

**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	Case No. 06-00932
	)	
GLAZED INVESTMENTS, LLC,	)	Chapter 11
	)	
Debtor.	)	Hon. Pamela S. Hollis
	)	

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**AMENDED DISCLOSURE STATEMENT FOR THE DEBTOR'S  
AMENDED LIQUIDATING PLAN OF REORGANIZATION PURSUANT  
TO CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

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## SUMMARY OF THE PLAN

**THIS IS ONLY A SUMMARY OF THE INFORMATION CONTAINED IN THE PLAN AND THE DISCLOSURE STATEMENT. ALL CREDITORS AND OTHER PARTIES IN INTEREST ARE URGED TO REVIEW THOSE DOCUMENTS IN THEIR ENTIRETY BEFORE VOTING ON THE PLAN.**

**Plan:** Debtor's Amended Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code Dated May 8, 2006.

**Debtor:** Glazed Investments, LLC.

**General Purpose:** The Debtor was the exclusive area developer of Krispy Kreme products for a geographic region encompassing parts of Minnesota, Wisconsin and Colorado. Prior to its bankruptcy filing, the Debtor operated twenty franchise locations and supplied approximately 1,340 wholesale locations in its covered territory. On March 16, 2006, the Bankruptcy Court authorized the Debtor to consummate the sale of substantially all of its operating Assets to Westward Dough for \$10 million. The sale closed on March 30, 2006. The Plan contemplates monetizing the Assets of the Debtor and distributing the proceeds thereof to fund the Plan. To the extent the Debtor's Assets are insufficient to make the Plan distributions to holders of Allowed Claims, Krispy Kreme will advance funds to the Debtor sufficient for such payments to be made.

**Unclassified Claims:** Unclassified Claims consist of all Administrative Claims and Tax Claims. The Debtor estimates that the Allowed Administrative Claims and Allowed Tax Claims will be approximately \$1,500,000 and \$295,000, respectively.

Allowed Administrative Claims and Allowed Tax Claims will be paid in full in cash generally as soon as reasonably practicable (a) after the Effective Date, or (b) if such Claim is Allowed after the Effective Date, when such Claim is Allowed. United States Trustee and other bankruptcy fees required to be paid pursuant to 28 U.S.C. § 1930 will be paid in full on or before the Effective Date. *The expected recovery of holders of Allowed Unclassified Claims is 100%.*

**Classes of Claims:** 1. Class 1: Allowed Claims of ANB, GE and US Bank, pursuant to the ANB Loans, the GE Notes and the US Bank Loan Documents, respectively. *The expected recovery of each of the holders of Allowed Class 1 Claims is 100%.*

(a) *Class 1A.* The Allowed Claim of ANB (\$645,724.36). The sum of \$322,862.18 was paid to ANB on the closing date of the Westward Dough sale, and the balance of the Allowed Claim of ANB will be paid in full in cash on the Effective Date.

(b) *Class 1B.* The Allowed Claim of GE (\$4,689,181.00, which includes, but is not limited to, postpetition interest, attorneys' fees and all other costs and expenses). The sum of \$2,294,590.50 was paid to GE on the closing date of the Westward Dough sale, and the balance of the Allowed Claim of GE will be paid in full in cash on the Effective Date.

(c) *Class 1C.* The Allowed Claim of US Bank (\$5,331,113.11 as of April 4, 2006, plus postpetition interest payable under the US Bank Loan Documents at the non-default rate accruing through the date of final payment to US Bank pursuant to Section 4.1.3 of the Plan, plus reasonable fees and cost provided in the US Bank Loan Documents, less scheduled principal amortization payments made by the Debtor to US Bank after April 4, 2006 under the US Bank Loan Documents). The sum of \$2,713,426.34 was paid to US Bank on the closing date of the Westward Dough sale, and the balance of the Allowed Claim of US Bank will be paid in full in cash on the Effective Date.

2. Class 2: All Allowed Secured Claims against the Debtor other than the Class 1A, 1B or 1C Claims. The Debtor estimates that the amount of Allowed Class 2 Claims will be approximately \$14,000.

Each holder of an Allowed Class 2 Claim will receive, at the Debtor's election, either (a) the full amount of its Allowed Claim in cash as soon as reasonably practicable after the later of (i) the Effective Date, and (ii) when such Claim becomes an Allowed Claim, or (b) possession of the collateral securing such Claim. *The expected recovery of holders of Allowed Class 2 Claims is 100%.*

3. Class 3: All Allowed Other Priority Claims against the Debtor. The Debtor estimates that the amount of Allowed Class 3 Claims will be approximately \$465,000.

