were mounted. The Debtor's "dry freight" and refrigerated truck bodies were mounted on medium duty truck chassis, cutaway chassis, and cab-over chassis manufactured by General Motors Corporation ("GM"), Ford, International, American Isuzu Motors, Inc., Mitsubishi Fuso Truck of America, Inc. and others.

Large truck fleet owners and truck leasing companies placing orders with the Debtor typically acquired the chassis for their vehicles directly from the manufacturer and had the chassis delivered to the Debtor to mount the truck bodies. The chassis for trucks ordered by dealerships and distributors for resale to their customers normally were provided to the Debtor by the chassis manufacturer with which the dealer or distributor is affiliated pursuant to converter agreements between the chassis manufacturers and the Debtor.

### **E. Pre-Petition Financing Arrangements with TBCC**

Since 1999, the Debtor obtained financing for its business operations from TBCC, which provided the Debtor with various term loans and revolving loans (both in the form of advances and letters of credit) under a Loan Agreement (the "Prepetition Loan Agreement"). As of the Filing Date, the principal balance of the Debtor's outstanding loans from TBCC aggregated \$20,519,813.39 (inclusive of contingent reimbursement obligations related to Letters of Credit issued under the Prepetition Loan Agreement in the face amount of \$3,058,741.00). As of the Filing Date, the Debtor had no availability under its borrowing base for its prepetition working capital revolving loans with TBCC.

The Debtor believed, and the Creditors' Committee subsequently confirmed, that the amounts due TBCC under the Prepetition Loan Agreement were secured by valid, first-priority liens on all of the Debtor's assets, including accounts, inventory, equipment and other

goods, general intangibles, real estate and fixtures. Since June 9, 2001, the Debtor was in default under various financial covenants in the Prepetition Loan Agreement.

#### **F. Other Relationships and Transactions**

In connection with Holdings' acquisition of the Debtor, Northrop was issued shares of non-voting Preferred Stock of the Debtor which were entitled to forty percent (40%) of the Equity Interest of Debtor. In addition, Northrop executed the Northrop GMAC Guaranty and Northrop Ford Credit Guaranty in favor of General Motors Acceptance Corporation ("GMAC") and Ford Credit, respectively, to provide credit support for the Debtor's obligations under its converter agreements for chassis supplied to it by GM and Ford. The Northrop GMAC Guaranty was secured by a \$5 million letter of credit issued at Northrop's request in favor of GMAC.

In conjunction with the 1997 sale, Northrop also agreed to continue to administer pending workers compensation and products liability claims asserted against the Debtor prior to the 1997 sale, for which insurance coverage was available under insurance policies of Northrop. The Debtor was obligated under the 1997 Agreement and Plan of Merger to reimburse Northrop for certain costs and expenses advanced or incurred by Northrop in connection with the administration of these workers compensation and products liability claims.

#### **G. Chassis Converter Agreements**

In 1998, the Debtor entered into certain chassis converter agreements with GM and Ford, along with certain related loan and security agreements with GMAC and Ford Credit. The converter agreements set out the terms under which GM and Ford supplied the Debtor with chassis for the orders placed with the Debtor by truck dealers and distributors affiliated with GM or Ford. Under the related financing and security agreements, GMAC financed the chassis supplied to the Debtor by GM under its converter agreement with the Debtor, and Ford Credit financed the chassis supplied by Ford to the Debtor under its converter agreement with the Debtor. The Debtor's obligations to GMAC and Ford Credit under the loan and security agreements were secured by liens in favor of GMAC and Ford Credit on the chassis they each financed. GMAC and Ford Credit have each also entered into separate inter-creditor agreements with TBCC relating to the chassis financed by them for the Debtor.

#### **H. License Agreement with Terry Cawley**

In connection with the Debtor's acquisition of the business assets of Complete Refrigerated Truck Bodies, Inc., an existing refrigerated truck body manufacturer located in Alvaton, Georgia ("CRTB"), in November 1999, the Debtor and the owner of CRTB, Terry Cawley ("Cawley"), entered into a certain License Agreement pursuant to which, among other things, Cawley was granted a security interest in tangible personal property of CRTB existing at the time of the transaction and which was acquired by the Debtor in the sale transaction, in order to secure sums payable to Cawley by the Debtor under the License Agreement. The Debtor did not believe that this security interest was properly perfected as of the Filing Date, and the Debtor listed the claim of Cawley relating to this security interest as "disputed" in the Debtor's Schedules. The Debtor also intended to file an adversary proceeding in the Chapter 11 Case against Cawley to seek the avoidance of Cawley's unperfected security interest pursuant to

section 544 of the Bankruptcy Code. Cawley has subsequently acknowledged that his lien is unperfected and has released his claim against the Debtor.

## **I. Events Leading to Chapter 11 Filing**

The Debtor generated pretax income of approximately \$5.1 million in 1998, its first full year of operations following Holdings' acquisition of the Debtor. In response to industry changes, the Debtor decided in 1999 to expand its operations by entering into the refrigerated truck body market through its asset acquisition of CRTB. The Alvaton, Georgia facility did not become profitable and the Debtor ceased operations at that location in September 2002 and entered into the License Agreement with Cawley. The Debtor continued to produce refrigerated truck bodies at its other production facilities.

The Debtor increased sales slightly in 1999, but still experienced pretax losses of approximately \$1.0 million due to decreased margins resulting from intense price competition in the truck body industry. The Debtor's sales increased again in 2000, but continued price competition in the industry, combined with the slowdown in the national economy occurring in the latter half of 2000, resulted in additional margin deterioration. The Debtor suffered pretax losses for 2000 of approximately \$4 million, despite cost reduction efforts. In 2001, the Debtor's financial problems were exacerbated when two large truck fleet customers elected to defer major orders previously placed with the Debtor and to postpone the exercise of options to purchase additional units. The Debtor continued to experience poor margins in 2001, and suffered pretax losses in 2001 of approximately \$5.5 million.

By the end of 2001, the Debtor was experiencing significant liquidity problems. Although Debtor's management purported to implement numerous cost-cutting measures, including workforce reductions, sluggish sales in the early part of 2002 increased the Debtor's liquidity problems. The Debtor's lack of liquidity placed severe strains on its operations and caused the Debtor to go into default with respect to various financial covenants and conditions in the Prepetition Loan Agreement with TBCC.

By Spring 2002, Debtor's management had concluded that the Debtor's financial problems required that the Debtor either obtain significant new equity capital or complete a sale of all or part of its business operations.

Thereafter, the Debtor, Holdings and HIG Capital, LLC ("HIG"), the equity sponsor of Specialized Vehicles Corporation, Inc. ("SVC"), a manufacturer of refrigerated truck and beverage delivery truck bodies, entered into a letter of intent dated September 17, 2002 (the "Letter of Intent"), regarding a proposed purchase of the Debtor's business by an entity to be formed by HIG (the "Initial Proposed Sale"). The proposed acquisition by HIG envisioned that it would be accomplished through the confirmation of a plan of reorganization in a Chapter 11 proceeding to be commenced by the Debtor.

In conjunction with the execution of the Letter of Intent, the members of Holdings other than Larry Martin and Al Freve granted HIG (i) a "call" option on their member units in Holdings, exercisable for a nominal exercise price, and (ii) an irrevocable proxy to vote their member units. HIG had not exercised any of its "call" options on member units of Holdings nor



had it exercised its voting proxies to affect the make-up of the Debtor's board of directors. Also in conjunction with the execution of the Letter of Intent, James McConnell entered into a consulting agreement with SVC and was granted certain stock options in SVC.

At the request of HIG, the Debtor entered into a pre-filing date agreement with the consulting firm of Alvarez & Marsal, Inc. ("A&M"), pursuant to which, among other things, A&M made available Sajan P. George to serve as the Chief Restructuring Officer ("CRO") of the Debtor, and also made available Martin Borders to serve as an additional officer of the Debtor (collectively, the "Restructuring Officers"). In addition to other duties, the Restructuring Officers were engaged to conduct an independent financial review and assessment of the Debtor and its business. Following his employment by the Debtor, Mr. George participated on behalf of the Debtor in discussions with TBCC and other creditors pertaining to the proposed sale and restructuring of the Debtor's business.

## V.

### THE CHAPTER 11 CASE

On December 9, 2002 (the "Filing Date"), the Debtor filed a voluntary petition for relief in bankruptcy under Chapter 11 of the Bankruptcy Code, and was operating its business as a debtor-in-possession pursuant to Bankruptcy Code sections 1107(a) and 1108. On December 11, 2002, the Debtor, subject to Bankruptcy Court approval, entered into an Asset Purchase Agreement with Olson Acquisition Corporation, a Delaware corporation formed for this purpose by HIG ("Olson"), to implement the terms of the Initial Proposed Sale.

#### A. Post-Petition Financing

On the Filing Date, the Debtor filed a motion (the "DIP Financing Motion") requesting that the Court, on an interim and final basis, authorize the Debtor to enter into the DIP Facility with TBCC, as DIP Lender and as DIP agent, and Olson Financing Corporation, an affiliate of HIG formed for that purpose, as Subordinated DIP Lender, and obtain post-petition financing thereunder. The DIP Facility was intended to fund the continued operation of the Debtor's business pending confirmation of the Plan and closing of the Initial Proposed Sale. Pursuant to the terms of the DIP Facility, the DIP Lenders agreed to provide the Debtor, as debtor in possession, with term loans aggregating \$8,622,461 and revolving loans (both in the form of advances and letters of credit) up to a maximum of \$16,700,000. The revolving loans were available to the extent of specified percentages of eligible inventory and eligible accounts receivable, plus an additional amount of \$1,500,000 over the available borrowing base to be advanced by TBCC as DIP Lender and, up to \$1.0 million to be provided by Olson Financing Corporation, as Subordinated DIP Lender. Pursuant to the terms of the DIP Facility, TBCC, as DIP Lender, was not required to make revolving loans under this overadvance component of the DIP Facility unless Olson Financing Corporation made to the Debtor proportional advances thereunder. Olson Financing Corporation, in turn, was not required to make subordinated overadvances if a material adverse change in the Debtor's business, prospects, operations, results of operations, assets, liabilities or condition (financial or otherwise) occurred since the Filing Date, or an Event of Default (as defined in the DIP Facility) occurred. An Event of Default under the DIP Facility would occur, if, among other things, the Olson Asset Purchase Agreement

was terminated or the Debtor supported a plan of reorganization other than a plan submitted in connection with the proposed sale to Olson.

The DIP Facility was used to fully satisfy the Debtor's obligations to TBCC under the Prepetition Loan Agreement, and for working capital. All amounts advanced under the DIP Facility were to become due on the earliest of (i) the Plan's Effective Date, (ii) six months after the Filing Date, or (iii) occurrence of a Termination Event as defined in the DIP Loan Agreement. The DIP Facility was secured by valid, first-priority liens on all of the Debtor's assets, including accounts, inventory, equipment and other goods, general intangibles, real estate and fixtures (other than certain causes of action, including avoidance actions under Chapter 5 of the Bankruptcy Code).

On December 11, 2002, the Bankruptcy Court entered an Interim Order authorizing the Debtor to obtain secured borrowings from the DIP Lenders under the DIP Facility and to use Cash Collateral on an interim basis up to a maximum aggregate amount of \$4.8 million, as necessary to avoid irreparable harm to the Debtor pending the final hearing on the DIP Financing Motion. On February 11, 2003, after the Creditors' Committee and TBCC resolved certain issues raised by the Creditors' Committee concerning the proposed terms of the DIP Financing, the Bankruptcy Court entered a Final Order authorizing the Debtor to obtain financing under the DIP Facility, which was subsequently amended from time to time pursuant to certain agreements between TBCC and the Debtor.

#### **B. Employment of Professionals; Retention of Officers**

As part of initial proceedings in the Chapter 11 Case, the Debtor filed applications to employ the law firms Baker & Daniels and Sanford P. Rosen & Associates, P.C. as Debtor's counsel and co-counsel, respectively, in the Chapter 11 Case, which applications were granted by the Bankruptcy Court. The Debtor also filed an application to employ the accounting firm of Crowe Chizek, LLP as accountants for the Debtor, which application was granted by the Bankruptcy Court.

In addition, on December 18, 2002, the Debtor filed a motion pursuant to section 363 of the Bankruptcy Code requesting authorization to retain Sajan George and Martin Borders as the Bankruptcy Officers of the Debtor pursuant to the terms of the Debtor's prepetition agreement with A&M. After modification to the terms of their proposed retention were negotiated by the Creditors' Committee and agreed to by A&M, the Bankruptcy Court approved A&M's retention, as modified. Pursuant to the terms of the agreement between the Debtor and A&M, A&M was entitled to receive an Incentive Fee in the amount of \$350,000 payable upon the earlier of (i) the sale, transfer, or refinance of all or a substantial portion of the assets or equity of the Debtor in one or more transactions (except as part of a liquidation); or (ii) the consummation of a Chapter 11 plan of reorganization. Pursuant to the terms of the Initial Proposed Sale, the success fee payable to A&M upon a closing of the transaction contemplated therein was to be paid by Olson Acquisition Corporation as an "Assumed Liability" under the Olson Asset Purchase Agreement (defined below). By letter dated as of May 1, 2003, A&M's engagement agreement was terminated and Sajan George and Martin Borders resigned from their positions with the Debtor. As a result of the termination and the failure to consummate the Initial Proposed Sale, as discussed below, Olson ultimately terminated the Olson Asset Purchase

Agreement during the Chapter 11 Case and the Initial Proposed Sale was never consummated, the Plan Proponents do not believe that A&M is entitled to any Incentive Fee.

1. The Initial Proposed Sale, Termination of the Olson Asset Purchase Agreement and the Occurrence of a Termination Event under the DIP Facility

The Initial Proposed Sale was anticipated to be consummated pursuant to a confirmed plan of reorganization without conducting an auction to solicit higher or better offers. On December 27, 2002, the Debtor filed its First Amended Plan for the Debtor Olson Industries, Inc. Jointly Proposed by the Debtor Olson Industries, Inc. and Olson Acquisition Corporation, for approval of the Initial Proposed Sale to Olson.

Initially, the Creditors' Committee opposed the terms of the Initial Proposed Sale, arguing that an auction sale of the Debtor's business would likely provide creditors with greater value. After extensive negotiations, HIG and the Creditors' Committee were ultimately able to reach an agreement of the terms of the revised consensual plan. This transaction ultimately failed, however, principally on account of the continued deterioration of the Debtor's financial condition during the first two months of operations while in chapter 11. As a result, on February 27, 2003, Olson Acquisition gave the Debtor notice that it was terminating its Asset Purchase Agreement with the Debtor. Also effective February 27, 2003, TBCC declared the occurrence of a "Termination Event" under the DIP Facility.

### **C. Creditors' Committee**

On December 16, 2002, the United States Trustee for the Southern District of New York appointed an Official Committee of Unsecured Creditors in the Debtor's Chapter 11 Case.

The Creditors' Committee is currently comprised of Commonwealth Aluminum Metals LLC, Bennett Motor Express, Bennett International Group, Inc., Evans Tempcon Inc., AMEAB, LLC, Hydro North America/Cleve Heiser, Fiber-Tech Ind. Inc., Seats Incorporated and Walco Truck Equipment Co. The Creditors' Committee has, with the Bankruptcy Court's approval, employed and retained Hahn & Hessen LLP as its counsel and Parente Randolph, LLC as its accountants and consultants.

### **D. Sale of Substantially All of the Debtor's Assets**

1. Postpetition Marketing Efforts

After Olson terminated the proposed Asset Purchase Agreement, the Debtor, together with the Creditors' Committee, and in consultation with TBCC, pursued efforts to locate other prospective purchasers of the Debtor's business and assets. Based on the results of those efforts, the Debtor, with the concurrence of the Creditors' Committee and TBCC, concluded that the value obtainable for its assets could most likely be maximized through offering all or substantially all of the assets for sale at an auction in specified Lots formulated on the basis of the Debtor's business units and the location of the assets.

As the Debtor and the Creditors' Committee continued their efforts to market the company and obtain a stalking horse bidder for the sale, TBCC agreed to fund certain of the expenses of the estate going forward, but declined to pay A&M's \$350,000 Incentive Fee out of the proceeds of the sale. As mentioned above, on May 1, 2003, A&M tendered its letter of resignation.

On May 12, 2003, the Debtor filed a motion (the "Bid Procedures Motion") requesting, among other things, the court's authorization to conduct an auction (the "Auction") for the purpose of selling its assets in designated Lots ("Lots").

Following a hearing on May 22, 2003, the Bankruptcy Court entered the Bid Procedures Order, which, among other things, authorized the Debtor to conduct the Auction on June 13, 2003, approved the Bid Procedures, as modified, and scheduled a hearing (the "Sale Hearing") on June 13, 2003, to commence immediately upon the conclusion of the Auction, at which the court considered approval of the sale of the assets to the successful bidders and the assumption and assignment of the contracts to the successful bidders.

On June 2, 2003, the Debtor made a motion to sell, subject to higher and better offers, its Alvaton, Georgia production facility comprised of approximately 98.2 acres of real property, and improvements thereto, located in Gay, Alvaton County, Georgia (the "Georgia Land"), and certain equipment, machinery and inventory located thereon (the "Alvaton Assets") to Complete Truck Bodies, Inc. ("CTB") for \$750,000 in cash plus a release of its claim against the Debtor. CTW was an affiliate of CRTB, from when the Debtor had originally purchased such assets.

After the Bankruptcy Court's entry of the Sale Procedures Order on May 22, 2003, the Debtor and the Creditors' Committee continued to pursue alternative bid(s) for all or a portion of the Debtor's assets in an effort to generate value for the Debtor's estates. The Plan Proponents spearheaded this effort and sought buyers not only for all or substantially all of the Debtor's assets, but also for the individual assets in the separate Lots.

## 2. The Consummation of the Sale

On June 13, 2003, the Auction took place at the Bankruptcy Court. The successful bidders for the Debtor's Assets were as follows:

J.B. Poindexter Co., Inc. was the successful bidder for the Sturgis facility and walk-in truck line assets, the parts business, the related inventory and the accounts receivable. His winning bid for the lot was \$14.5 million cash.

HIG was the successful bidder for the assets in the Montgomery, PA facility and the assets in the Tulare, CA facility for the highest cash bids of \$1,300,000 and \$1,900,000, respectively.

GVW was the highest bidder at \$300,000 cash for the intellectual property for the WorkMax and PDV lines.

CTB was the highest bidder for the Alvaton, Georgia facility at \$850,000.

Total gross proceeds from the Auction, before deducting certain expenses, were \$18,850,000. However, TBCC's total debt, including interest, fees and expenses, was estimated at \$20 million.

Workhorse and Freightliner, among others, objected to the assumption and sale of their contracts. As more fully set forth below, these issues were subsequently resolved.

The Court entered orders approving the sales and each of these sales subsequently closed and the proceeds of sale were distributed to TBCC in partial satisfaction of its Secured Claim.

#### **E. TBCC \$300,000 Carve Out**

During the Auction, as subsequently placed on the record at the Sale Hearing, the Debtor, the Creditors' Committee and TBCC agreed that TBCC would provide the estate with \$300,000 from the sale proceeds to be used to fund the expenses incurred by the Debtor and the Creditors' Committee to wind down and administer the Chapter 11 case. TBCC has not yet funded this obligation, although the parties have exchanged drafts of a stipulation memorializing this agreement. In the event the parties are unable to agree on the terms of an acceptable stipulation, the Plan Proponents intend to move to compel TBCC to fund this obligation. An issue has been raised that TBCC would not be obligated to fund the \$300,000 in the event this Chapter 11 Case were converted to Chapter 7. The Plan Proponents disagree with this position. One of the reasons to liquidate the Debtor's estate through confirmation of the Plan is to avoid litigating this issue.

#### **F. Claims Process**

##### **1. Last Date to File Proofs of Claim and Requests for Payment of Pre-August 31, 2004 Administrative Expenses**

On August 18, 2004, the Creditors' Committee filed an application seeking an order (the "Bar Date Order") from the Bankruptcy Court requiring any person or entity holding or asserting a Claim against the Debtor to file a written proof of claim with the Debtor Corporation, c/o the Debtor Olson Claims Docketing Center, One Bowling Green, New York, New York 10004, on or before 5:00 p.m., prevailing Eastern Time on October 22, 2004 (the "General Bar Date"). Such motion requested that any person or entity (other than, among others, employees, professionals retained in the Chapter 11 Case and holders of the Debtor's preferred stock or common stock) which fails to timely file a proof of claim be forever barred, estopped and enjoined from voting on, or receiving a distribution under, the Plan and be forever barred, estopped and enjoined from asserting a Claim against the Debtor, its estate, and any of its successors or assigns. On September 10, 2004, the Bankruptcy Court entered the Bar Date Order and established October 22, 2004 as the General Bar Date.

Also on August 18, 2004, the Creditors' Committee filed an application requesting that the Bankruptcy Court fix October 22, 2004 as the deadline by which all holders of Administrative Expense Claims that arose between the Filing Date and August 31, 2004 (other than Professional Fee Claims) must file a request seeking payment of such Administrative

Expense Claims or be forever barred from asserting such Administrative Expense Claim against the Debtor or its property. On September 10, 2004, the Bankruptcy Court entered the order and established October 22, 2004 as the deadline for filing such Administrative Expense Claims.

2. Claims Reconciliation

The Plan seeks authority for the Debtor and the Creditors' Committee to resolve certain Claims under certain circumstances without approval of the Bankruptcy Court, as the case may be, as described in Section VI, "Summary of the Plan - Authority to Object to Claims and Interests and to Settle Disputed Claims and Interests."