Each holder of an Allowed Class 3 Claim will receive the full amount of its Allowed Claim in cash on or as soon as reasonably practicable after the later of (a) the Effective Date, and (b) when such Claim becomes an Allowed Claim. *The expected recovery of holders of Allowed Class 3 Claims is 100%.*

4. Class 4: All Allowed General Unsecured Claims against the Debtor. The Debtor estimates that the aggregate amount of Allowed Class 4 Claims will be approximately \$4,300,000.

Each holder of an Allowed Class 4 Claim will receive its pro-rata share of the Class 4 Distribution Pool. *The Debtor expects that the Class 4 general unsecured creditors will receive between approximately 13.6% and 20% of their Allowed Claims, depending on the aggregate Allowed General Unsecured Claims.*

There will be two (2) distributions from the Class 4 Distribution Pool to holders of Class 4 Claims: (a) an initial distribution thirty-five (35) days after the Effective Date to all holders of Class 4 Claims that have been Allowed by the date that is thirty (30) days after the Effective Date in an amount equal to the number that is obtained by dividing the amount of the individual Allowed Claim by the maximum amount of potential Allowed Class 4 Claims, and multiplying that fraction by \$520,000; and (b) a final distribution to holders of Allowed Class 4 Claims upon conclusion of the claims reconciliation process in an amount such that (taking into account any payments already made) each holder of an Allowed Class 4 Claim receives a pro-rata share of the Class 4 Distribution Pool.

Holders of Class 4 Claims that received payments prior to the Petition Date that the Debtor asserts constitute avoidable preferences under section 547 of the Bankruptcy Code will have an opportunity, to be exercised on their ballot to accept the Plan, to waive their Claims against the Debtor in exchange for a release from the Debtor.

On the Effective Date, Krispy Kreme will waive its rights to receive any distribution from the Class 4 Distribution Pool; provided that, on account of its Class 4 Claims against the Debtor, Krispy Kreme will receive all funds of the Debtor's estate remaining (if any) after payment in full of all Allowed Claims as set forth in the Plan.

5. Class 5: Equity Interests in the Debtor of whatever nature or description and however held. The holders of Class 5 Interests will retain their Interests in the Debtor, but will not receive any distributions on account of such Interests. ***Holders of Equity Interests will not receive a distribution.***

**Funding:**

Estate Assets: On March 16, 2005, the Bankruptcy Court approved the sale of the Assets to Westward Dough for approximately \$10 million. The sale closed on March 30, 2006. A portion of the Net Proceeds of the sale were paid to US Bank, ANB and GE on the closing date of the sale on account of their Allowed Claims. The Remaining Net Proceeds of the sale to Westward Dough, the proceeds from the collection or sale of any remaining estate Assets and any cash on hand will fund the Plan and distributions to holders of Allowed Claims in accordance with the Plan. To the extent the estate Assets are insufficient to make payment to holders of Allowed Claims under the Plan, Krispy Kreme will advance funds to the Debtor sufficient for such payments to be made.

**Effective  
Date:**

The Effective Date will be a date selected by the Debtor which is a business day after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect, and (b) all conditions specified in Section 11.1 of the Plan have been (i) satisfied, or (ii) waived pursuant to Section

11.2 of the Plan; provided however, that the Effective Date shall occur no later than thirty (30) days after the Confirmation Date as long as the Confirmation Order is not stayed pending appeal.

**Classes:** Holders of unimpaired Administrative Claims, Tax Claims, Class 3 Claims and the Class 5 Interests are deemed to have accepted the Plan and are not entitled to vote. Classes 1A, 1B, 1C, 2 and 4 are entitled to vote on the Plan.

**Voting:** Those creditors entitled to vote on the Plan should complete the enclosed ballot and return it to the Debtor's notice and claims agent, BMC Group, Inc. ("BMC"), *if by U.S. Mail* to Glazed Investments, LLC, c/o BMC Group, P.O. Box 906, El Segundo, California 90245-0906 or if by hand or overnight delivery to Glazed Investments, LLC, c/o BMC Group, 1330 East Franklin Avenue, El Segundo, California 90245. Ballots must be received on or before \_\_\_\_\_, 2006 at \_\_\_\_\_. Only those ballots returned in a timely manner and in accordance with the accompanying notice and instructions will be counted in determining whether a particular Class of creditors has accepted or rejected the Plan. Acceptance of the Plan by a Class of Claims requires accepting votes by (1) more than one-half of the voting creditors of such Class, and (2) holders of Claims totaling at least two-thirds of the total amount of Claims held by voting creditors of such Class.