**G. Preparation of Claims Estimates**

The Plan Proponents, with the assistance of their professionals, will engage in reviewing and analyzing the Claims which have already been and are expected to be asserted in this case.

*Notwithstanding the Plan Proponents' substantial efforts in developing its estimates, the preparation of such estimates is inherently uncertain, and accordingly there is no assurance that such estimates will accurately predict the actual amount of Allowed Claims in this Chapter 11 Case. As a result, the actual amount of Allowed Claims may differ significantly from the Plan Proponents' estimates contained herein.*

**H. Other Assets**

1. Cash

As of August 30, 2004, the Debtor had Cash on hand in the aggregate amount of approximately \$156,000.

2. Potential Causes of Action

Pursuant to the Bankruptcy Code, a debtor may seek to recover, through adversary proceedings in the bankruptcy court, certain transfers of the debtor's property, including payments of cash, made while the debtor was insolvent during the ninety (90) days immediately prior to the commencement of the bankruptcy case (or, in the case of a transfer to, or on behalf of, an "insider," one year prior to the commencement of the bankruptcy case) in respect of antecedent debts to the extent the transferee received more than it would have received on account of such pre-existing debt had the debtor been liquidated under chapter 7 of the Bankruptcy Code. Such transfers include cash payments, pledges of security interests or other transfers of an interest in property. In order to be preferential, such payments must have been made while the debtor was insolvent; debtors are presumed to have been insolvent during the 90-day preference period.

However, there are certain defenses to preference claims. For example, transfers made in the ordinary course of the debtor's and the transferee's business according to ordinary business terms are not recoverable. Furthermore, if the transferee extended credit contemporaneously with or subsequent to the payment, and prior to the commencement of the

bankruptcy case, for which the defendant was not repaid, such extension constitutes an offset against an otherwise recoverable transfer of property. If a payment is recovered by a debtor, the defendant has a general unsecured claim against the debtor to the extent of the recovery.

The Plan Proponents are evaluating the existence of meritorious claims and causes of action for the recovery of such preferential or fraudulent transfers, as well as other actions that may be commenced pursuant to the avoiding powers of the Bankruptcy Code, including sections 544 through 551 of the Bankruptcy Code (collectively, the "Avoidance Actions"). The investigation regarding the Avoidance Actions is ongoing, and the fact that a complaint or demand has not yet been made with respect to any particular transfer or transaction is not and must not be deemed to be an admission, concession, or other evidence that a meritorious cause of action does not exist.

With respect to potential preference claims, the Debtor's Statement of Financial Affairs lists a total of approximately \$13 million in payments made by the Debtor in the 90 days preceding the Filing Date, which may be subject to avoidance as preferential transfers. Of this amount, approximately 15 creditors received aggregate payments of between \$200,000 and \$1,105,000; 21 creditors received aggregate payments of between \$100,000 and \$200,000; 76 creditors received aggregate payments between \$20,000 and \$100,000 and an additional 66 creditors received between \$10,000 and \$20,000. Consequently, the estimated potential recovery from the pursuit of preferences is not dependent on the successful prosecution of a few actions.

Although the amount of recoveries to be realized from the prosecution of avoidance actions cannot be predicted with certainty, based upon the Plan Proponents' review of the Debtor's books and records and the extensive experience of their professionals with respect to ranges of preference recoveries realized in other chapter 11 cases, the Plan Proponents estimate that net proceeds to be realized from the Avoidance Actions in this Chapter 11 Case should be between \$1,000,000 and \$2,500,000, after taking into account various potential defenses, professional fees and other costs. The Plan Proponents have estimated a mid point of \$1,750,000 in the Chapter 11 Orderly Liquidation Analysis annexed hereto as Exhibit C. This represents a relatively conservative estimated recovery of approximately 13.5% of the \$13 million in aggregate payments made to creditors during the 90-days preceding the Filing Date.

The Creditors' Committee is also in the process of investigating whether there are any viable claims or causes of action that the Debtor's estate may have against insiders, including the Debtor's current and former officers and directors. The Debtor has been and will continue to cooperate with the Creditors' Committee's efforts. In the event it is determined that any such viable causes of action exist, the Creditors' Committee shall have the right, on behalf of the Debtor's estate, to pursue such causes of action. Any recovery realized from such causes of action would inure to the benefit of the creditors pursuant to the priority scheme set forth in the Plan.

### 3. Other Remaining Assets

The Debtor is not aware of any remaining material assets in the estate that need to be liquidated. However, the books and records are still being reviewed to determine whether any miscellaneous assets may exist. To the extent such assets are discovered, the Debtor will

liquidate such assets and the proceeds therefrom will be distributed to creditors pursuant to the terms of the Plan.

## **I. Other Matters**

### **1. Postpetition Litigation**

#### **(a) Chassis Financing**

Since 1997, Ford Credit has provided the Debtor with financing to purchase its necessary inventory of chassis produced by Ford (the “Ford Credit Prepetition Inventory Financing”) pursuant to the terms of a certain Pool Wholesale Finance Plan Application for Wholesale Financing and Security Agreement dated December 19, 1997 between the Debtor, as borrower, and Ford Credit, as lender (as amended, supplemented or otherwise modified prior to the date hereof, the “Ford Credit Loan Agreement”), and the various documents, agreements and instruments from time to time executed or delivered in connection therewith (together with the Ford Credit Loan Agreement, the “Ford Credit Loan Document”). The Ford Credit Prepetition Inventory Financing included, without limitation, a revolving loan or loans, not to exceed the aggregate principal amount of \$2.5 million, to be used by the Debtor solely for the purpose of purchasing chassis or other vehicles manufactured by Ford (“Ford Chassis”).

As of the Filing Date, the Debtor’s indebtedness to Ford Credit for loans or advances provided to the Debtor under the Ford Credit Loan Documents was in the principal amount of \$1,504,944, plus interest, charges, fees and expenses, including reasonable attorneys’ fees of Ford Credit. As of the Filing Date, the Debtor had in its possession a total of 71 Ford Chassis constituting Ford Credit Prepetition Collateral.

The Debtor’s obligations, indebtedness and other liabilities to Ford Credit under the Ford Credit Loan Documents (the “Ford Credit Prepetition Obligations”) were secured by valid, perfected and enforceable purchase-money liens and security interests on and in all of the Ford Chassis purchased by the Debtor with Ford Credit Prepetition Inventory Financing, and all proceeds thereof (collectively, the “Ford Credit Prepetition Collateral”).

Since 1997, GMAC has provided the Debtor with financing to purchase its necessary inventory of chassis produced by GM (the “GMAC Prepetition Inventory Financing”) pursuant to the terms of a certain Inventory Loan and Security Agreement dated December 19, 1997, between the Debtor, as borrower, and GMAC, as lender (as amended, supplemented or otherwise modified prior to the date hereof, the “GMAC Loan Agreement”) and the various documents, agreements and instruments from time to time executed or delivered in connection therewith (together with the GMAC Loan Agreement, the “GMAC Loan Documents”). The GMAC Prepetition Inventory Financing included, without limitation, a revolving loan or loans, not to exceed the aggregate principal amount of \$12,000,000, to be used by the Debtor solely for the purpose of purchasing chassis or other vehicles manufactured by GM (“GM Chassis”).

The Debtor’s obligations, indebtedness and other liabilities to GMAC under the GMAC Loan Documents (the “GMAC Prepetition Obligations”) were secured by valid, perfected, and enforceable purchase-money liens security interests on and in all of the GM



Chassis purchased by the Debtor with GMAC Prepetition Inventory Financing, and all proceeds thereof, and an assignment of the Debtor's "open account" with GM (collectively, the "GMAC Prepetition Collateral").

As of the Filing Date, the GMAC Prepetition Obligations, the Debtor's indebtedness to GMAC for loans or advances provided under the GMAC Loan Documents was in the principal amount of \$5,426,863, plus interest, charges, fees and expenses, including reasonable attorneys' fees of GMAC. As of the Filing Date, the Debtor had in its possession a total of 254 GM Chassis which constituted GMAC Prepetition Collateral.

The Debtor entered into a GMAC Postpetition Loan Agreement and a Ford Credit Postpetition Loan Agreement because the Debtor required financing in addition to the DIP Facility to purchase additional Ford Chassis and GM Chassis for its inventory.

The Bankruptcy Court entered an order on May 28, 2003 authorizing the terms of the GMAC Postpetition Loan Agreement and the Ford Credit Postpetition Loan Agreement.

Subsequently, the Court entered orders on June 16, 2003 approving certain agreements that the Debtor made with Ford Credit and GMAC to resolve any objections that they asserted or may have asserted with respect to the Auction Sale. Pursuant to such orders, both Ford Credit and GMAC were granted relief from the automatic stay to take possession of their remaining collateral and other related relief as the Debtor did not intend at that point to sell any of the unfinished Ford chassis or unfinished GM chassis in its possession.

(b) Settlement with Workhorse Custom Chassis, LLC

As of the Filing Date, Workhorse Custom Chassis, LLC ("Workhorse") and the Debtor were parties to a certain agreement entered into as of March 12, 2001 (the contract was originally entered into between the Debtor and Chicago Truck Center dated March 12, 2001 and was subsequently assigned to Workhorse)(the "Subcontract"), respecting the manufacture and installation by the Debtor of bodies upon chassis supplied by Workhorse for certain "walk-in" delivery trucks ordered by Workhorse for the United States Postal Service ("USPS") pursuant to a certain separate Contract between Workhorse and the USPS (the "USPS Contract").

On February 25, 2003, Workhorse filed a motion (the "Stay Relief Motion") in the Bankruptcy case, alleging that the Debtor was in default under the Subcontract, and requesting that the Court enter an order granting Workhorse relief from the stay under Section 362 of the Bankruptcy Code to permit it to terminate the Subcontract with the Debtor, or, alternatively, enter an order pursuant to Section 365(d)(2) of the Bankruptcy Code, requiring the Debtor to assume or reject the Subcontract immediately. The Debtor and the Creditors' Committee filed responses to Workhorse's Stay Relief Motion on March 8, 2003. A final hearing on the Stay Relief Motion was adjourned by agreement of the parties when GVW sought to purchase the Debtor's assets and the Motion was subsequently withdrawn.

In connection with the Auction, the Debtor sought to assume the Subcontract and assign it to J.B. Poindexter. On June 12, 2003, Workhorse filed an objection to the proposed

assumption and assignment of the Subcontract (the “Workhorse Objection”) and asserted a cure damage claim in the amount of \$409,460 (the “Workhorse Cure Damages Claims”).

Thereafter, the Debtor and Workhorse engaged in discovery relating to the Workhorse Cure Damages Claim and also engaged in discussions relating to a possible global settlement. Finally, the Debtor and Workhorse reached a settlement.

Pursuant to the settlement of the Workhorse Cure Damages Claim, Workhorse was paid from the funds held in the Cure Damages Escrow Account the sum of \$250,000 (the “Settlement Amount”) and the remaining escrowed funds were then released to TBCC.

Upon the entry of an Order dated December 30, 2003, the Court approved the Workhorse Settlement Agreement and the Debtor and Workhorse exchanged Limited Releases discharging the other party from any known cause of action arising out of the Subcontract.

(c) Settlement with Freightliner Custom Chassis Corporation

On or about March 5, 2001, the Debtor and Freightliner entered into a purchase agreement (the “Purchase Agreement”) pursuant to which, among other things, the Debtor agreed to manufacture and install (on chassis furnished by Freightliner) the bodies for certain one-ton “walk-in” delivery trucks (the “Trucks”) ordered by Freightliner for delivery to the United States Postal Service (the “USPS”) under a separate contract between Freightliner and the USPS (the “Prime Contract”).

In 2001, the Debtor built and installed the bodies for approximately 1,200 Trucks (the “Phase I Trucks”) ordered by Freightliner under the Purchase Agreement for delivery to the USPS. The bodies for the Phase I Trucks were built by the Debtor at its Montgomery Facility.

In September, 2002, the USPS exercised an option under the Prime Contract with Freightliner to purchase approximately 1,600 additional trucks (the “Phase II Trucks”). In October, 2002, Freightliner issued a purchase order to the Debtor for the bodies for the Phase II Trucks, which purchase order contemplated the delivery of the completed Phase II Trucks by the Debtor to Freightliner over approximately a one-year period.

In connection with the Auction, the Debtor sought to assume and assign the Purchase Agreement and Freightliner objected and asserted a cure damages claim in the amount of \$524,460 (the “Freightliner Damages Claim”).

The Debtor and Freightliner then engaged in discovery relating to the Freightliner Damages Claim and also engaged in discussions relating to a settlement of the Freightliner Damages Claim. The Debtor and Freightliner ultimately reached a settlement of the Freightliner Damages Claim.

In full and complete settlement of the Freightliner Damages Claim, Freightliner was paid from the funds held in the Cure Damages Escrow Account the sum of \$180,000.00 (the “Settlement Amount”). Upon the entry of the Order dated December 30, 2003, by the Court approving the Settlement Agreement, the Debtor and Freightliner exchanged Limited Releases

discharging the other party from any known cause of action arising out of the Purchase Agreement.

(d) AFCO Insurance Financing

In the ordinary course of its business, the Debtor maintained various insurance policies, including policies of property (casualty) insurance, automobile insurance, general liability insurance, and “umbrella” liability insurance (collectively, the “Policies”). The annual premiums for the Policies, totaling \$1,164,969.00 became due for payment on or about April, 2003. The Debtor moved to finance \$659,730.00 of the total premiums through AFCO Credit Corporation pursuant to the terms of a certain Commercial Premium Financing Agreement between the Debtor and AFCO. By order dated April 29, 2003, the Debtor’s motion was granted.

(e) Litigation Stipulations

Since the Filing Date, the Debtor has entered into approximately five (5) stipulations with certain tort claimants to allow them relief from the automatic stay to continue to pursue their causes of action solely against the Debtor’s insurance proceeds.

**VI.**

**SUMMARY OF THE PLAN**

**A. Introduction**

The primary objectives of the Plan are to (a) monetize the Avoidance Actions and (b) distribute all proceeds pursuant to the terms of the Plan. The Plan provides for the liquidation of the Debtor’s remaining assets and the distribution of such assets in an orderly manner to its creditors.

After careful review of the estimated recoveries in a chapter 11 liquidation scenario and a chapter 7 liquidation scenario, the Plan Proponents have concluded that the recovery to creditors will be maximized by completing the liquidation of the Debtor under chapter 11 of the Bankruptcy Code and making distributions pursuant to the Plan. The Plan Proponents believe that its Estate has value that would not be fully realized by creditors in a chapter 7 liquidation primarily due to (i) the additional administrative expenses that would be incurred in a chapter 7 liquidation, (ii) the delay in distributions that would inevitably occur if the Debtor’s Chapter 11 Case was converted to a case under chapter 7, and (iii) the likely lower net recoveries to be realized from Avoidance Actions under chapter 7. Accordingly, the Debtor’s Estate is worth more to its creditors if the Debtor’s liquidation is completed, and distributions are made, under chapter 11 pursuant to the Plan. The Plan is annexed hereto as Exhibit A and forms part of this Disclosure Statement. The summary of the Plan set forth below is qualified in its entirety by reference to the more detailed provisions of the Plan.

The statements contained in this Disclosure Statement include summaries of the provisions contained in the Plan and in documents referred to therein. The statements contained

in this Disclosure Statement do not purport to be precise or complete statements of all the terms and provisions of the Plan or documents referred to therein, and reference is made to the Plan and to such documents for the full and complete statements of such terms and provisions.

The Plan itself and the documents referred to therein control the actual treatment of Claims against and Interests in the Debtor under the Plan and will, upon the Effective Date, be binding upon all holders of Claims against and Interests in the Debtor and its Estate. In the event of any conflict between this Disclosure Statement, on the one hand, and the Plan, on the other hand, the terms of the Plan are controlling.

## **B. Overall Structure of the Plan**

After consummating the Auction Sale, the Plan Proponents focused on formulating a liquidating plan that would enable the Debtor to make distributions to holders of Allowed Claims as soon as practicable. The Plan does not contemplate continued business operations by the Debtor following confirmation and consummation of the Plan. The Debtor is liquidating, not reorganizing.

The Plan Proponents believe that the Plan provides the best and most prompt recovery to the Debtor's Claim holders. Under the Plan, Claims against and Interests in the Debtor are divided into different classes. If the Plan is confirmed by the Bankruptcy Court and consummated, on the Initial Distribution Date, and at certain times thereafter as Claims are resolved, liquidated or otherwise allowed, the Debtor will distribute Cash in respect of certain Classes of Claims as provided in the Plan. The Classes of Claims against and Interests in the Debtor created under the Plan, the treatment of those Classes under the Plan and the distributions to be made under the Plan are described below.

## **C. Classification and Treatment of Administrative Claims, Claims and Interests under the Plan**

Only administrative expenses, claims and equity interests that are "allowed" may receive distributions under a chapter 11 plan. An allowed administrative expense, claim or equity interest simply means that the debtor agrees, or in the event of a dispute, that the court determines, that the administrative expense, claim or equity interest, including the amount, is in fact a valid obligation of the debtor. Section 502(a) of the Bankruptcy Code provides that a timely filed administrative expense, claim or equity interest is automatically allowed unless the debtor or another party in interest objects. However, section 502(b) of the Bankruptcy Code specifies certain claims that may not be allowed in a bankruptcy case even if a proof of claim is filed. These include, without limitation, claims that are unenforceable under the governing agreement or applicable non-bankruptcy law, claims for unmatured interest, property tax claims in excess of the debtor's equity in the property, claims for certain services that exceed their reasonable value, lease and employment contract rejection damage claims in excess of specified amounts, and late-filed claims. In addition, Bankruptcy Rule 3003(c)(2) prohibits the allowance of any claim or equity interest that either is not listed on the debtor's schedules or is listed as disputed, contingent, or unliquidated, if the holder has not filed a proof of claim or equity interest before the deadline to file proofs of claim and interests.

The Bankruptcy Code also requires that, for purposes of treatment and voting, a chapter 11 plan divides the different claims against, and equity interests in, the debtor into separate classes based upon their legal nature. Claims of a substantially similar legal nature are usually classified together, as are interests of a substantially similar legal nature. Because an entity may hold multiple claims and/or equity interests which give rise to different legal rights, the holders of such claims and/or equity interests may find themselves members of multiple classes of claims and/or equity interests. As a result, under the Plan, for example, a creditor that holds both an Unsecured Claim and common stock in the Debtor would have its Claim classified in Class 3 and its common stock classified in Class 4. To the extent of this holder's Claim, the holder would be entitled to the voting and treatment rights that the Plan provides with respect to Class 3, and, to the extent of the holder's Interest, the voting and treatment rights that the Plan provides with respect to Class 4. As another example, under the Plan, holders of Claims in Class 2 may also have unsecured deficiency claims that are classified in Class 3. Each holder's unsecured deficiency claim shall be equal to the excess of such holder's Claim over the value of the Liens securing such Claim. To the extent of such holder's Secured Claim, the holder would be entitled to the voting and treatment rights that the Plan provides in Class 2, as appropriate, and, to the extent of such holder's unsecured deficiency claim, the voting and treatment rights that the Plan provides with respect to Class 3.

Under a chapter 11 plan, the separate classes of claims and interests must be designated either as "impaired" (altered by the plan in any way) or "unimpaired" (unaltered by the plan). If a class of claims is impaired, the Bankruptcy Code affords certain rights to the holders of such claims, such as the right to vote on the plan (unless the plan provides for no distribution to the holder, in which case, the holder is deemed to reject the plan), and the right to receive an amount under the chapter 11 plan that is not less than the value that the holder would receive if the debtor were liquidated under chapter 7. Under section 1124 of the Bankruptcy Code, a class of claims or interests is impaired unless, with respect to each claim or interest of such class, the plan (i) does not alter the legal, equitable, and contractual rights of the holders of such claims or interests or (ii) irrespective of the holder's right to receive accelerated payment of such claims or interests after the occurrence of a default, cures all defaults (other than those arising from, among other things, the debtor's insolvency or the commencement of a bankruptcy case), reinstates the maturity of the claims or interests in the class, compensates the holders of such claims or interests for any damages incurred as a result of their reasonable reliance upon any acceleration rights, and does not otherwise alter their legal, equitable or contractual rights. Typically, this means that the holder of an unimpaired claim will receive, on the later of the effective date of the plan of reorganization or the date on which amounts owing are due and payable, payment in full, in cash, with postpetition interest to the extent permitted and provided under the governing agreement between the parties (or if there is no agreement, under applicable non-bankruptcy law), and the remainder of the debtor's obligations, if any, will be performed as they come due in accordance with their terms. Thus, other than the loss of its right to accelerate a debtor's obligations, the holder of an unimpaired claim will be placed in the position it would have been in had the debtor's case not been commenced.

Consistent with these requirements, the Plan divides the Claims against, and Interests in, the Debtor into the following Classes:

Unclassified	Administrative Expense Claims	Paid in full
Unclassified	Priority Tax Claims	Paid in full
Class 1	Non-Tax Priority Claims	Unimpaired/Paid in full
Class 2	Secured Claims	Impaired/Paid in full
Class 3	Unsecured Claims	Impaired
Class 4	Equity Interests	Impaired

For purposes of computing distributions under the Plan, Allowed Claims or Interests do not include postpetition interest unless otherwise specified in the Plan.

#### Unclassified — Administrative Expense Claims

Administrative Expense Claims are Claims for costs and expenses of administration of the Chapter 11 Case Allowed under section 503(b) of the Bankruptcy Code and entitled to priority under sections 507(a)(1) or 507(b) of the Bankruptcy Code. Such Claims include (i) any actual and necessary costs and expenses of preserving the Debtor's estate; (ii) any actual and necessary costs and expenses of operating the Debtor's business; (iii) any indebtedness or obligations incurred or assumed by the Debtor in connection with the conduct of its business, including, without limitation, for the acquisition or lease of property or an interest in property or the rendition of services; (iv) all compensation and reimbursement of expenses to the extent awarded by the Bankruptcy Court under sections 330, 331 or 503 of the Bankruptcy Code; and (v) any fees or charges assessed against the Debtor's estate under section 1930 of chapter 123 of title 28 of the United States Code.

Except with respect to Administrative Expense Claims that are Fee Claims, on the later of, or as soon thereafter as is practicable, (i) the Effective Date or (ii) the date ten (10) days after such Claim becomes an Allowed Claim, each Holder of an Allowed Administrative Expense Claim will be paid by the Reorganized Debtor the amount of such Allowed Claim in full, from Reserved Funds, without interest, unless the Holder of such Allowed Claim and the Debtor agree to a less favorable treatment of such Allowed Claim, in which case such Holder will be paid in accordance with such agreement.

#### Unclassified — Priority Tax Claims

On the later of, or as soon thereafter as is practicable, (i) the Effective Date or (ii) ten (10) days after such Claim becomes an Allowed Claim, each Holder of an Allowed Priority Tax Claim will be paid the amount of such Claim in full, from Reserved Funds, plus interest thereon at the annual rate of 5% to the extent such Allowed Claim is paid subsequent to the Effective Date, unless the Holder of such Allowed Claim and the Debtor agree to a less favorable treatment of such Allowed Claim, in which case such Holder will be paid in accordance with such agreement.

The Plan Proponents estimate that on the Effective Date, the allowed amount of such Claims will be approximately \$90,000.

Class 1 — Non-Tax Priority Claims

(Unimpaired; therefore, deemed to have accepted the Plan and not entitled to vote.)

Other Priority Claims are Claims which are entitled to priority pursuant to section 507(a) of the Bankruptcy Code — other than Administrative Expense Claims and Priority Tax Claims. Such Claims include (i) unsecured Claims for accrued employee compensation earned within 90 days prior to the commencement of the Chapter 11 Case to the extent of \$4,650 per employee and (ii) contributions to employee benefit plans arising from services rendered within 180 days prior to the commencement of the Chapter 11 Case, but only for each such plan to the extent of (a) the number of employees covered by such plan multiplied by \$4,650, less (b) the aggregate amount paid to such employees from the Estate for wages, salaries or commissions.

On the later of, or as soon thereafter as is practicable, (i) the Effective Date or (ii) ten (10) after such Claim becomes an Allowed Claim, each Holder of an Allowed Non-Tax Priority Claim will be paid the amount of such Claim in full, from Reserved Funds, unless the Holder of such Allowed Claim and the Debtor agree to a less favorable treatment of such Allowed Claim, in which case such Holder will be paid in accordance with such agreement.

The Plan Proponents believe that on the Effective Date, the allowed amount of such Claims will be approximately \$9,000.

Class 2 — Secured Claims

(Impaired; therefore, entitled to vote to accept or reject the Plan)

Secured Claims shall mean any Claim secured by a Lien, to the extent of the value of the creditor's interest in the estate's interest in the property subject to such creditor's Lien, as determined by the Court pursuant to Section 506(a) of the Bankruptcy Code.

Each Holder of an Allowed Secured Claim will retain the Lien securing such Claim. In the event the Debtor makes a Disposition of the property against which such Holder has a Lien, free and clear of such Lien, such Lien shall attach to the Disposition Proceeds. As soon as practicable after the Effective Date, at the election of the Reorganized Debtor (with the consent of the Creditors' Committee), each holder of an Allowed Class 2 Secured Claim shall receive either (i) the property against which such Holder has a Lien, and the surrender of such Property shall be in full satisfaction of such Holder's Allowed Secured Claim, with any deficiency claim treated as a Class 3 Unsecured Claim, or (ii) the Disposition Proceeds from the Disposition of the property against which such Holder has a Lien until such Claim has been paid in full.

The Plan Proponents estimate that on the Effective Date, the allowed amount of such Claims will be \$156,000.

Class 3 —Unsecured Claims

(Impaired; therefore, entitled to vote to accept or reject the Plan.)

An Unsecured Claim shall mean any Claim which is not an Administrative Expense Claim, Priority Tax Claim, Non-Tax Priority Claim or Secured Claim.

On the later of (i) the initial Distribution Date or as soon thereafter as is practicable, and (ii) ten (10) days after such Claim becomes an Allowed Claim, each Holder of an Allowed Claim in Class 3 shall receive, on account of such Allowed Claim, Cash an amount equal to such Holder's Pro Rata interest in Distributable Funds, without interest.

After the initial Distribution Date, the Reorganized Debtor shall, if funds are available, make periodic post-Distribution Date distributions pursuant to section 5.3(a) of the Plan of such of the Distributable Funds as may be realized by the Debtor, provided Distributable Funds are equal to or exceed \$250,000; provided, further, that such limitation shall not be applicable with respect to the final Distribution Date.

Class 3 is impaired by the Plan and holders of the claims in Class 3 are entitled to vote to accept or reject the Plan.

The Plan Proponents estimate that on the Effective Date, the allowed amount of such Claims will be approximately \$19,000,000.

Class 4 — Interests

(Impaired; therefore, deemed to reject the Plan.)

Interests shall mean the rights arising out of the Stock.

The Holders of Class 4 Interests shall not receive any payment or property for and on account of their Interests. Their Interests shall be deemed extinguished as of the entry of a final decree closing the Chapter 11 Case.

Holders of Class 4 Interests are deemed to have rejected the Plan since they shall not receive any Distribution and their Interests shall be deemed as of the entry of a final decree closing the Chapter 11 Case to be extinguished. The Holders of Class 4 Interest are not entitled to vote for or against the Plan.

Special Provision Regarding Unimpaired Claims

Except as otherwise provided in the Plan, nothing shall affect the Debtor's rights and defenses, both legal and equitable, with respect to any unimpaired Claims, including, but not limited to, all rights with respect to legal and equitable defenses or setoffs or recoupments against unimpaired Claims.

**D. Bar Dates for Administrative Claims**

Pursuant to an order entered on September 10, 2004 in this case, a Bar Date of October 22, 2004 for filing Administrative Expense Claims that arose prior to August 31, 2004



(except for Fee Claims) was set. Notice of this bar date was served pursuant to Bankruptcy Rules 3020(c) and 2002(f). The Plan Proponents will review all Administrative Claims and object to any Administrative Expense Claims as may be appropriate.

**E. Fee Claims**

All persons entitled to compensation or reimbursement pursuant to sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code for services rendered to the Debtor or the Creditors' Committee prior to the Confirmation Date shall, with respect to their fee claims, file and serve on the entities who are designated by the Bankruptcy Rules, the Confirmation Order or other order of the Court, an application for final allowance of compensation and reimbursement of expenses no later than sixty (60) days after the Confirmation Date. Holders of Fee Claims that are required to file and serve applications for final allowance of their Fee Claims and that do not file and serve such applications by the required deadline shall be forever barred from asserting such Fee Claims against the Debtor, or its property, and such Fee Claims shall be deemed discharged as of the Effective Date. Objections to any Fee Claim must be filed and served on the Debtor, the Creditors' Committee and the requesting party within the time period provided under the Bankruptcy Rules after the date on which an application for final allowance of such Fee Claim was served.

**F. Treatment of Executory Contracts and Unexpired Leases**

The Bankruptcy Code grants a debtor the power, subject to the approval of the Bankruptcy Court, to assume, assume and assign, or reject executory contracts and unexpired leases. If an executory contract or unexpired lease is rejected, the other party to the agreement may file a claim for damages, if any, incurred by reason of the rejection. In the case of rejection of leases of real property, such damage Claims are subject to certain limitations imposed by the Bankruptcy Code.

Except as otherwise provided in the Plan, or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, each of the executory contracts and unexpired leases to which the Debtor is a party, to the extent such contract or lease is an executory contract or unexpired lease, is rejected by the Debtor effective on and subject to the occurrence of the Confirmation Date, unless such contract or lease previously (i) shall have been assumed or rejected by the Debtor or (ii) shall have expired or terminated pursuant to its own terms; provided, however, that nothing contained herein or in Section IX of the Plan shall constitute an admission by the Debtor that such contract or lease is an executory contract or unexpired lease or that the Debtor, its successors and assigns have any liability thereunder.

Any Claim for damages arising by reason of the rejection of any Executory Contract may constitute an Allowed Claim, if, but only if, a proof of claim therefor is timely filed, and the Debtor does not file a timely objection thereto. The Confirmation Order will fix the last day for filing proofs of claim arising by reason of the rejection of any Executory Contract and the last day that the Debtor may object thereto. Any Claim arising from the rejection of an Executory Contract will constitute a Claim in Class 3. The Debtor is unaware of the existence of any remaining unrejected or unassigned Executory Contracts.

## **G. Management of the Debtor**

### **1. The President**

By Bankruptcy Court Order dated September 8, 2004, the Debtor, in consultation with the Creditors' Committee, has appointed Paul Gunther to act as the President and sole director of the Debtor (the "President"). A copy of Mr. Gunther's résumé is annexed hereto as Exhibit "E". The Debtor shall retain and have all the rights, powers and duties necessary to carry out its responsibilities under the Plan. Such rights, powers and duties, shall be exercisable by the President on behalf of the Debtor pursuant to the Plan and the Services Agreement for Paul Gunther (the "Services Agreement"), filed with the Bankruptcy Court on August 18, 2004. These duties include, but are not limited to, assisting in the liquidation of the Debtor's remaining assets and overseeing the wind down of the Debtor's estate.

#### **(a) Effectuating Documents; Further Transactions**

Pursuant to the Services Agreement, the President has been authorized to execute, deliver, file or record such documents, instruments, releases and other agreements and to take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

#### **(b) Compensation of the President**

Pursuant to the Services Agreement, Mr. Gunther shall be compensated for his services rendered as President of the Debtor at an hourly rate of \$200. Although it is difficult to estimate the amount of time Mr. Gunther will need to devote in order to fulfill his duties, it is anticipated that the position will not require him to expend on average more than 5 to 10 hours per week. To the extent needed, Mr. Gunther has agreed to make available to the Debtor the services of certain accounting or clerical personnel employed by his company. They would be compensated by the Debtor at their standard hourly rates, which range from \$40 to \$85 per hour.

The President shall be compensated from the Reserved Funds and Post Confirmation Administrative Reserved Funds pursuant to the terms of the Services Agreement. Any additional persons retained by the President shall be entitled to reasonable compensation for services rendered and reimbursement of expenses incurred from the Reserved Funds and Post Confirmation Administrative Reserved Funds (see above). The President and his retained persons shall submit an invoice to the Debtor, with a copy to and the Debtor's and the Creditors' Committee's professionals, within 20 days after the end of each calendar month, for compensation earned and expenses incurred during such month. Subject to the Debtor having available funds, all undisputed amounts owed thereunder shall be paid within ten (10) business days after the Debtor's receipt of such invoice. In the event that any amounts on an invoice are disputed and the parties are unable to agree on a mutually satisfactory resolution, the Bankruptcy Court shall have jurisdiction over any dispute and shall determine the amount of compensation.

#### **(c) Indemnification of the President and Others**

In consideration of the President's engagement and services and in connection with the association between the President and the Debtor, its affiliates, shareholders, lenders and

creditors, the Debtor has agreed pursuant to the terms of the Services Agreement to indemnify and hold the President harmless from and against any losses, claims, damages, expenses and liabilities whatsoever, whether joint or several, related to, arising out of or in connection with the Services Agreement and will reimburse the President for all expenses (including reasonable attorneys fees, expenses and disbursements) as they are incurred, including, in connection with the enforcement of the Services Agreement and investigating, preparing, defending, responding and/or testifying to any subpoena or deposition, being called as a witness or assisting in the defense of any action, claim, suit, investigation or proceeding related to, arising out of or in connection with the Services Agreement, whether or not resulting in any liability or brought by the Debtor. Notwithstanding the above sentence, the Debtor will not be liable for any losses, claims, damages or liabilities, or expenses related thereto (and the President shall reimburse the Company for expenses already paid), that are finally judicially determined by the Bankruptcy Court to have resulted from the bad faith, gross negligence, self-dealing, breach of fiduciary duty or willful misconduct by the President.

The President acknowledges and agrees that he was retained by the Debtor as an independent contractor and not as an employee of the Debtor. As an independent contractor, the President is responsible solely for the payment of any federal, state or local income or employment-related taxes ("Employment Taxes") due on the compensation received by him and by any other person utilized by him under the Services Agreement. The President agrees to indemnify and hold the Debtor and the Debtor's estate harmless for any unpaid Employment Taxes, including, without limitation, penalties and interest, that may arise as a result of any compensation received hereunder.

2. Authority to Object to Claims and Interests  
and to Settle Disputed Claims and Interests

From and after the Confirmation Date, the Debtor or the Creditors' Committee shall be authorized, as soon as may be practicable following the date on which (a) all Cash has been realized and (b) all Disputed Claims have been resolved by a Final Order of the Bankruptcy Court, the Disbursing Agent shall make a final distribution of remaining Distributable Funds to Holders of Allowed Claims in accordance with the terms of this Plan.

The Debtor or Reorganized Debtor shall review Claims that are not Allowed Claims and shall resolve such Claims through the claims objection process in the Bankruptcy Court or by compromise. Bankruptcy Court approval for compromise of a Claim shall not be required except as herein provided. Any compromise of a Claim in a disputed amount which is to be allowed in an amount in excess of \$250,000 shall be subject to the approval of the Bankruptcy Court but such compromise shall not require notice to any party other than to the members of the Creditors' Committee and any party having filed a notice of appearance in the Chapter 11 Case, and shall not require a hearing, unless the Bankruptcy Court orders otherwise. Any compromise of a disputed Claim with respect to which the amount to be allowed is in excess of \$100,000 shall also be subject to Bankruptcy Court approval if the proposed compromise is objected to (which objection is not resolved consensually) by the Creditors' Committee or any party that has filed a notice of appearance in the Chapter 11 Case within ten (10) business days of their receipt of such notice. The Debtor may submit resolutions of Claims in disputed amounts

of \$100,000 and less to the Bankruptcy Court for its approval, but the Debtor is fully authorized to resolve such claims without Bankruptcy Court approval.

3. Authority to Settle Avoidance Actions

The Debtor or the Reorganized Debtor, subject to the consent of the Creditors' Committee, and the Creditors' Committee, subject to the consent of the Debtor or the Reorganized Debtor, as the case may be, may settle or compromise any such claim without Bankruptcy Court approval (a) if the amount in controversy is less than \$100,000, or (b) in all other cases if the amount in controversy exceeds the amount for which such controversy is to be settled by less than \$25,000. Otherwise, a settlement shall be subject to the approval of the Bankruptcy Court.

**H. Creditors' Committee**

The Creditors' Committee shall continue in existence after the Effective Date to exercise those powers and perform those duties specified in section 1103 of the Bankruptcy Code and shall perform such other duties as it may have been assigned by the Bankruptcy Court prior to the Effective Date.

1. Post-Confirmation Creditors' Committee; Compensation and Expenses

After the Confirmation Date, the Creditors' Committee (i) shall be responsible for (a) supervising the President with respect to his responsibilities under the Plan and the Services Agreement, (b) reviewing the prosecution of adversary and other proceedings, if any, including proposed settlements thereof, (c) reviewing objections to and proposed settlements of Disputed Claims, and (d) performing such other duties that may be necessary and proper to assist the President, and (ii) shall remain in existence until such time as the final distributions under the Plan have been made by the Reimbursing Agent. The members of the Creditors' Committee shall serve without compensation for their performance of services as members of the Creditors' Committee, except that they shall be entitled to reimbursement of reasonable expenses by the Debtor.

2. Liability

Pursuant to section 13.3 of the Plan, neither the Creditors' Committee, nor any of its members or designees, nor any duly designated agent or representative of the Creditors' Committee, nor their respective employees, shall be liable for the act or omission of any other member, designee, agent or representative of the Creditors' Committee, nor shall any member be liable for any act or omission taken or omitted to be taken in its capacity as a member of the Creditors' Committee, other than acts or omissions resulting from such person's willful misconduct or gross negligence.

## **I. Method of Distribution under the Plan**

### **1. Distributions for Claims Allowed as of the Effective Date**

Except as otherwise provided in the Plan or as ordered by the Bankruptcy Court, distributions to be made on account of Claims that are Allowed Claims as of the Effective Date shall be made on the Effective Date or as soon thereafter as is practicable. Any payment or distribution to be made on the Effective Date pursuant to the Plan shall be deemed as having been made on the Effective Date if such distribution is made on the Effective Date or as soon thereafter as is practicable. Any payment or distribution required to be made under the Plan on a day other than a Business Day, shall be made on the next succeeding Business Day.

### **2. Interest on Claims**

Unless otherwise specifically provided for in the Plan or Confirmation Order, or required by applicable bankruptcy law, postpetition interest shall not accrue or be paid on any Claims, and no holder of a Claim shall be entitled to interest accruing on or after the Filing Date on any Claim.

### **3. Distributions by the Debtor**

The Reorganized Debtor as the Disbursing Agent shall make all distributions of Cash required to be distributed under the applicable provisions of the Plan. Reorganized Debtor may employ or contract with other entities to assist in or make the distributions required by the Plan.

### **4. Date and Delivery of Distributions**

Distributions under the Plan shall be made by the Debtor or its designee to the holders of Allowed Claims at the addresses set forth in the Schedules, unless such addresses are superseded by proofs of Claim or transfers of Claim filed pursuant to Bankruptcy Rule 3001 (or at the last known addresses of such holders if the Debtor has been notified in writing of a change of address).

### **5. Distribution of Unclaimed Property**

If a Holder of an Allowed Claim fails to negotiate a check issued to such Holder pursuant to the provisions of Article V hereof within sixty (60) days of the date such check was forwarded to said Holder or if a distribution under this Plan to any Holder of an Allowed Claim is returned to the Disbursing Agent due to an incorrect or incomplete address for such Holder, the Disbursing Agent, in the case of a check which was not returned and was not negotiated, shall issue a "stop payment order" in connection with non-negotiated check(s) and in the case of a check which was returned for any reason including insufficient address, and the amount of Cash attributable to such check(s) will be deemed vested in the Reorganized Debtor, such Cash shall constitute Distributable Funds to be distributed in accordance with this Plan and the payee of such check and Holder of the concomitant Claim will be deemed to have no further Claim in respect of such check and will not participate in any further distributions under this Plan.

6. Distribution of Cash

This Plan and its implementation are premised upon the liquidation of all of the Debtor's Assets, and the prosecution or settlement of all Causes of Action constituting Assets, and the distribution of the proceeds to the Debtor's creditors in accordance with the terms and provisions of this Plan.

7. Fractional Dollars; De Minimis Distributions

Notwithstanding any other provision of the Plan (a) neither the President nor the Debtor nor the Creditors' Committee shall be required to make distributions or payments of fractions of dollars, and whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment made shall reflect a rounding of such fraction to the nearest whole dollar, with half dollars being rounded down and (b) the Debtor shall have no obligation to make a distribution on account of an Allowed Claim from any Reserve or account (i) to any holder of an Allowed Claim if the aggregate amount of all distributions authorized to be made from all such Reserves or accounts on the Distribution Date in question is less than \$100,000 or (ii) to a specific holder of an Allowed Claim if the amount to be distributed to that holder on the particular Distribution Date (1) does not constitute a final distribution to such holder and (2) is less than \$25.00.

**J. Disputed Claims**

1. Objection Deadline; Prosecution of Objections

The Debtor and/or the Creditors' Committee shall review the proofs of claim and file objections thereto within ninety (90) days after the Effective Date, provided that the either party may apply to the Bankruptcy Court for an extension of time to file such objections.

All timely-filed proofs of claim as to which no objection has been timely filed under this section shall be deemed Allowed Claims.

Any distributions to the Holder of a Disputed Claim will be made if, when and only to the extent such Disputed Claim becomes an Allowed Claim.

2. Accounts and Reserves

On or as soon as practicable after the Distribution Date and before each subsequent date on which the Disbursing Agent intends to make distributions to Holders of Allowed Claims under this Plan, the Disbursing Agent shall reserve for the account of each Holder of a Disputed Claim, and hold in trust, that Cash which would otherwise be distributable to such Holder on such date in accordance with this Plan if such Disputed Claim was an Allowed Claim on such date in the Face Amount thereof. The Cash, if any, so reserved for the Holder of such Disputed Claim shall constitute Reserved Funds and will be distributed to such Holder, to the extent such Disputed Claim is allowed together with interest earned, if any, on such amount, only after such Disputed Claim becomes an Allowed Claim. Remaining interest earned on Reserved Funds, if any, will be held by the Disbursing Agent and distributed Pro Rata to Holders of Allowed Claims in the appropriate Class.

Except as otherwise provided in a Final Order of the Bankruptcy Court, the Disbursing Agent shall deposit or invest all Cash held for the benefit of Holders of Claims under this Plan from time to time consistent with Section 345 of the Bankruptcy Code.

As soon as practicable after all Disputed Claims are resolved such that each of such Claims has become either an Allowed Claim or Disallowed Claim in whole or in part, the Disbursing Agent shall distribute to Holders of Allowed Claims in the appropriate Class, as the case may be, their Pro Rata share of Reserved Funds, together with any interest earned thereon.