**Confirmation Hearing:** The hearing on Confirmation of the Plan will be held before Judge Pamela S. Hollis in Courtroom 644, 219 South Dearborn Street, Chicago, Illinois on \_\_\_\_\_ 2006 at \_\_\_\_\_. Objections to confirmation of the Plan are due on or before \_\_\_\_\_, 2006 at \_\_\_\_\_.

**Additional Information:** Requests for additional information regarding the Plan or this Disclosure Statement should be directed to Debtor's counsel:

Daniel A. Zazove  
Jason D. Horwitz  
**Perkins Coie LLP**  
131 South Dearborn Street  
Suite 1700  
Chicago, Illinois 60603

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THE UNITED STATES BANKRUPTCY CODE**

**I. INTRODUCTION**

**A. General.**

On February 3, 2006, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. No trustee or examiner has been requested or appointed in this case, and the Debtor continues to manage its affairs pursuant to sections 1107 and 1108 of the Bankruptcy Code. The Debtor commenced this chapter 11 case to facilitate the sale of substantially all of its Assets. On March 16, 2006, the Bankruptcy Court authorized the Debtor to consummate the sale of substantially all of its Assets to Westward Dough for \$10 million. The sale closed on March 30, 2006.

On April 12, 2006, the Debtor filed the Debtor's Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code Dated April 12, 2006 and the Disclosure Statement for the Debtor's Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code. On May 8, 2006, the Debtor filed the Debtor's Amended Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code Dated May 8, 2006 (the "Plan") and this amended Disclosure Statement. A copy of the

Plan is attached to this Disclosure Statement as Exhibit A. On \_\_\_\_\_, 2006, the Bankruptcy Court approved this Disclosure Statement as containing "adequate information" to enable a hypothetical, reasonable investor in each of the relevant classes to make an informed judgment to vote to accept or reject the Plan.

**B. Purpose of Disclosure Statement.**

The purpose of this Disclosure Statement is to provide holders of Claims with such information as would enable a hypothetical, reasonable holder of a Claim or Interest to make an informed judgment when voting on the Plan. This Disclosure Statement does not purport to be a complete description of the Plan, the financial status of the Debtor, the applicable provisions of the Bankruptcy Code or other matters that may be deemed significant by creditors or other parties in interest.

THIS DISCLOSURE STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN, AND IS NOT INTENDED TO REPLACE A CAREFUL AND DETAILED REVIEW AND ANALYSIS OF THE PLAN. IT IS INTENDED TO AID AND SUPPLEMENT SUCH REVIEW. IN THE EVENT OF A CONFLICT BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE PROVISIONS OF THE PLAN WILL GOVERN. ALL HOLDERS OF CLAIMS ARE ENCOURAGED TO REVIEW THE FULL TEXT OF THE PLAN AND TO CAREFULLY READ THIS ENTIRE DISCLOSURE STATEMENT BEFORE DECIDING WHETHER TO VOTE TO ACCEPT OR REJECT THE PLAN.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF MAY 8, 2006. THE DEBTOR BELIEVES THAT THE INFORMATION SET FORTH IN THIS DISCLOSURE STATEMENT IS ACCURATE AS OF THAT DATE.

NO PERSON SHOULD CONSTRUE THE CONTENTS OF THIS DISCLOSURE STATEMENT AS PROVIDING ANY LEGAL, BUSINESS, FINANCIAL OR TAX ADVICE.

EACH PERSON SHOULD CONSULT WITH THEIR OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THE SOLICITATION AND THE PLAN. THIS DISCLOSURE STATEMENT MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN DETERMINING WHETHER TO ACCEPT OR REJECT THE PLAN.

**C. Defined Terms.**

Unless otherwise defined, all capitalized terms contained in this Disclosure Statement shall have the meanings ascribed to them in the Plan. The rules of construction and definitions contained in the Bankruptcy Code and the Bankruptcy Rules are applicable to this Disclosure Statement.