## **K. Implementation and Effect of Confirmation of the Plan**

### **1. Discharge of Claims – Termination of Interests**

Pursuant to section 1141(d)(3) of the Bankruptcy Code, confirmation of the Plan will not discharge Claims against the Debtor; provided, however, that no holder of a Claim against the Debtor may, on account of such Claim, seek or receive any payment or other distribution from, or seek recourse against, the Debtor, its respective successors or their respective property, except that nothing contained herein shall preclude such persons from exercising their rights pursuant to and consistent with the terms of the Plan. Such injunction shall extend to successors of the Debtor and their respective properties.

### **2. Exculpation and Limitation of Liability**

The Debtor and the Debtor's officers, directors, employees, attorneys, accountants, financial advisors, representatives and agents, and the Creditors' Committee, its members, attorneys, accountants, financial advisors, representatives and agents will not have or incur any liability to any Holder for any act or omission in connection with or arising out of the administration of the Plan or the property to be distributed under this Plan; provided, however, that the foregoing exculpation from liability will not apply to actions or omissions in bad faith or as a result of gross negligence or willful misconduct

### **3. Injunction**

On the Effective Date, all Persons who have held, hold or may hold Claims arising on or before the Effective Date or who have held, hold or may hold Interests acquired on or before the Effective Date will be enjoined from taking any of the following actions with respect to such Claims or Interests: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind against the Debtor, any of the Assets or any direct or indirect transferee of any Assets of, or successor in interest to, the Debtor or any assets of any such transferee or successor, (b) enforcing, levying, attaching, collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtor, any of the Assets or any direct or indirect transferee of any Assets of, or successor in interest to, the Debtor or any assets of any such transferee or successor, (c) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any Lien or encumbrance of any kind against the Debtor, any of the Assets or any direct or indirect transferee of any Assets of, or successor in interest to, the Debtor or any assets of any such transferee or successor, (d) asserting any set-off, right of subrogation or recoupment

of any kind, directly or indirectly, against any obligation due the Debtor, any of the Assets or any direct or indirect transferee of any Assets of, or successor in interest to, the Debtor or any assets of any such transferee or successor and (e) proceeding in any manner in any place whatsoever that does not conform to or comply with the provisions of this Plan.

4. Preservation/Waiver of Causes of Action

Pursuant to the Plan, and sections 544, 547, 548, 549, 550, 551, 553 and 1123(b)(3)(B) of the Bankruptcy Code, the Debtor, along with the Creditors' Committee, shall retain all rights and all Causes of Action accruing to it and its Estate including, without limitation, the avoidance of any transfer of an interest of the Debtor in property or any obligation incurred by the Debtor; except as expressly noted in the Plan or Confirmation Order, nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any such rights or causes of action. Nothing contained in the Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any claim, cause of action, right of setoff, or other legal or equitable defense, including any rights, claims or causes of action, which the Debtor had immediately prior to the Filing Date, which is not specifically waived or relinquished by the Plan. The Debtor shall have, retain, reserve and be entitled to assert all such claims, causes of action, rights of setoff and other legal or equitable defenses, including any rights, Claims or causes of action, which the Debtor had immediately prior to the Filing Date as fully as if the Chapter 11 Case had not been commenced; and all of the Debtor's legal and equitable rights respecting any Claim, which are not specifically waived or relinquished by the Plan, may be asserted after the Confirmation Date to the same extent as if the Chapter 11 Case had not been commenced.

5. Preservation of Insurance

The Debtor's discharge and release from all Claims as provided in the Plan, except as necessary to be consistent with the Plan, shall not diminish or impair the enforceability of any insurance policy that may cover Claims against the Debtor or any other person or entity.

**L. Conditions Precedent to Consummation of Plan**

It shall be a condition precedent to consummation of this Plan and the occurrence of the Effective Date that the Confirmation Order shall have been entered and shall have become a Final Order.

The Effective Date shall occur when the Confirmation Order shall become a Final Order, the date on which the Debtor shall have Available Cash in an amount sufficient (i) to satisfy in full all Allowed Administrative Expense Claims, all Allowed Priority Tax Claims, and all Allowed Non-Tax Priority Claims; (ii) to create the Reserved Fund; and (iii) and to create a Post-Confirmation Administrative Reserved Fund of at least \$400,000, or such lesser amount as shall be agreed to by the Debtor and the Creditors' Committee.

In addition, the Reserved Funds are comprised of the Available Cash at the initial Distribution Date, and at any subsequent Distribution Date, equal to the aggregate of (a) the Pro



Rata distribution on the Face Amount of Disputed Claims and (b) accrued but unpaid (i) Administrative Expense Claims, (ii) Priority Tax Claims, and (iii) Non-Tax Priority Claims.

The Post-Confirmation Reserve Funds are comprised of the Available Cash at the Effective Date equal to the estimated (i) fees and expenses of the Debtor, the Creditors' Committee and the Disbursing Agent and the professional fees and expenses to be incurred by the Debtor, the Creditors' Committee and the Disbursing Agent from and after the Effective Date through the date of entry of a final decree of the Bankruptcy Court closing the Chapter 11 Case and (ii) any and all other anticipated costs or expenses to be incurred by the Disbursing Agent in implementing this Plan.

**M. Retention of Jurisdiction**

Following the Confirmation Date, the Bankruptcy Court will retain jurisdiction of the Chapter 11 Case for the following purposes:

(a) To hear and determine any and all applications, adversary proceedings, contested and litigated matters pending in the Chapter 11 Case on the Confirmation Date.

(b) To hear and determine any and all adversary proceedings commenced by the Debtor or the Creditors' Committee prior to the entry of a final decree asserting any causes of action.

(c) To ensure that the distributions to Holders of Allowed Claims are accomplished as provided herein.

(d) To hear and determine any objections to the allowance of Claims.

(e) To enter and implement such orders as may be appropriate in the event that the Confirmation Order is for any reason stayed.

(f) To hear and determine the reasonableness of all applications for allowance of compensation and reimbursement of expenses under Sections 330, 331 or 503(b) of the Bankruptcy Code.

(g) To hear and determine any applications to modify this Plan in accordance with Section 1127 of the Bankruptcy Code.

(h) To remedy any defect or omission or reconcile any inconsistencies in this Plan or the Confirmation Order in such manner as may be necessary to carry out the purposes and intent of this Plan.

(i) To hear and determine disputes arising in connection with this Plan or its implementation, including, without limitation, disputes among Holders, and arising under any agreements, documents or instruments executed in connection with this Plan.

(j) To determine any and all pending applications for rejection or assumption of Executory Contracts and the allowance of any Claims resulting from the rejection of Executory Contracts pursuant to this Plan.

(k) To construe, and to take any action to enforce, this Plan, and to issue such orders as may be necessary for the implementation, execution and consummation of this Plan.

(l) To determine such other matters and for such other purposes as may be provided in the Confirmation Order relating to the Chapter 11 Case or as may from time to time be authorized under the provisions of the Bankruptcy Code or any other applicable law.

(m) To hear and determine applications for orders sought pursuant to Section 1142(b) of the Bankruptcy Code.

(n) To hear and determine any motions or contested matters involving taxes, tax refunds, tax attributes and tax benefits and similar or related matters with respect to the Debtor or its estate arising prior to the Effective Date or relating to the period of administration of the Chapter 11 Case.

(o) To enforce all orders, judgments and rulings entered in connection with the Chapter 11 Case.

(p) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code.

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

## **N. Miscellaneous Provisions**

### **1. Payment of Statutory Fees**

The Reorganized Debtor shall pay all fees due the United States trustee pursuant to 28 U.S.C. § 1930 until the entry of a final decree closing the Chapter 11 Case.

2. Amendment or Modification of the Plan

The Plan Proponents reserve their right, in accordance with the Bankruptcy Code to amend or to modify the Plan prior to the entry of the Confirmation Order. The Plan Proponents further reserve their right, with the consent of any adversely affected party thereby, in accordance with the Bankruptcy Code, to amend or modify the Plan prior to entry of the Confirmation Order to remedy any provision of the Plan which is found to violate Section 1129(b) of the Bankruptcy Code. After entry of the Confirmation Order, Plan Proponents may amend or modify the Plan or remedy any defect or omission or reconcile any inconsistency in the Plan in such a manner as may be necessary to carry out the purpose and intent of the Plan.

3. Governing Law

Except to the extent the Bankruptcy Code or Bankruptcy Rules are applicable, the rights and obligations arising under this Plan will 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 conflicts of law thereof.

4. Withholding and Reporting Requirements

In connection with the Plan and all instruments issued in connection therewith and distributions thereon the Debtor shall comply with all withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority and all distributions hereunder shall be subject to any such withholding and reporting requirements.

5. Exemption from Transfer Taxes

Pursuant to section 1146(c) of the Bankruptcy Code, the assignment or surrender of any lease or sublease, or the delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with this Plan, whether arising prior or subsequent to the Confirmation Date, including any deeds, bills of sale or assignments executed in connection with any disposition of assets contemplated by this Plan shall not be subject to any stamp, real estate transfer, mortgage, recording or other similar tax.

6. Waiver of Federal Rule of Civil Procedure 62(a)

The Plan Proponents may request that the Confirmation Order include (i) a finding that Fed. R. Civ. P. 62(a) shall not apply to the Confirmation Order and (ii) authorization for the Debtor to consummate the Plan immediately after entry of the Confirmation Order.

7. Headings

Headings used in this Disclosure Statement are for convenience and reference only and shall not constitute a part of this Disclosure Statement for any purpose.

8. Exhibits

All Exhibits to this Disclosure Statement are incorporated into and constitute a part of this Disclosure Statement as if set forth herein.

9. Notices

All notices, requests, and demands under the Plan to be effective shall be in writing and unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

To the Debtor: Grumman Olson Industries, Inc. c/o Paul Gunther, Franklin 145 Corp., 411 Route 17 South, Hasbrouck Heights, NJ 07604, Fax: (201) 727-9788, with a copy to Sanford P. Rosen & Associates, P.C., 747 Third Avenue, New York, NY 10017, Attention: Sanford P. Rosen, Esq., Fax: (212) 223-1102.

To the United States Trustee: Office of the United States Trustee, 33 Whitehall Street, 21<sup>st</sup> Floor, New York, NY 10004, Attention: Greg M. Zipes, Esq. Fax: (212) 668-2255.

To the Creditors' Committee: Creditors' Committee of Grumman Olson Industries, Inc. c/o Hahn & Hessen LLP, 488 Madison Avenue, New York, NY 10022, Attention: Mark T. Power, Esq., Fax: (212) 478-7400.

10. Conflict

The terms of the Plan shall govern in the event of any inconsistency with the summaries of the Plan set forth in this Disclosure Statement.

**VII.**

**CERTAIN RISK FACTORS TO BE CONSIDERED**

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

1. Possible Dilution of Claims and Interests

The holders of Class 3 Claims are subject to the risk of dilution if the amount of Claims is higher than the Plan Proponents believe. The actual amount of Allowed Claims may differ significantly from the estimates set forth in the table in Section II.C. of this Disclosure Statement. Accordingly, the amount of the distribution that will ultimately be received by any

particular holder of an Allowed Class 3 Claim may be adversely affected by an increase in the aggregate amount of all Allowed Claims.

2. Uncertainty of Recoveries to be Realized from Avoidance Actions

The actual recoveries realized from the prosecution of the Avoidance Actions and the timing thereof may vary significantly from the Debtor's projections. Any such variation will affect the amount and timing of distributions to creditors. The extent of creditors' recoveries will be largely dependent on the results realized from the prosecution of Avoidance Actions and other causes of action the Debtor's estate has against third parties. Given the inherent uncertainties of what, if anything, will be recovered in litigations, net of costs incurred to pursue such litigations, as well as the uncertainty in the collectibility of any judgments obtained, it is not possible to project with certainty what the ultimate distribution to Class 3 Unsecured Creditors will be.

3. Certain Bankruptcy Law Considerations

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

## VIII.

### CONFIRMATION PROCEDURE

The Bankruptcy Court may confirm the Plan only if it determines that the Plan complies with the technical requirements of chapter 11, including, among other things, that (i) the Plan has properly classified Claims and Interests, (ii) the Plan complies with applicable provisions of the Bankruptcy Code, (iii) the Plan Proponents have complied with applicable provisions of the Bankruptcy Code, (iv) Plan Proponents have proposed the Plan in good faith and not by any means forbidden by law, (v) disclosure of "adequate information" as required by section 1125 of the Bankruptcy Code has been made, (vi) the Plan has been accepted by the requisite votes of all classes of creditors (except to the extent that "cramdown" is available under section 1129(b) of the Bankruptcy Code), (vii) the Plan is in the "best interests" of all holders of Claims or Interests in an impaired class, and (viii) all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of such fees on the Consummation Date.

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

**A. Solicitation of Votes**

Each impaired class of Claims that will (or may) receive or retain property or any interest in property under the Plan is entitled to vote to accept or reject the Plan.

Class 1 of the Plan is unimpaired and holders of Claims in such Class are conclusively presumed to have accepted the Plan; the solicitation of acceptances with respect to Class 1 is not required. Classes 2 and 3 are impaired. Holders of Interests in Class 4 will not receive or retain any property on account of their Claims or Interests and are conclusively presumed to have rejected the Plan; the solicitation of acceptances with respect to such Class is not required. Therefore, in accordance with sections 1126 and 1129 of the Bankruptcy Code, the Plan Proponents are soliciting acceptances only from holders of Allowed Claims in Classes 2 and 3.

As to classes of claims entitled to vote on a plan, the Bankruptcy Code defines acceptance of a plan by a class of creditors as acceptance by holders of at least two-thirds in dollar amount and more than one-half in number of the claims of that class that have timely voted to accept or reject a plan.

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

Creditors must vote all of their Claims within a particular Class under the Plan either to accept or reject the Plan and may not split their vote, and thus a Ballot that partially accepts and partially rejects the Plan will not be counted; provided, however, that creditors holding acquired Claims need not combine such Claims and may vote their Claims separately.

Any Ballot, pursuant to an order of the Bankruptcy Court approving this Disclosure Statement, received by the Claims Agent that is incomplete in any way shall be deemed to be cast as follows:

(a) Ballots received that do not evidence the amount or evidence an incorrect amount of a creditor's claim shall be completed or corrected, as the case may be, based upon the Schedules filed by the Debtor if no proof of claim has been filed by such creditor or, if applicable, based upon a timely filed proof of claim, and counted as voted to accept or reject the Amended Plan; and

(b) Ballots received that do not reflect in which class such Ballot is cast or that incorrectly classify such creditor's claim and that are otherwise properly completed shall be completed or corrected, as the case may be, and counted as a vote to accept or reject the Amended Plan.

The following types of Ballots will not be counted in determining whether the Plan has been accepted or rejected:

(a) any Ballot received after the Voting Deadline unless the Plan Proponents have granted an extension of the Voting Deadline with respect to such Ballot, which extension shall have been approved by the Court;

(b) any Ballot that is illegible or contains insufficient information to permit the identification of the creditor, or any Ballot received that does not identify the creditor whether or not signed by the creditor;

(c) any Ballot cast by a person or entity that does not hold a Claim in a class that is entitled to vote to accept or reject the Plan;

(d) any Ballot cast for a Claim scheduled as unliquidated, contingent or disputed for which no proof of Claim was timely filed;

(e) any unsigned Ballot.

The following types of Ballots, pursuant to an order of the Bankruptcy Court approving this Disclosure Statement, will be deemed a vote in favor of the Plan:

(a) whenever a creditor casts more than one (1) Ballot voting the same Claim before the Voting Deadline, the last Ballot received before the Voting Deadline will be deemed to reflect the voter's intent and thus to supersede any prior Ballots.

Please see the attached Solicitation Procedures Order for other provisions concerning solicitation and voting.

## **B. The Confirmation Hearing**

The Bankruptcy Code requires the Bankruptcy Court, after notice, to hold a confirmation hearing. The Confirmation Hearing in respect of the Plan has been scheduled for November 23, 2004 at 10:00 a.m., prevailing Eastern Time, before the Honorable Chief Judge Stuart M. Bernstein at the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for an announcement of the adjourned date made at the Confirmation Hearing. Any objection to confirmation must be made in writing and specify in detail the name and address of the objector, all grounds for the objection and the amount of the Claim. Any such objection must be filed with the Bankruptcy Court and served so that it is received by the Bankruptcy Court and the parties set forth in Section I.C. hereof, on or before November 17, 2004 at 5:00 p.m., prevailing Eastern Time. Objections to confirmation of the Plan are governed by Bankruptcy Rule 9014.

## **C. Confirmation**

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for confirmation of a plan are that the plan is (i) accepted by all impaired classes of claims and equity interests or, if rejected by an impaired class, provided that at least one impaired class has accepted, that the plan "does not discriminate unfairly" and is "fair and equitable" as to such class, (ii) feasible and (iii) in the "best interests" of creditors and stockholders that are impaired under the plan.

### 1. Acceptance

Classes 2 and 3 of the Plan are impaired under the Plan and are entitled to vote to accept or reject the Plan. Class 1 of the Plan is unimpaired and, therefore is conclusively presumed to have voted to accept the Plan. Class 4 of the Plan is impaired and is deemed to have rejected the Plan. Therefore, holders of Interests in Class 4 are not entitled to vote to accept or reject the Plan. The Plan Proponents reserve the right to amend the Plan in accordance with Section 13.1 of the Plan or to seek nonconsensual confirmation of the Plan under section 1129(b) of the Bankruptcy Code, or both, with respect to any class of Claims or Interests that is entitled to vote to accept or reject the Plan, if such class rejects the Plan.

### 2. Unfair Discrimination and Fair and Equitable Tests

To obtain non-consensual confirmation of the Plan, it must be demonstrated to the Bankruptcy Court that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to each impaired, non-accepting Class. The Bankruptcy Code provides a non-exclusive definition of the phrase “fair and equitable.” It establishes “cram down” tests for secured creditors, unsecured creditors and equity holders, as follows:

Secured Creditors. Either (i) each impaired secured creditor retains its Liens securing its secured claim and receives on account of its secured claim deferred cash payments having a present value equal to the amount of its allowed secured claim, or (ii) each impaired secured creditor realizes the “indubitable equivalent” of its allowed secured claim, or (iii) the property securing the claim is sold free and clear of Liens with such Liens to attach to the proceeds of the sale and the treatment of such Liens on proceeds to be as provided in clause (i) or (ii) of this subparagraph.

Unsecured Creditors. Either (i) each impaired unsecured creditor receives or retains under the plan, property of a value equal to the amount of its allowed claim or (ii) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under the plan.

Interests. Either (i) each holder of an equity interest will receive or retain under the plan, property of a value equal to the greatest of the fixed liquidation preference to which such holder is entitled, the fixed redemption price to which such holder is entitled or the value of its interest or (ii) the holder of an interest that is junior to the non-accepting class will not receive or retain any property under the plan.

The Plan Proponents believe that the Plan is “fair and equitable” and clearly meets the requirements for the tests for secured and unsecured creditors as well as equity holders.

### 3. Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtor or any successors to the Debtor under the Plan, unless such liquidation or reorganization is proposed in the Plan. The Plan proposed by the Plan Proponents provides for the liquidation of the Debtor’s remaining assets and a distribution to creditors in accordance with



the priority scheme of the Bankruptcy Code and the terms of the Plan. The Effective Date will not occur until the Debtor has Available Cash in an amount sufficient (i) to satisfy in full all Allowed Administrative Expense Claims, all Allowed Priority Tax Claims, and all Allowed Non-Tax Priority Claims; (ii) to create the Reserved Fund; and (iii) and to create a Post-Confirmation Administrative Reserved Fund of at least \$400,000, (unless the Debtor and the Creditors' Committee agree to a lesser amount). Moreover, based on a review of the potential merits of the Avoidance Actions and an estimate of the claims to be allowed in the chapter 11 case, the Plan Proponents believe that there will be additional monies on or after the Effective Date to provide for a recovery for Unsecured Creditors. Accordingly, the Plan Proponents believe that the Plan is feasible and meets the requirements of section 1129(a)(11) of the Bankruptcy Code. Although the Plan Proponents believe that the Effective Date will occur, there can be no assurance as to such timing or that such conditions will ever occur.

#### 4. Best Interests Test

With respect to each impaired Class of Claims and Interests, confirmation of the Plan requires that each holder of a Claim or Interest either (i) accept the Plan or (ii) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive or retain if the Debtor was liquidated under chapter 7 of the Bankruptcy Code.

Substantially all of the Debtor's fixed assets have already been liquidated pursuant to the Asset Purchase Agreements and the Auction Sale. Therefore, the Debtor's estate consists of funding obligations by TBCC and from the estate's Avoidance Actions. Although the Plan's proposed liquidation and a chapter 7 liquidation would have the same goal of liquidating the remainder of the Debtor's Estate and distributing all of the proceeds to creditors, the Plan Proponents believe that the Plan provides a more efficient vehicle to accomplish this goal. As noted above, it also avoids litigation over the issue of whether TBCC is obligated to provide such funding if the case were converted to a chapter 7 proceeding. Liquidating the Debtor's Estate pursuant to a chapter 7 liquidation would require the appointment of a chapter 7 trustee. Such appointment, as well as the appointment of any professionals retained by such chapter 7 trustee, would increase the operating costs associated with the liquidation of the Debtor's Estate and would likely result in a lower recovery from the Estate Assets.

Further, like the Debtor, a chapter 7 trustee would complete the liquidation of the Debtor's remaining assets, resolve Disputed Claims and make distributions to creditors. A chapter 7 trustee, however, would not have the benefit of the historical knowledge of the Debtor to resolve the Disputed Claims efficiently and in the best interests of the Estate. In addition, a chapter 7 trustee would lack the Plan Proponents' familiarity and historical knowledge. The Plan Proponents believe that a chapter 7 trustee, on average, would realize less on account of the Avoidance Actions and would settle Disputed Claims for higher amounts than would the Plan Proponents as a result of their knowledge of the business and the resulting Claims.