**II. CONFIRMATION PROCEDURES**

**A. Classes Entitled to Vote.**

There are seven (7) classes of Claims and Interests under the Plan. Classes 3 and 5 are unimpaired and are presumed to have accepted the Plan. Impaired Classes 1A, 1B, 1C, 2 and 4 are entitled to vote on the Plan.

**B. Voting on the Plan.**

Any Claim holder whose legal, contractual or equitable rights are altered, modified or changed by the proposed treatment under the Plan or whose treatment under the Plan is not provided for in section 1124 of the Bankruptcy Code is considered "impaired." Allowed Claims in Class 3 (Other Priority Claims) and Class 5 (Interests) are unimpaired under the Plan and deemed to have accepted the Plan. Under the Plan, holders of Allowed Claims in Class 1A (Allowed Claim of ANB), Class 1B (Allowed Claim of GE), Class 1C (Allowed Claim of US Bank), Class 2 (other Secured Claims) and Class 4 (General Unsecured Claims) are impaired and entitled to vote on the Plan by submitting the ballot enclosed with this Disclosure Statement.



In order to vote to accept or reject the Plan, holders of Claims in classes 1A, 1B, 1C, 2 and 4 must complete and sign the enclosed ballot and return it to one of the following addresses so that it is received by \_\_\_\_\_ p.m. on or before \_\_\_\_\_, 2006 (the "Voting Deadline"):

***If by U.S. Mail***

Glazed Investments, LLC  
c/o BMC Group  
P.O. Box 906  
El Segundo, California 90245-0906

***If by hand or overnight delivery***

Glazed Investments, LLC  
c/o BMC Group  
1330 East Franklin Avenue  
El Segundo, California 90245

Any ballot that is validly executed, but does not clearly indicate rejection of the Plan shall be deemed to constitute a vote for acceptance of the Plan.

**ONLY THOSE BALLOTS RETURNED BEFORE THE VOTING DEADLINE AND IN ACCORDANCE WITH THE ACCOMPANYING NOTICE AND INSTRUCTIONS WILL BE COUNTED IN DETERMINING WHETHER A PARTICULAR CLASS OF CREDITORS HAS ACCEPTED OR REJECTED THE PLAN.**

**C. Confirmation Hearing.**

The Confirmation hearing will be held before The Honorable Pamela S. Hollis, Bankruptcy Judge, in Courtroom 644, United States Courthouse, 219 South Dearborn Street, Chicago, Illinois on \_\_\_\_\_, 2006 at \_\_\_\_\_. The Bankruptcy Court has ordered that objections, if any, to Confirmation of the Plan shall be filed with the Bankruptcy Court and served on the below parties or before \_\_\_\_\_, 2006. The Confirmation hearing may be adjourned from time to time by the Bankruptcy Court without further notice other than by announcement of the next adjourned date at the Confirmation hearing. **All**

**objections to the Confirmation of the Plan must be served on (a) counsel to the Debtor, Daniel A. Zazove, Esq., Perkins Coie LLP, 131 South Dearborn Street, Suite 1700, Chicago, Illinois 60603, (b) counsel to the Creditors' Committee, Jeffrey N. Pomerantz, Esq., Pachulski Stang Ziehl Young Jones & Weintraub LLP, 10100 Santa Monica Blvd., #1100, Los Angeles, California 90067, (c) the Office of the United States Trustee, 225 West Monroe Street, Suite 3350, Chicago, Illinois 60606, Attn: Steve G. Wolfe, Esq., and (d) counsel to Krispy Kreme Doughnut Corporation, Timothy R. Pohl, Esq. and Patrick J. Nash, Jr., Esq., Skadden, Arps, Slate, Meagher & Flom LLP, 333 West Wacker Drive, Suite 2100, Chicago, Illinois 60606.**

At the Confirmation hearing, the Bankruptcy Court will (1) determine whether the requisite vote has been obtained for each impaired class of creditors; (2) hear and determine objections to the Plan and to Confirmation of the Plan that have not been previously disposed of; (3) determine whether the Plan meets the confirmation requirements of the Bankruptcy Code; and (4) determine whether to confirm the Plan.

**D. Acceptances Necessary for Confirmation.**

An impaired class of holders of Claims accepts the Plan if the Plan is accepted by at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims of such Class that have voted to accept or reject the Plan. All Claims are allowed for voting purposes only unless objected to prior to the hearing on Confirmation of the Plan.

Unless there is unanimous acceptance of the Plan by an impaired Class of Claims, the Bankruptcy Court, as an additional requirement for Confirmation, must determine that under the Plan the members of each such Class will receive property of a value, as of the Effective Date of the Plan, that is not less than the value that each such Class member would receive if the Debtor were liquidated under chapter 7 of the Bankruptcy Code on the Effective Date of the Plan.

**E. Confirmation Without Unanimous Acceptances.**

The Bankruptcy Code does not require every Class of Claims and Interests to accept the Plan in order that the Plan be confirmed. If the Plan is not accepted by every Class, the Bankruptcy Court may nonetheless confirm the Plan so long as (1) at least one impaired Class of Claims has voted to accept the Plan, and (2) the Bankruptcy Court finds that the Plan does not “discriminate unfairly” and is “fair and equitable” as to each impaired Class that has not accepted the Plan. In general, this means that a non-accepting secured creditor must retain its lien on the property securing its Claim and receive deferred cash payments totalling at least the allowed amount of its Claim. For unsecured creditors of a non-accepting impaired Class, this means that they must either receive property equal to the allowed amount of their Claims, or, if they receive less than such value, no Class of Claims or Interests with a lower priority may receive or retain any property under the Plan on account of such Claims or Interest.

**IN THE EVENT AT LEAST ONE IMPAIRED CLASS OF CREDITORS VOTES TO ACCEPT THE PLAN, IT IS THE DEBTOR’S INTENTION TO INVOKE THE PROVISIONS OF SECTION 1129(b) OF THE BANKRUPTCY CODE.**

**F. Recommendations.**

The Debtor recommends that all holders of Claims vote to accept the Plan.

**III. DESCRIPTION OF THE DEBTOR AND ITS BUSINESS**

**A. Organization and Ownership.**

Founded in 2000, the Debtor is a Delaware limited liability company whose membership interests are 97% owned by KKDC and 3% owned by Adrienne Livengood, the former spouse of A. Scott Livengood, the former Chief Executive Officer of Krispy Kreme. The Debtor’s corporate headquarters are located at 1211 West 22<sup>nd</sup> Street, Suite 700, Oak Brook, Illinois 60523.

**B. Overview of the Debtor's Business.**

Pursuant to a February 28, 2000 area development agreement with KKDC (as amended, the "Development Agreement") and prior to the sale of substantially all of its Assets to Westward Dough, the Debtor was KKDC's exclusive area developer of Krispy Kreme products for a geographic region encompassing parts of Minnesota, Wisconsin and Colorado (the "Covered Territory"). The Development Agreement authorized the Debtor to develop and operate up to forty-three Krispy Kreme franchises in the Covered Territory. In addition, the Development Agreement conferred the right and obligation to supply wholesale customers of Krispy Kreme products in the Covered Territory from the "back-door" of the Debtor's retail stores.

Prior to the Petition Date, the Debtor operated twenty franchise locations: Aurora, CO; Colorado Springs, CO; Grand Junction, CO; Littleton, CO; Lone Tree, CO; Thornton, CO; Apple Valley, MN; Coon Rapids, MN; Eden Prairie, MN; the Mall of America, MN; Maple Grove, MN; Rochester, MN; St. Cloud, MN; St. Paul, MN; Ashwaubenon, WI; Brookfield, WI; Grand Chute, WI; Onalaska, WI; Wausau, WI; and West Allis, WI and supplied approximately 1,340 wholesale locations in the Covered Territory. The Debtor was party to a ground lease at each of the twenty franchise locations, and leased both the ground and the leasehold improvements in Lone Tree, CO; Apple Valley, MN; Eden Prairie, MN; the Mall of America, MN; Maple Grove, MN; Brookfield, WI; Grand Chute, WI; Onalaska, WI; and Wausau, WI.

**C. Capital Structure.**

**1. Prepetition Debt.**

(a) US Bank Loan Documents. As of the Petition Date, the Debtor was obligated to US Bank in the amount of \$5,662,992.24 under the US Bank Loan Documents. The Debtor's obligations under the US Bank Loan Documents are secured by first priority, senior

liens on a significant portion of the Debtor's assets including the Debtor's (a) bank accounts and accounts receivable, (b) inventory, and (c) leasehold improvements and equipment at certain of the Debtor's store locations.<sup>1</sup> Krispy Kreme guarantees 74.72% of the Debtor's obligation under the US Bank Loan Documents.