**The Plan Proponents believe that unsecured creditors will be substantially worse off in chapter 7 in view of the incurrence of substantial professional fees in this case and the other issues discussed above.**

Finally, the Plan Proponents believe that distributions would occur in a shorter time period pursuant to the Plan than if the Debtor's Estate were liquidated pursuant to a chapter 7 liquidation. A conversion to chapter 7 would take time. In addition, the chapter 7 trustee, once appointed, and any professionals hired by the chapter 7 trustee, would need to gain familiarity with the Debtor and its creditors, thus delaying the initial distributions to creditors.

After considering the effects that a chapter 7 liquidation would have on the ultimate proceeds available for distribution to creditors in the Chapter 11 Case, the Debtor and the Creditors' Committee have determined that a chapter 7 liquidation would result in a diminution in the value to be realized by the holders of Claims, and a delay in making distributions to all Classes of Claims entitled to a distribution. Therefore, the Plan Proponents believe that the Plan satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code.

## **IX.**

### **EFFECTIVENESS OF THE PLAN**

#### **A. Confirmation of the Plan**

The Plan can be confirmed either under section 1129(a) of the Bankruptcy Code or in a non-consensual manner under section 1129(b) of the Bankruptcy Code.

#### **B. Conditions Precedent to Effectiveness**

The Plan shall not become effective unless and until the Confirmation Order in a form satisfactory to the Debtor and the Creditors' Committee shall have been entered and shall have been a Final Order. Moreover, as discussed above, the occurrence of the Effective Date is subject to obtaining sufficient available cash.

## **X.**

### **ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

Given that the Debtor has no ongoing operations, the alternatives to the Plan are very limited and not likely to benefit creditors. Although the Debtor and the Creditors' Committee could theoretically file a new plan, the most likely result if the Plan is not confirmed and consummated is that the Chapter 11 Case will be converted to chapter 7 of the Bankruptcy Code. The Plan Proponents believe that conversion of the Chapter 11 Case would result in (i) a significant delay in distributions to all creditors who would have received a distribution under the Plan; and (ii) a reduced recovery to creditors.

## **XI.**

### **CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S INDIVIDUAL CIRCUMSTANCES.

ACCORDINGLY, HOLDERS ARE URGED TO CONSULT WITH THEIR TAX ADVISORS ABOUT THE FEDERAL, STATE, LOCAL AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN.

## **XII.**

### **CONCLUSION AND RECOMMENDATION**

The Plan Proponents believe that confirmation and implementation of the Plan is preferable to any of the alternatives described above because it will result in the greatest recoveries to holders of Claims. Other alternatives would involve significant delay, uncertainty and substantial additional administrative costs.

Consequently, the Debtor and the Creditors' Committee urge all holders of Claims to vote to accept the Plan and to evidence their acceptance by duly completing and returning their Ballots so that they will be received on or before 5:00 p.m., prevailing Eastern Time, on November 17, 2004.

Dated: New York, New York  
October 19, 2004

GRUMMAN CORPORATION

By: /s/ Paul Gunther  
Name: Paul Gunther  
Title: President

Sanford P. Rosen & Associates, P.C.  
Counsel to the Debtor

By: /s/ Sanford P. Rosen  
Sanford P. Rosen (SR-4966)

Hahn & Hessen LLP  
Counsel to the Official Committee of Unsecured Creditors of the Debtor

By: /s/ Mark T. Power  
Mark T. Power (MP-1607)

## **EXHIBITS TO THE FIRST AMENDED DISCLOSURE STATEMENT**

- A.** First Amended Joint Liquidating Chapter 11 Plan of Reorganization
- B.** Solicitation Procedures Order
- C.** Chapter 11 Orderly Liquidation Analysis
- D.** Chapter 7 Liquidation Analysis
- E.** Résumé of Paul Gunther, President of the Debtor

**EXHIBIT A**

Liquidating Chapter 11 Plan of Reorganization

SANFORD P. ROSEN & ASSOCIATES, P.C.  
Counsel for the Debtor  
747 Third Avenue  
New York, NY 10017-2803  
(212) 223-1100  
Sanford P. Rosen (SR-4966)

HAHN & HESSEN LLP  
Counsel to the Official Committee of  
Unsecured Creditors  
488 Madison Avenue  
New York, NY 10022  
(212) 478-7200  
Mark T. Power (MP-1607)  
Katharine G. Craner (KC-1364)

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re

GRUMMAN OLSON INDUSTRIES, INC.,

Debtor.

Chapter 11

Case No. 02 B 16131 (SMB)

**DEBTOR'S AND CREDITORS' COMMITTEE'S FIRST  
AMENDED JOINT LIQUIDATING PLAN OF REORGANIZATION**

Grumman Olson Industries, Inc., the above-captioned debtor and debtor in possession in the above-captioned proceeding, and its Official Committee of Unsecured Creditors hereby jointly propose the following Liquidating Plan of Reorganization pursuant to the provisions of chapter 11 of title 11 of the United States Code.

ARTICLE I.

DEFINITIONS

Capitalized terms used herein but not otherwise defined herein shall have the meanings set forth below, and such meanings shall be equally applicable to the singular and plural forms of the terms defined, unless the context otherwise requires.

1.1 “Administrative Expense Claim” shall mean any (a) Claim that constitutes a cost or expense of administration of the Chapter 11 Case allowed by Final Order under Section 503(b) or Section 507(a)(1) of the Bankruptcy Code, including Claims arising in the ordinary course of business after the Filing Date whether or not allowed by Final Order and (b) allowance of compensation and reimbursement of expenses arising prior to the Confirmation Date to the extent allowed by Final Order pursuant to Section 330(a) or Section 503(b) of the Bankruptcy Code.

1.2 “Allowed Claim” shall mean, with respect to a particular Claim, (a) the amount of the Claim that is listed in the Schedules as neither disputed, contingent nor unliquidated, if the Holder of such Claim did not duly file a proof of claim on or before the Bar Date, or (b) if the Holder of such Claim duly filed a proof of claim on or before the Bar Date (or filed a proof of claim after the Bar Date and such proof of claim is deemed to be timely filed), then (i) the amount stated in such proof of claim, if no objection thereto has been interposed within the applicable period of limitations fixed by this Plan or as otherwise fixed by the Bankruptcy Court, (ii) in the case of a Claim to which a timely objection has been made, such amount as shall be fixed by Final Order, (iii) with respect to a Fee Claim, such amount as shall be fixed by Final Order or (iv) as to a Claim of the kind specified in section 1.1(a) above, such amount as the Debtor shall agree to or such amount as shall be fixed by Final Order. For purposes of determining the amount of an Allowed Claim, there shall be deducted therefrom an amount equal to the amount of any claim which the Debtor may have against the Holder thereof, to the extent such claim may be set off pursuant to Section 553 of the Bankruptcy Code or to the extent such claim is subject to recoupment.

1.3 “Assets” shall mean, collectively, all property of the Debtor’s estate, including, without limitation, all of the assets, property, interests (including equity interests) and effects, real and personal, tangible and intangible, of the Debtor, including, without limitation, all Causes of Action.

1.4 “Available Cash” shall mean, on any particular date, all unencumbered Cash in the possession of the Debtor, including, without limitation, Cash derived from (a) Net Disposition Proceeds and (b) all earned interest, if any, on any of the foregoing, whether in the form of or deemed to be Reserved Funds, Post-Confirmation Administrative Reserved Funds, or Distributable Funds.

1.5 “Ballots” shall mean the ballots approved by the Bankruptcy Court for voting upon this Plan.

1.6 “Bankruptcy Code” shall mean title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, together with all amendments, modifications or replacements, as the same exist upon any relevant date, to the extent applicable to the Chapter 11 Case.

1.7 “Bankruptcy Court” shall mean the United States Bankruptcy Court for the Southern District of New York with jurisdiction over the Chapter 11 Case, and to the extent of any withdrawal of reference made pursuant to 28 U.S.C. § 157, the United States District Court for the Southern District of New York, or any appellate court with competent jurisdiction over the Chapter 11 Case or any particular proceeding within the Chapter 11 Case.

1.8 “Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure, as amended from time to time, and the local rules of the Bankruptcy Court, as applicable to the Chapter 11 Case.

1.9 “Bar Date” shall mean (a) October 22, 2004, the date fixed by the Bankruptcy Court pursuant to Bankruptcy Rule 3003(c)(3) by which all Persons asserting Claims, other than Administrative Expense Claims, against the Debtor were required to File proofs of claim or be forever barred from asserting such Claims against the Debtor or its property and from voting on this Plan and/or sharing in any distribution hereunder, or (b) solely with respect to Claims as to which the Debtor amends its Schedules subsequent to the Bar Date, the date which is thirty (30) days after notice of such amendment is given to the Holders of such affected Claims.

1.10 “Business Day” shall mean any day except a Saturday, Sunday or any other day on which commercial banks in New York City are authorized or required by law to close.

1.11 “Cash” shall mean cash, cash equivalents and other readily marketable securities or instruments, including, without limitation, direct obligations of the United States of America and certificates of deposit issued by federally insured banks.

1.12 “Causes of Action” shall mean any and all claims and causes of action of, and remedies granted to, the Debtor against any third party, including, without limitation, any avoidance claims or causes of action pursuant to sections 502, 506, 510, 541, 542, 543, 544, 545, 547, through 551 and/or 553 of the Bankruptcy Code and any claims pursuant to any other statutory or common law.

1.13 “Chapter 11 Case” shall mean the reorganization case under chapter 11 of the Bankruptcy Code commenced by the Debtor on the Filing Date and presently captioned “In re: Grumman Olson Industries, Inc.”.

1.14 “Claim” shall mean (i) a right to payment from the Debtor, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured, or (ii) a right as against the Debtor to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.



1.15 “Class” shall mean any group of Claims or Interests as specified in Article IV hereof.

1.16 “Committee” shall mean the official committee of unsecured creditors appointed by the United States Trustee in the Chapter 11 Case, as such committee may be constituted from time to time.

1.17 “Confirmation Date” shall mean the date on which the Confirmation Order is entered by the Clerk of the Bankruptcy Court.

1.18 “Confirmation Hearing” shall mean the hearing to be held before the Bankruptcy Court pursuant to Section 1128 of the Bankruptcy Code concerning confirmation of this Plan.

1.19 “Confirmation Order” shall mean the order of the Bankruptcy Court confirming this Plan and approving the transactions contemplated herein.

1.20 “Debtor” shall mean Grumman Olson Industries, Inc., which filed a petition for reorganization under chapter 11 of the Bankruptcy Code with the Bankruptcy Court on the Filing Date.

1.21 “Disallowed Claim” shall mean any Claim or portion thereof that has been disallowed by the Bankruptcy Court by a Final Order.

1.22 “Disbursing Agent” shall mean the Debtor and/or any other Person or Persons authorized by the Debtor to act as paying agent for distributions under this Plan pursuant to the Confirmation Order.

1.23 “Disclosure Statement” shall mean the disclosure statement dated as of September 17, 2004, filed by the Debtor with the Bankruptcy Court with respect to this Plan, as amended from time to time, and approved by the Bankruptcy Court under Section 1125 of the Bankruptcy Code.

1.24 “Disposition” shall mean the sale, conveyance, transfer, assignment, pledge or hypothecation by or on behalf of the Debtor of any Assets, and the prosecution or settlement of all claims or causes of action constituting Assets, including, without limitation, all proceeds received thereon by reason of judgment or settlement.

1.25 “Disposition Proceeds” shall mean the gross proceeds, if any, realized and received from a Disposition.

1.26 “Disputed Claim” shall mean any Claim against the Debtor for which an amount has not been fixed by Final Order:

- (a) which is scheduled in the Schedules as disputed, contingent or

unliquidated; or

(b) as to which (i) a proof of claim has timely been filed, (ii) an objection to the allowance of such Claim has timely been filed by or on behalf of the Debtor or any party in interest and not withdrawn, and (iii) no Final Order exists allowing or disallowing such Claim or any portion thereof. In the event that any part of any Claim is disputed, such Claim in its entirety shall be deemed a Disputed Claim for purposes of voting and distribution hereunder, unless the Debtor and the Holder thereof otherwise agree.

1.27 “Distributable Funds” shall mean, at the initial Distribution Date and at any subsequent Distribution Date, Available Cash, less Reserved Funds, less Post-Confirmation Administrative Reserved Funds, but including any Post-Confirmation Administrative Reserved Funds not actually utilized or expended and no longer required for the purposes for which they were originally designated and identified.

1.28 “Distribution Date” shall mean each date after the Effective Date on which Distributable Funds are equal to or exceed \$250,000.

1.29 “Effective Date” shall mean, provided that the Confirmation Order shall have become a Final Order, the date on which the Debtor shall have Available Cash in an amount sufficient (i) to satisfy in full all Allowed Administrative Expense Claims, all Allowed Priority Tax Claims, and all Allowed Non-Tax Priority Claims; (ii) to create the Reserved Fund; and (iii) and to create a Post-Confirmation Administrative Reserved Fund of at least \$400,000.

1.30 “Executory Contract” shall mean any executory contract or unexpired lease, subject to assumption or rejection under Sections 365, 1113 or 1123 of the Bankruptcy Code, in effect on the Confirmation Date, between the Debtor and any other Person.

1.31 “Face Amount” shall mean, with respect to a particular (a) Claim: (i) if the Holder of such Claim has not Filed a proof of claim within the applicable period of limitation fixed by the Bankruptcy Court pursuant to the Bankruptcy Code, the Bankruptcy Rules or other applicable law, the amount of such Claim that is listed in the Schedules as non-disputed, noncontingent and liquidated; (ii) if the Holder of such Claim has filed a proof of claim within the applicable period of limitation fixed by the Bankruptcy Court pursuant to the Bankruptcy Code, the Bankruptcy Rules or other applicable law, and such Claim has not become an Allowed Claim, the liquidated amount stated in such proof of claim; (iii) with respect to a Fee Claim that is not the subject of a Final Order of the Bankruptcy Court, the amount applied for in such Fee Claim less the sum of all amounts previously paid to the applicant on account of such Fee Claim; or (iv) in all other cases, zero (0) or such amount as shall be fixed or estimated by a Final Order of the Bankruptcy Court, or (b) Interest, the number of shares such Interest would represent if such Interest were not disputed.

1.32 “Fee Claim” shall mean a Claim for compensation or reimbursement of expenses pursuant to Sections 327, 328, 330, 331 and 503(b) of the Bankruptcy Code in

connection with an application made to the Bankruptcy Court in the Chapter 11 Case.

1.33 “File” shall mean the act represented by the delivery to, receipt by and the acknowledgment thereof by the entry upon the legal docket by the Clerk of the Bankruptcy Court or such other party as the Bankruptcy Court may direct pursuant to Final Order, relating to petitions, pleadings, proofs of claim, Ballots, statements, documents and the like.

1.34 “Filing Date” shall mean December 9, 2002, the date on which the Debtor filed its petition for reorganization under chapter 11 of the Bankruptcy Code.

1.35 “Final Order” shall mean an order or judgment of a court as entered on the legal docket maintained by the clerk of such court that has not been reversed, stayed, modified, vacated or amended and as to which the time to appeal or petition for certiorari has expired and as to which no appeal, reargument or petition for certiorari is pending or as to which any right to appeal, reargue or petition for certiorari has been waived in writing or, if an appeal, reargument or petition for certiorari thereof has been denied, the time to take any further appeal or to seek further hearing or certiorari has expired.

1.36 “Holder” shall mean the beneficial owner of any Claim or Interest.

1.37 “Interest” shall mean the rights arising out of the Stock.

1.38 “Lien” shall mean any mortgage, lien, pledge, charge, security interest or encumbrance of any kind affecting any of the Assets, including liens granted in the Chapter 11 Case pursuant to orders of the Bankruptcy Court.

1.39 “Net Disposition Proceeds” shall mean the Cash proceeds realized and received from a Disposition, after deduction of all amounts on account of Liens.

1.40 “Non-Tax Priority Claim” shall mean any Claim entitled to priority status other than pursuant to section 507(a)(8) of the Bankruptcy Code.

1.41 “Person” shall mean any individual, corporation, general partnership, limited partnership, limited liability company, association, joint stock company, joint venture, estate, trust, unincorporated organization, government or any political subdivision thereof or other entity.

1.42 “Plan” shall mean this Plan of Reorganization, and any amendments, modifications or supplements hereof in accordance with a Final Order, the Bankruptcy Code, the Bankruptcy Rules and/or this Plan.

1.43 “Post-Confirmation Administrative Reserved Funds” shall mean Available Cash at the Effective Date equal to the estimated (i) fees and expenses of the Debtor, the Committee and the Disbursing Agent and the professional fees and expenses to be incurred by

the Debtor, the Committee and the Disbursing Agent from and after the Confirmation Date through the date of entry of a final decree of the Bankruptcy Court closing the Chapter 11 Case and (ii) any and all other anticipated costs or expenses to be incurred by the Disbursing Agent in implementing this Plan.

1.44 “Priority Tax Claim” shall mean any Claim entitled to priority status pursuant to section 507(a)(8) of the Bankruptcy Code.

1.45 “Pro Rata” shall mean, with respect to a particular Class of Claims, a number (expressed as a percentage) equal to the proportion that an Allowed Claim in such Class bears to the aggregate amount of Allowed Claims in such Class.

1.46 “Reorganized Debtor” shall mean the Debtor on or after the Effective Date.

1.47 “Reserved Funds” shall mean Available Cash at the initial Distribution Date, and at any subsequent Distribution Date, equal to the aggregate of (a) the Pro Rata distribution on the Face Amount of Disputed Claims and (b) accrued but unpaid (i) Administrative Expense Claims, (ii) Priority Tax Claims, and (iii) Non-Tax Priority Claims.

1.48 “Schedules” shall mean, collectively, the schedules Filed under Section 521(1) of the Bankruptcy Code by the Debtor as they may from time to time be amended in accordance with Bankruptcy Rule 1009.

1.49 “Secured Claim” shall mean any Claim secured by a Lien, to the extent of the value of the creditor’s interest in the estate’s interest in the property subject to such creditor’s Lien, as determined by the Court pursuant to Section 506(a) of the Bankruptcy Code.

1.50 “Shareholder” shall mean any present or former shareholder of the Debtor.

1.51 “Stock” shall mean, collectively, all of the issued and outstanding stock of the Debtor.

1.52 “Unsecured Claim” shall mean any Claim which is not an Administrative Expense Claim, Priority Tax Claim, Non-Tax Priority Claim or Secured Claim.

## ARTICLE II.

### UNCLASSIFIED CLAIMS (UNIMPAIRED)

In accordance with Section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified.

## ARTICLE III.

### TREATMENT OF UNCLASSIFIED CLAIMS

#### 3.1 Administrative Expense Claims

On the later of, or as soon thereafter as is practicable, (i) the Effective Date or (ii) the date ten (10) days after such Claim becomes an Allowed Claim, each Holder of an Allowed Administrative Expense Claim will be paid by the Reorganized Debtor the amount of such Allowed Claim in full, from Reserved Funds, without interest, unless the Holder of such Allowed Claim and the Debtor agree to a less favorable treatment of such Allowed Claim, in which case such Holder will be paid in accordance with such agreement.

#### 3.2 Priority Tax Claims

On the later of, or as soon thereafter as is practicable, (i) the Effective Date or (ii) ten (10) days after such Claim becomes an Allowed Claim, each Holder of an Allowed Priority Tax Claim will be paid the amount of such Claim in full, from Reserved Funds, plus interest thereon at the annual rate of 5% to the extent such Allowed Claim is paid subsequent to the Effective Date, unless the Holder of such Allowed Claim and the Debtor agree to a less favorable treatment of such Allowed Claim, in which case such Holder will be paid in accordance with such agreement

## ARTICLE IV.

### CLASSIFICATION OF CLAIMS AND INTERESTS

Classified Claims against, and Interests in, the Debtor are described below. A Claim or Interest will be deemed classified in a particular Class only to the extent that such Claim or Interest qualifies within the description of that Class and will be deemed classified in a different Class to the extent that any remainder of such Claim or Interest qualifies within the description of such different Class. Administrative Expense Claims and Priority Tax Claims are not entitled to vote for or against the Plan.

	CLASS	STATUS
Class 1:	All Non-Tax Priority Claims	Unimpaired – Not Entitled to Vote
Class 2:	All Secured Claims	Impaired –Entitled to Vote
Class 3:	All General Unsecured Claims	Impaired – Entitled to Vote
Class 4:	All Interests	Impaired – Not Entitled to Vote Deemed to Have Rejection Plan

## ARTICLE V.

### TREATMENT OF CLASSES OF CLAIMS AND INTERESTS

Except as otherwise provided in this Plan or the Confirmation Order, the treatment of and the consideration to be received by Holders of Allowed Claims or Holders of Interests pursuant to this Article V will be in full satisfaction and discharge of all such Claims or Interests. The Disbursing Agent will make all payments and other distributions to be made hereunder.

#### 5.1 Class 1 – Non-Tax Priority Claims (Unimpaired)

(a) Treatment: On the later of, or as soon thereafter as is practicable, (i) the Effective Date or (ii) ten (10) after such Claim becomes an Allowed Claim, each Holder of an Allowed Non-Tax Priority Claim will be paid the amount of such Claim in full, from Reserved Funds, unless the Holder of such Allowed Claim and the Debtor agree to a less favorable treatment of such Allowed Claim, in which case such Holder will be paid in accordance with such agreement.

(b) Voting: Class 1 is unimpaired by the Plan and the holders of Claims in Class 1 are not entitled to vote to accept or reject the Plan.

#### 5.2 Class 2 - Secured Claims (Impaired)

(a) Treatment: Each Holder of an Allowed Secured Claim will retain the Lien securing such Claim. In the event the Debtor makes a Disposition of the property against which such Holder has a Lien, free and clear of such Lien, such Lien shall attach to the Disposition Proceeds. As soon as practicable after the Effective Date, at the election of the Reorganized Debtor (with the consent of the Committee), each holder of an Allowed Class 2 Secured Claim shall receive either (i) the property against which such Holder has a Lien, and the surrender of such Property shall be in full satisfaction of such Holder's Allowed Secured Claim, with any deficiency claim treated as a Class 3 Unsecured Claim, or (ii) the Disposition Proceeds from the Disposition(s) of the property against which such Holder has a Lien until such Claim has been paid in full.

(b) Voting: Class 2 is impaired by the Plan and the holders of the Claims in Class 2 are entitled to vote to accept or reject the Plan.

#### 5.3 Class 3 - Unsecured Claims (Impaired)

(a) Treatment: On the later of (i) the initial Distribution Date or as soon thereafter as is practicable, and (ii) ten (10) days after such Claim becomes an Allowed Claim, each Holder of an Allowed Claim in Class 3 shall receive, on account of such Allowed

Claim, Cash an amount equal to such Holder's Pro Rata interest in Distributable Funds, without interest.

(b) Interim Distributions: After the initial Distribution Date, the Reorganized Debtor shall, if funds are available, make periodic post-Distribution Date distributions pursuant to section 5.3(a) hereof of such of the Distributable Funds as may be realized by the Debtor, provided Distributable Funds are equal to or exceed \$250,000; provided, further, that such limitation shall not be applicable with respect to the final Distribution Date.

(c) Voting: Class 3 is impaired by the Plan and holders of the claims in Class 3 are entitled to vote to accept or reject the Plan.

#### 5.4 Class 4 - Interests (Impaired)

(a) Treatment: The Holders of Class 4 Interests shall not receive any payment or property for and on account of their Interests. Their Interests shall be deemed extinguished as of the entry of a final decree closing the Chapter 11 Case.

(b) Voting: Holders of Class 4 Interests are deemed to have rejected the Plan since they shall not receive any Distribution and their Interests shall be deemed as of the entry of a final decree closing the Chapter 11 Case to be extinguished. The Holders of Class 4 Interest are not entitled to vote for or against the Plan.

### ARTICLE VI.

#### MEANS FOR IMPLEMENTATION OF THIS PLAN

This Plan is to be implemented consistent with Section 1123 of the Bankruptcy Code.

#### 6.1 Assets, Distributions and Litigation

This Plan and its implementation are premised upon the liquidation of all of the Debtor's Assets, and the prosecution or settlement of all Causes of Action constituting Assets, and the distribution of the proceeds to the Debtor's creditors in accordance with the terms and provisions of this Plan.

#### 6.2 Revesting of Assets

Upon the occurrence of the Effective Date, pursuant to the provisions of Section 1141(b) and (c) of the Bankruptcy Code, all of the Assets then owned by the Debtor shall revest in the Reorganized Debtor free and clean of all Liens, Claims and Interests therein, except to the extent provided by the terms of this Plan and the Confirmation Order.

### 6.3 Prior to the Effective Date

The Confirmation Order shall empower and authorize the Debtor to take or cause to be taken, prior to the Effective Date, all actions which are necessary to enable it to implement effectively the provisions of this Plan, and any other agreements related to and incident thereto.

### 6.4 Funding of Plan Distributions

Distributions to be made pursuant to this Plan will be made available from the Reorganized Debtor's Cash.

### 6.5 Continuation of Business

After the Effective Date, the Debtor as the Reorganized Debtor will not continue to engage in any activity other than the implementation of this Plan.

### 6.6 Distributions of Cash

Distributions of Cash required to be made by this Plan will be made by check mailed by first class mail to the address of the creditor set forth in its proof of claim or in the event no proof of claim has been filed at the address set forth in the Schedules.

### 6.7 Fees and Expenses of Disbursing Agent

In consideration for services to be rendered by the Disbursing Agent, who shall post a fiduciary bond, the Disbursing Agent shall be entitled to reasonable compensation and reimbursement of expenses. Such compensation and reimbursement of expenses shall be paid from Post-Confirmation Administrative Reserved Funds.

### 6.8 Objections to Claims

(a) The Debtor and/or the Committee shall review the proofs of claim and file objections thereto within ninety (90) days after the Effective Date, provided that the either party may apply to the Bankruptcy Court for an extension of time to file such objections.

(b) All timely-filed proofs of claim as to which no objection has been timely filed under this section shall be deemed Allowed Claims.

### 6.9 Disputed Claims

(a) Any distributions to the Holder of a Disputed Claim will be made if, when and only to the extent such Disputed Claim becomes an Allowed Claim.

(b) On or as soon as practicable after the Distribution Date and before



each subsequent date on which the Disbursing Agent intends to make distributions to Holders of Allowed Claims under this Plan, the Disbursing Agent shall reserve for the account of each Holder of a Disputed Claim, and hold in trust, that Cash which would otherwise be distributable to such Holder on such date in accordance with this Plan if such Disputed Claim was an Allowed Claim on such date in the Face Amount thereof. The Cash, if any, so reserved for the Holder of such Disputed Claim shall constitute Reserved Funds and will be distributed to such Holder, to the extent such Disputed Claim is allowed together with interest earned, if any, on such amount, only after such Disputed Claim becomes an Allowed Claim. Remaining interest earned on Reserved Funds, if any, will be held by the Disbursing Agent and distributed Pro Rata to Holders of Allowed Claims in the appropriate Class.

(c) Except as otherwise provided in a Final Order of the Bankruptcy Court, the Disbursing Agent shall deposit or invest all Cash held for the benefit of Holders of Claims under this Plan from time to time consistent with Section 345 of the Bankruptcy Code.

(d) As soon as practicable after all Disputed Claims are resolved such that each of such Claims has become either an Allowed Claim or Disallowed Claim in whole or in part, the Disbursing Agent shall distribute to Holders of Allowed Claims in the appropriate Class, as the case may be, their Pro Rata share of Reserved Funds, together with any interest earned thereon.

#### 6.10 Disputed Claims Resolution

The Debtor, Reorganized Debtor and/or the Committee shall review Claims that are not Allowed Claims and shall resolve such Claims through the claims objection process in the Bankruptcy Court or by compromise. Bankruptcy Court approval for compromise of a Claim shall not be required except as herein provided. Any compromise of a Claim in a disputed amount which is to be allowed in an amount in excess of \$250,000 shall be subject to the approval of the Bankruptcy Court but such compromise shall not require notice to any party other than to the members of the Committee and any party having filed a notice of appearance in the Chapter 11 Case, and shall not require a hearing, unless the Bankruptcy Court orders otherwise. Any compromise of a disputed Claim with respect to which the amount to be allowed is in excess of \$100,000 shall also be subject to Bankruptcy Court approval if the proposed compromise is objected to (which objection is not resolved consensually) by the Committee or any party that has filed a notice of appearance in the Chapter 11 Case within ten (10) business days of their receipt of such notice. The Debtor or the Committee may submit resolutions of Claims in disputed amounts of \$100,000 and less to the Bankruptcy Court for its approval, but the Debtor and the Committee is fully authorized to resolve such claims without Bankruptcy Court approval.

#### 6.11 Unclaimed Distributions

If a Holder of an Allowed Claim fails to negotiate a check issued to such Holder pursuant to the provisions of Article V hereof within sixty (60) days of the date such check was forwarded to said Holder or if a distribution under this Plan to any Holder of an Allowed Claim

is returned to the Disbursing Agent due to an incorrect or incomplete address for such Holder, the Disbursing Agent, in the case of a check which was not returned and was not negotiated, shall issue a "stop payment order" in connection with non-negotiated check(s) and in the case of a check which was returned for any reason including insufficient address, and the amount of Cash attributable to such check(s) will be deemed vested in the Reorganized Debtor, such Cash shall constitute Distributable Funds to be distributed in accordance with this Plan and the payee of such check and Holder of the concomitant Claim will be deemed to have no further Claim in respect of such check and will not participate in any further distributions under this Plan.

#### 6.12 Final Distribution

As soon as may be practicable following the date on which (a) all Cash has been realized and (b) all Disputed Claims have been resolved by a Final Order of the Bankruptcy Court, the Disbursing Agent shall make a final distribution of remaining Distributable Funds to Holders of Allowed Claims in accordance with the terms of this Plan.

#### 6.13 Fractional Dollars; De Minimis Distributions

Notwithstanding any other provision of the Plan (a) neither the President nor the Reorganized Debtor nor the Committee shall be required to make distributions or payments of fractions of dollars, and whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment made shall reflect a rounding of such fraction to the nearest whole dollar, with half dollars being rounded down and (b) the Reorganized Debtor shall have no obligation to make a distribution on account of an Allowed Claim (i) to any Holder of an Allowed Claim if the aggregate amount of all distributions authorized to be made is less than \$100,000 or (ii) to a specific Holder of an Allowed Claim if the amount to be distributed to that Holder on the particular Distribution Date (1) does not constitute a final distribution to such Holder and (2) is less than \$25.00.

### ARTICLE VII.

#### RETENTION, ENFORCEMENT AND SETTLEMENT OF CLAIMS

##### 7.1 Retention of Claims

Pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code, the Reorganized Debtor shall retain any and all Causes of Action. Said Causes of Action shall be prosecuted, settled or abandoned, and the proceeds thereof shall constitute Cash to be distributed in accordance with the terms of this Plan.

##### 7.2 Committee Standing

The Committee shall, effective as of the Confirmation Date, also have standing as an estate representative to prosecute, settle or abandon all Causes of Action.. For such purposes,

the Committee shall also be vested with all rights, powers and benefits afforded to a “trustee” under sections 704 and 1006 of the Bankruptcy Code.

### 7.3 Settlement Authority

The Debtor or the Reorganized Debtor, subject to the consent of the Committee, and the Committee, subject to the consent of Reorganized Debtor, as the case may be, may settle or compromise any such claim without Bankruptcy Court approval (a) if the amount in controversy is less than \$100,000, or (b) in all other cases if the amount in controversy exceeds the amount for which such controversy is to be settled by less than \$25,000. Otherwise, a settlement shall be subject to the approval of the Bankruptcy Court.

## ARTICLE VIII.

### MANAGEMENT OF THE DEBTOR

#### 8.1 Directors and Officers

(a) The directors of the Debtor identified in the Disclosure Statement or disclosed at the Confirmation Hearing, will be the directors of the Reorganized Debtor immediately after the Effective Date.

(b) The officers of the Debtor identified in the Disclosure Statement or disclosed at the Confirmation Hearing will retain their positions immediately after the Effective Date.

## ARTICLE IX.

### EXECUTORY CONTRACTS

#### 9.1 Assumption or Rejection of Executory Contracts

On the Confirmation Date, unless previously assumed by the Debtor, the Debtor will be deemed to have rejected all of its Executory Contracts.

#### 9.2 Claims Relating to Rejected Executory Contracts

Any Claim for damages arising by reason of the rejection of any Executory Contract may constitute an Allowed Claim, if, but only if, a proof of claim therefor is timely filed, and the Debtor does not file a timely objection thereto. The Confirmation Order will fix the last day for filing proofs of claim arising by reason of the rejection of any Executory Contract pursuant to section 9.1 hereof, and the last day that the Debtor may object thereto. Any Claim arising from the rejection of an Executory Contract will constitute a Claim in Class 3.

## ARTICLE X.

### CONDITIONS PRECEDENT TO CONSUMMATION OF THIS PLAN

It shall be a condition precedent to consummation of this Plan and the occurrence of the Effective Date that the Confirmation Order shall have been entered and shall have become a Final Order.

## ARTICLE XI.

### RETENTION OF JURISDICTION

Following the Confirmation Date, the Bankruptcy Court will retain jurisdiction of the Chapter 11 Case for the following purposes:

(a) To hear and determine any and all applications, adversary proceedings, contested and litigated matters pending in the Chapter 11 Case on the Confirmation Date;

(b) To hear and determine any and all adversary proceedings commenced by the Debtor or the Committee prior to the entry of a final decree asserting any Causes of Action;

(c) To ensure that the distributions to Holders of Allowed Claims are accomplished as provided herein;

(d) To hear and determine any objections to the allowance of Claims;

(e) To enter and implement such orders as may be appropriate in the event that the Confirmation Order is for any reason stayed;

(f) To hear and determine the reasonableness of all applications for allowance of compensation and reimbursement of expenses under Sections 330, 331 or 503(b) of the Bankruptcy Code;

(g) To hear and determine any applications to modify this Plan in accordance with Section 1127 of the Bankruptcy Code;

(h) To remedy any defect or omission or reconcile any inconsistencies in this Plan or the Confirmation Order in such manner as may be necessary to carry out the purposes and intent of this Plan;

(i) To hear and determine disputes arising in connection with this Plan or its implementation, including, without limitation, disputes among Holders, and arising under

any agreements, documents or instruments executed in connection with this Plan;

(j) To determine any and all pending applications for rejection or assumption of Executory Contracts and the allowance of any Claims resulting from the rejection of Executory Contracts pursuant to this Plan;

(k) To construe, and to take any action to enforce, this Plan, and to issue such orders as may be necessary for the implementation, execution and consummation of this Plan;

(l) To determine such other matters and for such other purposes as may be provided in the Confirmation Order relating to the Chapter 11 Case or as may from time to time be authorized under the provisions of the Bankruptcy Code or any other applicable law;

(m) To hear and determine applications for orders sought pursuant to Section 1142(b) of the Bankruptcy Code;

(n) To hear and determine any motions or contested matters involving taxes, tax refunds, tax attributes and tax benefits and similar or related matters with respect to the Debtor or its estate arising prior to the Effective Date or relating to the period of administration of the Chapter 11 Case;

(o) To enforce all orders, judgments and rulings entered in connection with the Chapter 11 Case;

(p) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code; and

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

## ARTICLE XII.

### INJUNCTION

**On the Effective Date, all Persons who have held, hold or may hold Claims arising on or before the Effective Date or who have held, hold or may hold Interests acquired on or before the Effective Date will be enjoined from taking any of the following actions with respect to such Claims or Interests: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind against the Debtor, any of the Assets or any direct or indirect transferee of any Assets of, or successor in interest to, the Debtor or any assets of any such transferee or successor, (b) enforcing, levying, attaching, collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtor, any of the Assets or any direct or indirect transferee of any Assets of, or successor in**

interest to, the Debtor or any assets of any such transferee or successor, (c) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any Lien or encumbrance of any kind against the Debtor, any of the Assets or any direct or indirect transferee of any Assets of, or successor in interest to, the Debtor or any assets of any such transferee or successor, (d) asserting any set-off, right of subrogation or recoupment of any kind, directly or indirectly, against any obligation due the Debtor, any of the Assets or any direct or indirect transferee of any Assets of, or successor in interest to, the Debtor or any assets of any such transferee or successor and (e) proceeding in any manner in any place whatsoever that does not conform to or comply with the provisions of this Plan.

## ARTICLE XIII.

### MISCELLANEOUS PROVISIONS

#### 13.1 Amendments

This Plan and any exhibits or documents and instruments related thereto, may be amended, modified or supplemented by the Debtor before or after the Confirmation Date, in the manner provided for by Section 1127 of the Bankruptcy Code or as otherwise permitted by law.

#### 13.2 No Interest

Except as expressly stated in this Plan or allowed by the Bankruptcy Court, no interest, penalty or late charge is to be allowed on any Claim subsequent to the Filing Date.

#### 13.3 Exculpation

The Debtor and the Debtor's officers, directors, employees, attorneys, accountants, financial advisors, representatives and agents, and the Committee, its members, attorneys, accountants, financial advisors, representatives and agents will not have or incur any liability to any Holder for any act or omission in connection with or arising out of the administration of this Plan or the property to be distributed under this Plan; provided, however, that the foregoing exculpation from liability will not apply to actions or omissions in bad faith or as a result of gross negligence or wilfull misconduct.

#### 13.4 Professional Compensation

Retained professionals who perform post-Confirmation Date services for the Reorganized Debtor or the Committee, as the case may be, shall provide monthly invoices to the Reorganized Debtor and the Committee describing the services rendered, and the fees and expenses incurred in connection therewith. Retained professionals who tender such invoices shall be paid by the Disbursing Agent for such services from Post-Confirmation Administration Reserved Funds not less than ten (10) days after the service of said monthly invoices, unless, within said ten (10) day period, a written objection to said payment is made by the Reorganized

Debtor or the Committee, as the case may be, in which event such payment shall be made only upon order of the Bankruptcy Court.

Retained professionals who performed pre-Confirmation Date services for the Debtor or the Committee, as the case may be, shall File on or before the sixtieth (60<sup>th</sup>) day following the Confirmation Date an application for final allowance of fees and expenses rendered prior to the Confirmation Date. Retained professionals that do not file and serve such applications by the required deadline shall be forever barred from asserting such Fee Claims against the Debtor, or its respective property, and such Fee Claims shall be deemed discharged as of the Effective Date. Objections to any Fee Claim must be filed and served on the Debtor, the Creditors' Committee and the requesting party within the time period provided under the Bankruptcy Rules after the date on which an application for final allowance of such Fee Claim was served.

### 13.5 Time

Except as otherwise provided in the Bankruptcy Rules, in computing any period of time prescribed or allowed by this Plan, the day of the act, event or default from which the designated period of time begins to run will not be included. Except as otherwise provided in the Bankruptcy Rules, the last day of the period so computed will be included, unless it is not a Business Day or, when the act to be done is the filing of a paper in court, it is a day on which weather or other conditions have made the Clerk's office inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days.

### 13.6 Exemption from Transfer Taxes.

Pursuant to section 1146(c) of the Bankruptcy Code, the assignment or surrender of any lease or sublease, or the delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with this Plan, whether arising prior or subsequent to the Confirmation Date, including any deeds, bills of sale or assignments executed in connection with any disposition of assets contemplated by this Plan shall not be subject to any stamp, real estate transfer, mortgage, recording or other similar tax.

### 13.7 Governing Law

Except to the extent the Bankruptcy Code or Bankruptcy Rules are applicable, the rights and obligations arising under this Plan will 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 conflicts of law thereof.

### 13.8 Headings

The headings of the Articles and Sections of this Plan are inserted for convenience only and will not affect the interpretation hereof.

### 13.9 Notices

All notices, requests, and demands hereunder to be effective shall be in writing and unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

To the Debtor: Grumman Olson Industries, Inc., c/o Paul Gunther, Franklin 145 Corp., 411 Route 17 South, Hasbrouck Heights, NJ 07604, Fax: (201) 727-9788, with a copy to Sanford P. Rosen & Associates, P.C., 747 Third Avenue, New York, NY, 10017, Attention: Sanford P. Rosen, Esq., Fax: (212) 223-1102.

To the United States Trustee: Office of the United States Trustee, 33 Whitehall Street, 21<sup>st</sup> Floor, New York, NY 10004, Attention: Greg M. Zipes, Esq., Fax: (212) 668-2255.

To the Creditors' Committee: Official Committee of Unsecured Creditors of Grumman Olson Industries, Inc. c/o Hahn & Hessen LLP, 488 Madison Avenue, New York, NY 10022, Attention: Mark T. Power, Esq., Fax: (212) 478-7400.

### 13.10 Successors and Assigns

The rights and obligations of any Person named or referred to in this Plan will be binding upon, and will inure to the benefit of, the successors and assigns of such Person.

### 13.11 The Committee

(a) The members of the Committee shall continue to serve from and after the Confirmation Date without compensation for their performance of services as members of the Committee, except that they shall be entitled to reimbursement of reasonable expenses by the Debtor. All such expenses shall be reimbursed in accordance with the terms and conditions of paragraph 13.4 hereof as though each member were a retained professional referred to therein.

(b) From and after the Confirmation Date, the Committee shall exercise those powers and perform those duties specified herein and in section 1103 of the Bankruptcy Code and shall perform such other duties as it may have been assigned by the Bankruptcy Court prior to the Effective Date. In addition, the Committee shall be responsible for (i) supervising the President with respect to his responsibilities under the Plan and the Services Agreement, (ii) reviewing the prosecution of adversary and other proceedings, if any, including proposed settlements thereof, (iii) reviewing objections to and proposed settlements of Disputed Claims, and (iv) performing such other duties that may be necessary and proper to assist the President.



(c) Except as otherwise expressly set forth in the Plan, the President shall at all times take direction from the Committee and shall not make any material decision absent approval of the Committee.

(d) The Committee shall remain in existence until such time as the final distributions under this Plan shall have been made by the Disbursing Agent, at which time, the Committee will be dissolved, and the duties of the Committee and its legal, financial and other advisors will terminate, except for purposes of filing and/or taking positions with respect to any appeals and applications for fees and reimbursement of expenses.

13.12 Payment of Fees to United States Trustee

The Reorganized Debtor shall pay all fees due the United States trustee pursuant to 28 U.S.C. § 1930 until the entry of a final decree closing the Chapter 11 Case.

13.13 Preservation of Insurance

The Debtor's discharge and release from all Claims as provided in the Plan, except as necessary to be consistent with the Plan, shall not diminish or impair the enforceability of any insurance policy that may cover claims against the Debtor or any other person or entity.

Dated: New York, New York  
October 19, 2004

Grumman Olson Industries, Inc.

By: /s/ Paul Gunther  
Paul Gunther, President

SANFORD P. ROSEN & ASSOCIATES, P.C.  
Attorneys for the Debtor  
and Debtor in Possession

HAHN & HESSEN LLP  
Counsel to the Official Committee of  
Unsecured Creditors

By: /s/ Sanford P. Rosen  
Sanford P. Rosen (SR-4966)

By: /s/ Mark T. Power  
Mark T. Power (MP-1607)

747 Third Avenue  
New York, NY 10017-2803  
(212) 223-1100

488 Madison Avenue  
New York, NY 10022  
(212) 478-7200

**EXHIBIT B**

Order Approving Solicitation Packages

SANFORD P. ROSEN & ASSOCIATES, P.C.  
Counsel for the Debtor  
747 Third Avenue  
New York, New York 10017-2803  
(212) 223-1100  
Sanford P. Rosen (SR-4966)

HAHN & HESSEN LLP  
Counsel to the Official Committee of  
Unsecured Creditors  
488 Madison Avenue  
New York, New York 10022  
(212) 478-7200  
Mark T. Power (MP-1607)  
Katharine G. Craner (KC-1364)

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

**CONFORMED COPY**

-----X	
In re	:
	:
GRUMMAN OLSON INDUSTRIES, INC.,	:
	:
Debtor.	:
	:
-----X	

Chapter 11  
Case No.: 02-16131 (SMB)

**ORDER APPROVING FIRST AMENDED DISCLOSURE STATEMENT,  
VOTING MATERIALS AND VOTING PROCEDURES  
AND FIXING TIME FOR FILING ACCEPTANCES OR  
REJECTIONS OF PLAN, COMBINED WITH NOTICE THEREOF**

A Disclosure Statement with respect to the Joint Liquidating Plan of Reorganization of Grumman Olson Industries, Inc. (the "Debtor") and the Official Committee of Unsecured Creditors (the "Creditors Committee") dated September 17, 2004 (the "Disclosure Statement") having been filed with this Court, together with Grumman Olson Industries, Inc.'s and Its Official Committee of Unsecured Creditors' Joint Liquidating Plan of Reorganization dated September 17, 2004 (the "Plan"); and the Debtor, together with the Creditors Committee

(together, the "Plan Proponents"), having filed a First Amended Disclosure Statement with respect to the First Amended Joint Liquidating Plan of Reorganization dated October 19, 2004 (the "Amended Disclosure Statement"), together with their First Amended Joint Liquidating Plan of Reorganization dated October 19, 2004 (the "Amended Plan"); a hearing after notice having been held to approve the Disclosure Statement as amended (the "Hearing"); and the Court having determined that the Amended Disclosure Statement contains adequate information in accordance with the requirements of Section 1125 of the Bankruptcy Code, and that the proposed voting materials, consisting of a Ballot and Letter of Transmittal, comply with the provisions of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"); and it appearing from the Affidavit of Service on file with this Court that sufficient notice of the Hearing has been provided; and upon the record of the Hearing held before me; and due deliberations having been had; and sufficient cause appearing therefor;

**NOW**, upon joint application of Sanford P. Rosen & Associates, P.C., attorneys for the Debtor, and Hahn & Hessen LLP, attorneys for the Creditors' Committee, it is hereby:

**ORDERED, ADJUDGED, DETERMINED AND FOUND** that:

1. Good and sufficient notice of the Hearing to consider approval of the Amended Disclosure Statement has been provided pursuant to Bankruptcy Rules 2002, 3016 and 3017 and any other requirement for notice be, and hereby is, dispensed with and waived.
2. The Amended Disclosure Statement is hereby approved as containing "adequate information" concerning the Amended Plan pursuant to section 1125 of the Bankruptcy Code and Bankruptcy Rule 3017(b).

3. All objections to the Disclosure Statement and/or the Amended Disclosure Statement, other than those withdrawn or consensually resolved prior to or on the record at the Hearing, are overruled.

4. The Plan Proponents are authorized, pursuant to Section 1125 of the Bankruptcy Code, to solicit acceptances or rejections of the Amended Plan from holders of allowed impaired claims against the Debtor, by the transmission of a copy of the Amended Plan and Amended Disclosure Statement, a Ballot (as defined below) and a Letter of Transmittal to each such holder.

5. On or before October 26, 2004, the Amended Disclosure Statement (including a copy of the Amended Plan), the Ballot, the Letter of Transmittal and a copy of this Order (the "Solicitation Package") shall be mailed by first-class mail, postage prepaid, to the United States Trustee, all known creditors of the Debtor, equity security holders and other parties-in-interest as provided in Bankruptcy Rule 3017(d), by Bankruptcy Management Corporation, the Debtor's claims agent (the "Claims Agent"). The Debtor is hereby authorized to use its funds in its bank account in an aggregate amount not to exceed \$15,000 for the cost of copying, serving and processing the Solicitation Package.

6. Ballots must be received by the Claims Agent no later than 5:00 p.m. Eastern Standard Time on November 17, 2004 (the "Voting Deadline") in order to be considered as acceptances or rejections of the Amended Plan. Ballots received by facsimile transmission will be accepted as long as the original Ballot is received prior to the confirmation hearing (scheduled for November 23, 2004 at 10:00 a.m.). Any ballots received after such time will not be counted.

7. Either Plan Proponent shall file the Certification of Ballots, pursuant to Local Bankruptcy Rule 3018 – 1, with the Clerk of the Court on or before November 19, 2004, with a courtesy copy to Chambers.

8. November 23, 2004, at 10:00 a.m. is fixed as the date for the hearing on confirmation of the Amended Plan to be held before the Honorable Stuart M. Bernstein, Chief United States Bankruptcy Judge, at the United States Bankruptcy Court, Southern District of New York, Old Customs House, Room 723, One Bowling Green, New York, New York 10004-1408, or as soon thereafter as counsel may be heard.

9. Any Ballot received by the Claims Agent that is incomplete in any way shall be deemed to be cast as follows:

(a) Ballots received that do not evidence the amount or evidence an incorrect amount of a creditor's claim shall be completed or corrected, as the case may be, based upon the Schedules filed by the Debtor if no proof of claim has been filed by such creditor or, if applicable, based upon a timely filed proof of claim, and counted as voted to accept or reject the Amended Plan; and

(b) Ballots received that do not reflect in which class such Ballot is cast or that incorrectly classify such creditor's claim and that are otherwise properly completed shall be completed or corrected, as the case may be, and counted as a vote to accept or reject the Amended Plan.

10. The following types of Ballots will not be counted in determining whether the Plan has been accepted or rejected:

(a) any Ballot received after the Voting Deadline unless the Plan Proponents have granted an extension of the Voting Deadline with respect to such Ballot and the Court approves the extension;

(b) any Ballot that is illegible or contains insufficient information to permit the identification of the creditor, or any Ballot received that does not identify the creditor whether or not signed by the creditor;

(c) any Ballot cast by a person or entity that does not hold a Claim in a class that is entitled to vote to accept or reject the Plan;

(d) any Ballot cast for a Claim scheduled as unliquidated, contingent or disputed for which no proof of Claim was timely filed;

(e) any unsigned Ballot.

11. The following types of Ballots , pursuant to an order of the Bankruptcy Court approving this Disclosure Statement, will be deemed a vote in favor of the Plan:

(a) whenever a creditor casts more than one (1) Ballot voting the same Claim before the Voting Deadline, the last Ballot received before the Voting Deadline will be deemed to reflect the voter's intent and thus to supersede any prior Ballots.

12. Motions to temporarily allow a claim for voting purposes ("Rule 3018(a) Motions") must be filed with the Court and served on the persons and in the same manner set forth in this Order for the Objections to the Amended Plan so that they are filed and received no later than 5:00 p.m. (EST) on November 10, 2004.

13. Rule 3018(a) Motions that are not filed and received by the time and in the manner set forth above shall not be considered by the Court and, except as otherwise provided herein, the claims referred to it therein shall not be counted in determining whether the Amended Plan has been accepted or rejected.

14. The form of ballot (the "Ballot") annexed hereto as Exhibit A is hereby approved in all respects and may be used by the Plan Proponents in conjunction with the solicitation of votes on the Amended Plan.

15. Notwithstanding Bankruptcy Rule 3018(a), whenever two or more Ballots are cast voting the same claim, the last Ballot received prior to the Voting Deadline shall be deemed to reflect the voter's intent and thus shall supercede any prior Ballots.

16. Any objection to confirmation of the Amended Plan must be (a) be in writing; (b) comply with the Bankruptcy Rules and Local Bankruptcy Rules of this Court; (c) state the name of the objectant; (d) state with particularity the legal and factual basis for the objection; and (e) be electronically filed with the Court pursuant to the procedures set forth at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov) together with proof of service thereof, upon (i) Sanford P. Rosen & Associates, P.C., counsel to the Debtor, 747 Third Avenue, New York, New York 10017-2803, Attn: Sanford P. Rosen, Esq., (ii) Hahn & Hessen LLP, counsel to the Official Committee of Unsecured Creditors, 488 Madison Avenue, New York, New York 10022, Attn: Mark T. Power, Esq., (iii) the Office of the United States Trustee, 33 Whitehall Street, 21<sup>st</sup> Floor, New York, New York 10004, Attn: Gregory M. Zipes, Esq; with a courtesy copy delivered directly to the Chambers of the Honorable Stuart M. Bernstein, Chief United States Bankruptcy Judge, United States Bankruptcy Court for the Southern District of New York, One Bowling Green, New York,



New York 10004; so as to actually be filed, and received by all foregoing, no later than 5:00 p.m., New York City time, on November 17, 2004.

17. This Order shall be effective and enforceable upon its entry.

Dated: New York, New York  
October 25, 2004

/s/ Stuart M. Bernstein  
CHIEF UNITED STATES BANKRUPTCY JUDGE

**Exhibit A**

**BALLOTS MUST BE RECEIVED BY 5:00 P.M. EST ON NOVEMBER 17, 2004**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re

:

: Chapter 11

GRUMMAN OLSON INDUSTRIES, INC.,

:

: Case No.: 02-16131 (SMB)

Debtor.

:

-----X

**BALLOT FOR ACCEPTING OR REJECTING GRUMMAN OLSON INDUSTRIES, INC.'S.  
AND ITS OFFICIAL COMMITTEE OF UNSECURED CREDITORS' FIRST AMENDED  
JOINT LIQUIDATION CHAPTER 11 PLAN OF REORGANIZATION**

***PLEASE READ INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING BALLOT***

Class No.<sup>1</sup>

Claim Amount

Accepts the Plan

Rejects the Plan

3

\$ \_\_\_\_\_

☐

or

☐

***ANY BALLOT THAT IS EXECUTED BUT DOES NOT INDICATE AN ACCEPTANCE OR  
REJECTION OF THE PLAN SHALL BE DEEMED TO BE AN ACCEPTANCE.***

Dated: \_\_\_\_\_, 2004

1. \_\_\_\_\_

**Name of Creditor - Please Print**

2. \_\_\_\_\_

**Signature**

3. \_\_\_\_\_

**Title**

4. \_\_\_\_\_

**Address**

5. \_\_\_\_\_

**Daytime Telephone No.**

6. \_\_\_\_\_

**E-Mail Address**

The accompanying Grumman Olson Industries, Inc.'s and Its Official Committee of Unsecured Creditors' First Amended Joint Liquidating Plan of Reorganization dated October 19, 2004 filed with the Bankruptcy Court and referred to in this Ballot (the "Plan") can be confirmed by the Bankruptcy Court, and thereby made binding on you, if it is accepted by each class of creditors that is impaired under the Plan (i.e., Classes 2 and 3). A class of creditors is considered to accept the Plan if holders of at least two-thirds in amount and more than one-half in number of the Allowed Claims in such Class which vote, vote to accept the Plan. Please note that the Plan may still be confirmed even if not accepted by each impaired class of creditors or interests pursuant to the cramdown provisions of the Code, 11 U.S.C. §1129(b). Except as otherwise provided herein, all initially capitalized terms used in the Ballot have the meanings given to such terms in the Plan.

<sup>1</sup> Only Claim Holders in impaired Class 2 Secured Claims and Class 3 Unsecured Claims under the Plan are entitled to vote.

**INSTRUCTIONS: ALL CREDITORS**

1. AS A CLASS 3 CREDITOR, YOU HAVE THE RIGHT TO VOTE ON WHETHER TO ACCEPT OR REJECT THE PLAN. TO HAVE YOUR VOTE COUNTED, INDICATE ACCEPTANCE OR REJECTION OF THIS PLAN IN THE BOXES PROVIDED. YOU SHOULD COMPLETE THE BALLOT BY PROVIDING ALL THE INFORMATION REQUESTED. SIGN THIS BALLOT AND RETURN IT BY MAIL TO THE FOLLOWING ADDRESS:

**GRUMMAN OLSON INDUSTRIES, INC.  
c/o Bankruptcy Management Corp.  
1330 E. Franklin Avenue  
El Segundo, CA 90245  
Attn: Grumman Olson Industries Balloting Center**

BALLOTS MUST BE RECEIVED BY 5:00 P.M. EASTERN STANDARD TIME ON NOVEMBER 17, 2004. ANY BALLOTS RECEIVED AFTER SUCH TIME WILL NOT BE COUNTED. IF YOU HAVE ANY QUESTIONS, PLEASE CALL BANKRUPTCY MANAGEMENT (ATT: THE GRUMMAN OLSON INDUSTRIES BALLOTING CENTER) AT (310) 321-5555.

2. Grumman Olson Industries, Inc. and the Official Committee of Unsecured Creditors (the "Committee") filed the Plan for the Debtor in this case. The Court has approved a disclosure statement with respect to the Plan (the "Disclosure Statement"). The Disclosure Statement provides information to assist you in deciding how to vote your ballot. If you do not have a Disclosure Statement, you may obtain a copy from Bankruptcy Management at the above address and telephone number. Court approval of the Disclosure Statement does not indicate approval of the Plan by the Court.
3. You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your claim has been placed in Class 3 under the Plan.
4. If the Plan is confirmed by the Bankruptcy Court it will be binding on you whether or not you vote.
5. The dollar amount and classification of your claim that you set forth in the Ballot is for voting purposes only. The Debtor and the Committee reserve all rights to object to the classification or the amount (whether in part or in full) of your claim in accordance with the applicable provisions of the Plan or to modify the amount of the Claim to reflect the amount listed in the Debtor's schedules or your proof of claim.
6. **PLEASE SIGN THE BALLOT.** Names of all joint holders should be written even if signed by only one. If the claim is held by a corporation, the Ballot should be executed in the name of the corporation by an authorized officer. If the claim is held by a partnership, the Ballot should be executed in the name of the partnership by a general partner. If you are signing in a representative capacity, indicate your title under your signature.

***IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT OR THE VOTING PROCEDURES, PLEASE CALL SANFORD P. ROSEN, ESQ. OF SANFORD P. ROSEN & ASSOCIATES, P.C., COUNSEL TO THE DEBTOR, AT (212) 223-1100 OR MARK T. POWER, ESQ. OR KATHARINE G. CRANER, ESQ. OF HAHN & HESSEN LLP, COUNSEL TO THE CREDITORS COMMITTEE, AT (212) 478-720***

**BALLOTS MUST BE RECEIVED BY 5:00 P.M. EST ON NOVEMBER 17, 2004**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re

:

: Chapter 11

GRUMMAN OLSON INDUSTRIES, INC.,

:

: Case No.: 02-16131 (SMB)

Debtor.

:

-----X

**BALLOT FOR ACCEPTING OR REJECTING GRUMMAN OLSON INDUSTRIES, INC.'S.  
AND ITS OFFICIAL COMMITTEE OF UNSECURED CREDITORS' FIRST AMENDED  
JOINT LIQUIDATION CHAPTER 11 PLAN OF REORGANIZATION**

***PLEASE READ INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING BALLOT***

<u>Class No.</u> <sup>1</sup>	<u>Claim Amount</u>	<u>Accepts the Plan</u>	<u>Rejects the Plan</u>
2	\$ _____	<input type="checkbox"/>	or <input type="checkbox"/>

***ANY BALLOT THAT IS EXECUTED BUT DOES NOT INDICATE AN ACCEPTANCE OR  
REJECTION OF THE PLAN SHALL BE DEEMED TO BE AN ACCEPTANCE.***

Dated: \_\_\_\_\_, 2004

1. \_\_\_\_\_

**Name of Creditor - Please Print**

2. \_\_\_\_\_

**Signature**

3. \_\_\_\_\_

**Title**

4. \_\_\_\_\_

**Address**

5. \_\_\_\_\_

**Daytime Telephone No.**

6. \_\_\_\_\_

**E-Mail Address**

The accompanying Grumman Olson Industries, Inc.'s. and Its Official Committee of Unsecured Creditors' First Amended Joint Liquidating Plan of Reorganization dated October 19, 2004 filed with the Bankruptcy Court and referred to in this Ballot (the "Plan") can be confirmed by the Bankruptcy Court, and thereby made binding on you, if it is accepted by each class of creditors that is impaired under the Plan (i.e., Classes 2 and 3). A class of creditors is considered to accept the Plan if holders of at least two-thirds in amount and more than one-half in number of the Allowed Claims in such Class which vote, vote to accept the Plan. Please note that the Plan may still be confirmed even if not accepted by each impaired class of creditors or interests pursuant to the cramdown provisions of the Code, 11 U.S.C. §1129(b). Except as otherwise provided herein, all initially capitalized terms used in the Ballot have the meanings given to such terms in the Plan.

<sup>1</sup> Only Claim Holders in impaired Class 2 Secured Claims and 3 Unsecured Claims under the Plan are entitled to vote.

**INSTRUCTIONS: ALL CREDITORS**

1. AS A CLASS 3 CREDITOR, YOU HAVE THE RIGHT TO VOTE ON WHETHER TO ACCEPT OR REJECT THE PLAN. TO HAVE YOUR VOTE COUNTED, INDICATE ACCEPTANCE OR REJECTION OF THIS PLAN IN THE BOXES PROVIDED. YOU SHOULD COMPLETE THE BALLOT BY PROVIDING ALL THE INFORMATION REQUESTED. SIGN THIS BALLOT AND RETURN IT BY MAIL TO THE FOLLOWING ADDRESS:

**GRUMMAN OLSON INDUSTRIES, INC.  
c/o Bankruptcy Management Corp.  
1330 E. Franklin Avenue  
El Segundo, CA 90245  
Attn: Grumman Olson Industries Balloting Center**

BALLOTS MUST BE RECEIVED BY 5:00 P.M. EASTERN STANDARD TIME ON NOVEMBER 17, 2004. ANY BALLOTS RECEIVED AFTER SUCH TIME WILL NOT BE COUNTED. IF YOU HAVE ANY QUESTIONS, PLEASE CALL BANKRUPTCY MANAGEMENT (ATTENTION: THE GRUMMAN OLSON INDUSTRIES BALLOTING CENTER) AT (310) 321-5555.

2. Grumman Olson Industries, Inc. and the Official Committee of Unsecured Creditors (the "Committee") filed the Plan for the Debtor in this case. The Court has approved a disclosure statement with respect to the Plan (the "Disclosure Statement"). The Disclosure Statement provides information to assist you in deciding how to vote your ballot. If you do not have a Disclosure Statement, you may obtain a copy from Bankruptcy Management at the above address and telephone number. Court approval of the Disclosure Statement does not indicate approval of the Plan by the Court.
3. You should review the Disclosure Statement and the Plan before you vote. You may wish to seek legal advice concerning the Plan and your classification and treatment under the Plan. Your claim has been placed in Class 3 under the Plan.
4. If the Plan is confirmed by the Bankruptcy Court, it will be binding on you whether or not you vote.
5. The dollar amount and classification of your claim that you set forth in the Ballot is for voting purposes only. The Debtor and the Committee reserve all rights to object to the classification or the amount (whether in part or in full) of your claim in accordance with the applicable provisions of the Plan or to modify the amount of the Claim to reflect the amount listed in the Debtor's schedules or your proof of claim.
6. **PLEASE SIGN THE BALLOT.** Names of all joint holders should be written even if signed by only one. If the claim is held by a corporation, the Ballot should be executed in the name of the corporation by an authorized officer. If the claim is held by a partnership, the Ballot should be executed in the name of the partnership by a general partner. If you are signing in a representative capacity, indicate your title under your signature.

***IF YOU HAVE ANY QUESTIONS REGARDING THIS BALLOT OR THE VOTING PROCEDURES, PLEASE CALL SANFORD P. ROSEN, ESQ. OF SANFORD P. ROSEN & ASSOCIATES, P.C., COUNSEL TO THE DEBTOR, AT (212) 223-1100 OR MARK T. POWER, ESQ. OR KATHARINE G. CRANER, ESQ., OF HAHN & HESSEN LLP, COUNSEL TO THE CREDITORS COMMITTEE, AT (212) 478-7200.***

**Exhibit C**

**To**

**First Amended Disclosure Statement for the Debtor Grumman  
Olson Industries, Inc.'s and Its Official Committee of  
Unsecured Creditors' First Amended Joint Liquidating  
Chapter 11 Plan of Reorganization**

**Chapter 11 Orderly Liquidation Analysis**

**Grumman Olson, Inc.**  
**Case No. 02-B-16131 (SMB)**  
**Chapter 11 Orderly Liquidation Analysis**  
**(In thousands)**

<b>Chapter 11 Orderly Liquidation</b>			
	<b>Projected Balances 09/30/04</b>	<b>Estimated Recovery</b>	<b>Estimated Liquidation Process</b>
<b>PROCEEDS FROM LIQUIDATION</b>			
Cash and Cash Equivalents (Subject to TBCC lien - See Below)	\$ 156 (1)	100.0%	\$ 156
Wind Down Budget - TBCC	300 (2)	100.0%	300
Net Proceeds from Avoidance Claims (estimate)	1,750 (3)	100.0%	1,750
Other assets	-	0.0%	-
<b>Total Proceeds from liquidation</b>	<b>\$ 2,206</b>	<b>100.0%</b>	<b>\$ 2,206</b>
	<b>Estimated Claim</b>	<b>Estimated Recovery %</b>	<b>Recovery</b>
<b>ALLOCATION OF PROCEEDS</b>			
<b>Chapter 11 and wind down administrative expenses</b>			
U. S. Trustee Fees	\$ 10	100.0%	\$ 10
Trustee Fees	-	0.0%	-
Professional fees - Post-confirmation (estimate)	300 (4)	100.0%	300
<b>Total Chapter 11 and wind-down administrative expenses</b>	<b>\$ 310</b>	<b>100.0%</b>	<b>\$ 310</b>
<b>Proceeds available for payment of Secured Claims</b>			\$ 1,896
<b>Secured Claims</b>			
TBCC Secured Cash Collateral	\$ 156	100.0%	\$ 156
<b>Total Secured Claims</b>	<b>\$ 156</b>	<b>100.0%</b>	<b>\$ 156</b>
<b>Proceeds available for payment of administrative claims and priority claims</b>			\$ 1,740
<b>Administrative and Priority Claims</b>			
Priority Claims	\$ 99 (5)	100.0%	\$ 99
Non-professional Administrative Claims (estimate)	427 (6)	100.0%	427
Professional fees through Confirmation, unfunded (estimate)	190 (7)	100.0%	190
Other Liabilities Not Subject to Compromise	-	100.0%	-
<b>Total Administrative and Priority Claims</b>	<b>\$ 716</b>	<b>100.0%</b>	<b>\$ 716</b>
<b>Proceeds available for payment of General Unsecured Claims</b>			\$ 1,024
<b>General Unsecured Claims</b>			
Trade and other miscellaneous claims	\$ 18,981 (8)	5.4%	\$ 1,024
<b>Total General Unsecured Claims</b>	<b>\$ 18,981</b>	<b>5.4%</b>	<b>\$ 1,024</b>
<b>Proceeds available for distribution to preferred and common interest</b>			-



**Grumman Olson Industries, Inc.**  
Case No. 02-B-16131 (SMB)  
Notes to Chapter 11 Orderly Liquidation Analysis

**Footnotes:**

- 1) Estimated as of September 9, 2004
- 2) To be funded by Transamerica Business Credit Corporation ("TBCC") pursuant to an agreement reached between TBCC, the Debtor and the Committee and placed on the record before the Court.
- 3) Estimated gross payments subject to avoidance under Section 547 and 550 of the Bankruptcy Code total approximately \$13 million according to the Debtor's records. The Debtor estimates that net proceeds from avoidance claims should be between \$1,000,000 and \$2,500,000 after taking into account defenses, professional fees and other costs to pursue. The Debtor has estimated a mid point of \$1,750,000 for purposes of this Chapter 11 Orderly Liquidation Analysis, which also include potential claims against other 3<sup>rd</sup> parties.
- 4) Estimated professional fees for the post confirmation period.
- 5) Pursuant the Debtor's Schedule E – Creditors Holding Unsecured Priority Claims less certain real property taxes assumed to be paid by the Debtor in the ordinary course.
- 6) Estimated based on filed claims through September 9, 2004 and an approved settlement with the Saudi Establishment For Safety Equipment, Inc.
- 7) Estimated professional fees through confirmation of the Liquidating Plan of Reorganization less certain carve out amounts.
- 8) The Debtor's Scheduled F claims were \$13,981,631 and the estimated filed claims through September 9, 2004, are approximately \$9,700,000. The Debtor has estimated total unsecured claims to be the scheduled amount of \$13,981,631 plus \$5,000,000 for purposes of this Chapter 11 Orderly Liquidation Analysis. Because the claims bar date was not until October 22, 2004, additional claims may have been filed.

THE ANNEXED CHAPTER 11 ORDERLY LIQUIDATION (EXHIBIT C) AND THE CHAPTER 7 LIQUIDATION ANALYSIS (EXHIBIT D) WERE PREPARED AS OF SEPTEMBER 9, 2004 BASED UPON PROJECTED NET RECOVERIES FROM THE COLLECTION AND THE LIQUIDATION OF THE DEBTOR'S ASSETS, INCLUDING THE PROSECUTION AND COLLECTION OF AVOIDANCE ACTIONS, AND ESTIMATED PROFESSIONAL FEES AND ADMINISTRATIVE, PRIORITY AND GENERAL UNSECURED CLAIMS. CREDITORS ARE CAUTIONED THAT ACTUAL DISTRIBUTIONS TO CREDITORS MAY DIFFER SIGNIFICANTLY. CREDITORS SHOULD REFER TO THE RISKS SECTION CONTAINED ON THE LAST PAGE OF THIS EXHIBIT

## **RISK FACTORS IN CONNECTION WITH PROJECTED DISTRIBUTIONS TO CREDITORS**

Creditors are cautioned that the Chapter 11 Orderly Liquidation Analysis (Exhibit C) and the Chapter 7 Liquidation Analysis (Exhibit D) were prepared as of September 9, 2004. A number of risk factors may affect the actual distributions to creditors, including, without limitation, the following:

1. The actual recoveries realized from the collection and liquidation of the Debtor's remaining assets and the timing thereof may vary significantly from the Debtor's projections. Any such variation will affect the amount and timing of distributions to creditors. In addition, the extent of creditors' recoveries will be largely dependent on the results realized from the prosecution of Avoidance Claims and other causes of action the Debtor's estate has against third parties. Given the inherent uncertainties of what, if anything, will be recovered in litigations, net of costs incurred to pursue such litigations, as well as the uncertainty in the collectibility of any judgments obtained, it is not possible to project with certainty what the ultimate distribution to Class 3 Unsecured Creditors will be.

2. The actual distributions to creditors will be affected by the total amount of allowed professional fees and administrative claims in the case. Creditors should be aware that a bar date for filing administrative claims in this case has not occurred as of the date (September 9, 2004) this analysis was prepared. To the extent administrative claims are received beyond the Debtor's current estimates, such claims may adversely affect the amount and timing of actual distributions to creditors.

3. The Debtor has estimated total priority claims will be approximately \$99,000. Creditors should be aware, however, that the Debtor scheduled total priority claims of \$348,000. The majority of those claims, however, were for unpaid property taxes, which it is believed have been subsequently satisfied. In addition, a number of state and local taxing authorities have filed proof of claims in the Chapter 11 Case asserting significant unscheduled priority tax liabilities. While the Debtor believes that these tax claims, among others, will ultimately be substantially reduced or disallowed, such claims, to the extent allowed in full or part, will adversely affect the amount and timing of actual distributions to unsecured creditors.

5. The actual distributions to unsecured creditors in this case will be affected by the total amount of unsecured claims ultimately allowed in the case. Creditors should be aware that a bar date for filing proof of claims for claims against the Debtor that arose prior to the Filing Date has not occurred as of the date (September 9, 2004) this analysis was prepared. To the extent claims are received beyond the Debtor's current projections, such claims may adversely affect the amount and timing of actual distributions to creditors. While the Debtor projects that the total allowed unsecured claims should not exceed \$19 million, the actual amount of allowed claims might exceed this amount, in which case the actual pro rata distributions to creditors would be less than projected.

**Exhibit D**

**To**

**First Amended Disclosure Statement for the Debtor Grumman  
Olson Industries, Inc.'s and Its Official Committee of  
Unsecured Creditors' First Amended Joint Liquidating  
Chapter 11 Plan of Reorganization**

**Chapter 7 Liquidation Analysis**

**Grumman Olson, Inc.**  
**Case No. 02-B-16131 (SMB)**  
**Chapter 7 Liquidation Analysis**  
(In thousands)

Chapter 7 Liquidation Analysis				
	Projected Balances 09/30/04		Estimated Recovery	Estimated Liquidation Process
<b>PROCEEDS FROM LIQUIDATION</b>				
Cash and Cash Equivalents (Subject to TBCC lien - See Below)	\$ 156	(1)	100.0%	\$ 156
Wind Down Budget - TBCC	300	(2)	100.0%	300
Net Proceeds from Avoidance Claims (estimate)	1,500	(3)	100.0%	1,500
Other assets	-		0.0%	-
<b>Total Proceeds from Liquidation</b>	<b>\$ 1,956</b>		<b>100.0%</b>	<b>\$ 1,956</b>
	<b>Estimated Claim</b>		<b>Estimated Recovery %</b>	<b>Recovery</b>
<b>ALLOCATION OF PROCEEDS</b>				
Chapter 7 and wind down administrative expenses				
U. S. Trustee Fees	\$ 10		100.0%	\$ 10
Trustee Fees	82	(9)	100.0%	82
Professional fees (estimate)	500	(4)	100.0%	500
<b>Total Chapter 7 and wind-down administrative expenses</b>	<b>\$ 592</b>		<b>100.0%</b>	<b>\$ 592</b>
<b>Proceeds available for payment of Secured Claims</b>				\$ 1,364
<b>Secured Claims</b>				
TBCC Secured Cash Collateral	\$ 156		100.0%	\$ 156
<b>Total Secured Claims</b>	<b>\$ 156</b>		<b>100.0%</b>	<b>\$ 156</b>
<b>Proceeds available for payment of administrative claims and priority claims</b>				\$ 1,208
<b>Administrative and Priority Claims</b>				
Priority Claims	\$ 99	(5)	100.0%	\$ 99
Non-professional Administrative Claims (estimate)	427	(6)	100.0%	427
Professional fees, unfunded (estimate)	190	(7)	100.0%	190
Other Liabilities Not Subject to Compromise	-		100.0%	-
<b>Total Administrative and Priority Claims</b>	<b>\$ 716</b>		<b>100.0%</b>	<b>\$ 716</b>
<b>Proceeds available for payment of General Unsecured Claims</b>				\$ 492
<b>General Unsecured Claims</b>				
Trade and other miscellaneous claims	\$ 19,981	(8)	2.5%	\$ 492
<b>Total General Unsecured Claims</b>	<b>\$ 19,981</b>		<b>2.5%</b>	<b>\$ 492</b>
<b>Proceeds available for distribution to preferred and common interest</b>				-

**Grumman Olson Industries, Inc.**  
Case No. 02-B-16131 (SMB)  
Notes to Chapter 7 Liquidation Analysis

**Footnotes:**

- 1) Estimated as of September 9, 2004
- 2) To be funded by Transamerica Business Credit Corporation ("TBCC") pursuant to an agreement reached between TBCC, the Debtor and the Committee and placed on the record before the Court.
- 3) Estimated gross payments subject to avoidance under Section 547 and 550 of the Bankruptcy Code total approximately \$13 million according to the Debtor's records. The Debtor estimates that net proceeds from avoidance claims should be between \$1,000,000 and \$2,500,000 after taking into account defenses, professional fees and other costs to pursue. The Debtor has estimated a mid point of \$1,500,000 for purposes of this Chapter 7 Liquidation Analysis, which also include potential claims against other 3<sup>rd</sup> parties.
- 4) Estimated professional fees for the chapter 7 period.
- 5) Pursuant the Debtor's Schedule E – Creditors Holding Unsecured Priority Claims less certain real property taxes assumed to be paid by the Debtor in the ordinary course.
- 6) Estimated based on filed claims through September 9, 2004 and a settlement with the Saudi Establishment For Safety Equipment, Inc.
- 7) Estimated professional fees through confirmation of the Liquidating Plan of Reorganization less certain carve out amounts.
- 8) The Debtor's Scheduled F claims were \$13,981,631 and the estimated filed claims through September 9, 2004, are approximately \$9,700,000. The Debtor has estimated total unsecured claims to be the scheduled amount of \$13,981,631 plus \$5,000,000 for purposes of this Chapter 7 Liquidation Analysis. Because the claims bar date was not until October 22, 2004, additional claims may have been be filed.
- 9) Estimated Chapter 7 Trustee Fees:

Rate	Amount	Amount	Fees
25%	\$0	\$5,000	\$1,250
10%	\$5,000	\$50,000	\$4,500
5%	\$50,000	\$1,000,000	\$47,500
3%	\$1,000,000	\$2,286,000	\$28,666
	Total		\$81,916

THE ANNEXED CHAPTER 11 ORDERLY LIQUIDATION (EXHIBIT C) AND THE CHAPTER 7 LIQUIDATION ANALYSIS (EXHIBIT D) WERE PREPARED AS OF SEPTEMBER 9, 2004 BASED UPON PROJECTED NET RECOVERIES FROM THE COLLECTION AND THE LIQUIDATION OF THE DEBTOR'S ASSETS, INCLUDING THE PROSECUTION AND COLLECTION OF AVOIDANCE ACTIONS, AND ESTIMATED PROFESSIONAL FEES AND ADMINISTRATIVE, PRIORITY AND GENERAL UNSECURED CLAIMS. CREDITORS ARE CAUTIONED THAT ACTUAL DISTRIBUTIONS TO CREDITORS MAY DIFFER SIGNIFICANTLY. CREDITORS SHOULD REFER TO THE RISKS SECTION CONTAINED ON THE LAST PAGE OF THIS EXHIBIT

## **RISK FACTORS IN CONNECTION WITH PROJECTED DISTRIBUTIONS TO CREDITORS**

Creditors are cautioned that the Chapter 11 Orderly Liquidation Analysis (Exhibit C) and the Chapter 7 Liquidation Analysis (Exhibit D) were prepared as of September 9, 2004. A number of risk factors may affect the actual distributions to creditors, including, without limitation, the following:

1. The actual recoveries realized from the collection and liquidation of the Debtor's remaining assets and the timing thereof may vary significantly from the Debtor's projections. Any such variation will affect the amount and timing of distributions to creditors. In addition, the extent of creditors' recoveries will be largely dependent on the results realized from the prosecution of Avoidance Claims and other causes of action the Debtor's estate has against third parties. Given the inherent uncertainties of what, if anything, will be recovered in litigations, net of costs incurred to pursue such litigations, as well as the uncertainty in the collectibility of any judgments obtained, it is not possible to project with certainty what the ultimate distribution to Class 3 Unsecured Creditors will be.

2. The actual distributions to creditors will be affected by the total amount of allowed professional fees and administrative claims in the case. Creditors should be aware that a bar date for filing administrative claims in this case has not occurred as of the date (September 9, 2004) this analysis was prepared. To the extent administrative claims are received beyond the Debtor's current estimates, such claims may adversely affect the amount and timing of actual distributions to creditors.

3. The Debtor has estimated total priority claims will be approximately \$99,000. Creditors should be aware, however, that the Debtor scheduled total priority claims of \$348,000. The majority of those claims, however, were for unpaid property taxes, which it is believed have been subsequently satisfied. In addition, a number of state and local taxing authorities have filed proof of claims in the Chapter 11 Case asserting significant unscheduled priority tax liabilities. While the Debtor believes that these tax claims, among others, will ultimately be substantially reduced or disallowed, such claims, to the extent allowed in full or part, will adversely affect the amount and timing of actual distributions to unsecured creditors.

5. The actual distributions to unsecured creditors in this case will be affected by the total amount of unsecured claims ultimately allowed in the case. Creditors should be aware that a bar date for filing proof of claims for claims against the Debtor that arose prior to the Filing Date has not occurred as of the date (September 9, 2004) this analysis was prepared. To the extent claims are received beyond the Debtor's current projections, such claims may adversely affect the amount and timing of actual distributions to creditors. While the Debtor projects that the total allowed unsecured claims should not exceed \$19 million, the actual amount of allowed claims might exceed this amount, in which case the actual pro rata distributions to creditors would be less than projected.



**EXHIBIT E**

**Paul Gunther**  
**Specialist in Bankruptcy Administration**  
**2-30A Lincoln Square**  
**60 West 66<sup>th</sup> Street**  
**New York, NY 10023**

Phone (212) 787-1821

Fax (212) 877-2153

e-mail [paul.gunther@verizon.net](mailto:paul.gunther@verizon.net)

**EDUCATION**

Harvard Business School  
MBA 1968

Brigham Young University  
BA Humanities 1968

**CORPORATE  
WORK  
EXPERIENCE  
1968-1984**

Chief Financial Officer  
Lillian Vernon (Mail Order Catalog Retailer)

Chief Financial Officer  
Berkey Photo (Specialty Photo Processor/Retailer)

Vice President, Finance  
Bond Industries (Manufacturer/Retailer)

Director, Strategy Planning  
Dayton Hudson Corp. (Retail Conglomerate)

**BANKRUPTCY  
EXPERIENCE**

Petrie Retail, Inc. (1998 to Present)  
Appointed Plan Administrator to oversee \$70 million cash fund and reconcile over 8,000 claims totalling in excess of \$1 billion. Successful in collecting receivables, reducing tax claims and increasing expected payout to unsecured creditors from an original estimate of 12% to 25% (45% in the case of "trade" creditors). I am bonded for \$30 million.

Joan & David, Inc. (2001 to 2002)  
Concurrent with my Petrie Retail assignment, closed New York and Boston offices and consolidated bankruptcy function in New Jersey. I reconciled \$20 million in claims and distributed 35% to unsecured creditors in less than 12 months.

Ormond Shops (1984-1997)  
Upon the recommendation of the Creditors' Committee, I was appointed Plan Administrator. I was bonded and responsible for the distribution of approximately \$15 million over two years.

New Hampton (1993-1994)  
I was appointed "Responsible Party" and President of NIL Corp., the successor to New Hampton in their Chapter 11 bankruptcy at the request of the Creditors' Committee. I was bonded and distributed \$14 million over two years.

Frost Bros. (1989-1996)  
Following my resignation as Frost Bros. Chief Financial Officer (December 1987 to June 1989), I was recruited by the Creditors' Committee (represented by Hahn & Hessen LLP) to oversee the wind-down and distribution of over \$20 million.

I am a Director of the Bank of American Fork, an FDIC insured bank and am bonded. As a Director, I assisted the Bank in four strategic planning sessions since 1988, aiding the bank's asset growth of 300% and tenfold increase in net income.

I am Co-Director of the New York Family History Center, a volunteer non-profit organization that assists in the search of one's ancestors.

I have been married for over 36 years, am the father of eight children and have resided at the above address since 1975. I have no indebtedness.

**Other consulting affiliations (1984-2002):**

AIU International  
American Photo Group  
Bank of American Fork  
Belman Shoes  
Michael's Stores  
Berkey Marketing  
Delphi Technology  
The Children's Place  
Essence Communications  
Data Centrum  
Dataport  
USAFrames  
Saranet

**REFERENCES**

Mark Power	Hahn & Hessen LLP	(212) 736-1000
William Fabrizio	Hahn & Hessen LLP	(212) 736-1000
Jack Welsbaum	BDO Seidman	(212) 885-8000
Mitchel Perkiel	Jenkins & Gilchrist Parker Chapin	(212) 704-6016
Glen Anderson	Vice Chairman, Bank of American Fork	(801) 766-7681

**Paul Gunther**  
**Specialist in Bankruptcy Administration**  
**2-30A Lincoln Square**  
**60 West 66<sup>th</sup> Street**  
**New York, NY 10023**

---

Phone (212) 787-1821

Fax (212) 877-2153

e-mail paul.gunther@verizon.net

**Addendum to Resume:**

**May 3, 2002**

Since 1989, I have served as a plan administrator in five bankruptcies. Frost Bros. (1989-1996), New Hampton (1993-1994), Ormond Shops (1994-1997), Petrie Retail, Inc. (1998-present) and JODA, Inc. (2001-2002). You may be interested in some of my accomplishments.

In each assignment I reconciled and negotiated administrative, priority and unsecured claims to insure that each creditor received its fair and appropriate share of the distributions. By eliminating excessive and duplicative claims, total claims were reduced from \$112 million to \$50 million in Frost Bros., from \$48 million to \$20 million in Ormond Shops, from \$1 billion to \$156 million in Petrie Retail. A similar and substantial reductions were also achieved in New Hampton and Joan & David.

I developed claims tracking software that corrected weaknesses in the claims agents' claims management systems. Our new systems enabled us to reduce the overall cost of claims management and made more funds available to creditors.

In addition to collecting normal accounts receivable and other debt, in Frost Bros. I collected over \$1 million in debt owed the Estate that had been described by the Creditors' Committee as "worthless".

In Ormond Shops, my oversight, analysis and negotiation of a liquidators contractual fees increased the creditors share of liquidation proceeds by 200%.

In Frost Bros. I materially increased the cash available for distribution by selling trademarks and trade names.

I was also retained by Creditors' Committee Accountants to evaluate the business plan of a Debtor's \$100 million retail ready-to-wear subsidiary (The Children's Place) which the Committee considered to be of little worth. My favorable appraisal convinced the Creditors Committee to seek and obtain substantial additional value and insured the continued viability of the chain (which subsequently became a public company with a current market capitalization of \$940 million).

In a crisis workout at Ormond Shops, I rehired 25 terminated employees to finish a three month operations shutdown and prepare year end tax filings. The task was completed on budget in two and one-half months.

My accomplishments have been achieved through the retention, training and motivation of rank and file employees who have proven more efficient and cost effective than an excessive use of professionals, insuring higher distributions to creditors.

I am familiar with bankruptcy procedures, comfortable and effective in working with attorneys, accountants and other professionals and in analyzing all categories of claims. I have been successful in negotiations with landlords, governmental agencies (including the IRS) and trade claimants. My work has been praised by bankruptcy judges, attorneys and accountants, as well as the creditors I have served.