(b) GE Notes. As of the Petition Date, the Debtor was obligated to GE under the GE Notes in the aggregate amount of \$4,670,617.19. The Debtor's obligations to GE are secured by liens on the leases, the leasehold improvements and/or the equipment at the following store locations: Aurora, CO; Thornton, CO; Coon Rapids, MN; Wasau, WI; and West Allis, WI, as well as inactive commissaries located in Commerce City, CO; Pewaukee, WI; and New Brighton, MN. GE's liens are senior to the liens on such assets held by US Bank. Based upon the amounts outstanding as of the Petition Date, KKDC guarantees 49.7% of the Debtor's obligation under the GE Notes.

(c) ANB Loans. As of the Petition Date, the Debtor was obligated to ANB under the ANB Loans in the amount of \$645,724.36. The Debtor's obligations to ANB are secured by a lien on the Debtor's lease, leasehold improvements and equipment at the Colorado Springs, CO store. ANB's liens are senior to the liens granted on such assets to US Bank. KKDC guarantees 97% of the Debtor's obligations under the ANB Loans.

(d) Unsecured Funded Debt. The Debtor is the maker of that certain Line of Credit Promissory Note, dated October 15, 2003 (as subsequently amended and restated, the "KKDC Promissory Note"). As of the Petition Date, the Debtor owed KKDC approximately

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<sup>1</sup> More specifically, US Bank has a lien on (a) the leasehold improvements at the Debtor's stores located in Grand Junction, CO; Littleton, CO; St. Cloud, MN; and St. Paul, MN, and (b) the equipment at Lone Tree, CO; Apple Valley, MN; Eden Prairie, MN; Brookfield, WI; St. Paul, MN; Grand Junction, CO; Ashwaubenon, WI; Littleton, CO; St. Cloud, MN; Rochester, MN; Onalaska, WI; Grand Chute, WI; and the Mall of America.

\$8.843 million under the KKDC Promissory Note. In addition, the Debtor is obligated to KKDC and Adrienne Livengood in the amount of \$4,384,400 and \$135,600, respectively, under subordinated notes due 2010 (the "Subordinated Notes").

## **2. Postpetition Debt.**

On March 16, 2006, the Debtor received final Bankruptcy Court approval of a \$3.5 million debtor in possession loan facility provided by KKDC (the "DIP Facility") and the use of cash collateral. Both the DIP Facility and cash collateral were available for working capital to finance the Debtor's postpetition business operations pending the sale to Westward Dough.

The DIP Facility, subject to certain adequate protection liens, (a) has priority, pursuant to section 364(c)(1) of the Bankruptcy Code, over any and all administrative expenses of the kind specified in sections 503(b) and 507(b) of the Bankruptcy Code; (b) is secured, pursuant to section 364(c)(2) of the Bankruptcy Code, by perfected first priority security interests in and liens upon all unencumbered prepetition and postpetition property of the Debtor; and (c) is secured, pursuant to section 364(c)(3) of the Bankruptcy Code, by perfected junior security interests in and liens upon all prepetition and postpetition property of the Debtor that is subject to the liens of the Prepetition Secured Lenders and any liens permitted by the DIP Facility.

The Debtor did not need to borrow any amounts under the DIP Facility due to unexpectedly robust sales in certain of the stores that the Debtor closed after the Petition Date and reduced expenses on account of such closures.

## **D. Events Leading to the Chapter 11 Filing.**

Krispy Kreme experienced exponential growth in its store base and revenues from 2000 through early 2004, garnering favorable coverage in both business and popular media. For example, in a July 7, 2003 cover story, *Fortune* magazine described Krispy Kreme as "the hottest brand in America." The Debtor participated in this early success. The Debtor's retail franchise

openings were “events,” with customers lining up hours before grand openings that received substantial local media coverage. The Debtor earned a profit in each of its first three years of operations, primarily on the strength of strong retail sales.

However, the Debtor’s sales declined in recent years due at least in part to the increasing popularity of “low carb” diets. In addition to the changing tastes and preferences of the American consumer, sharply escalating distribution costs in connection with the Debtor’s wholesale business exacerbated the decline in the Debtor’s financial performance. Many of the Debtor’s stores were unprofitable, and the Debtor had no source of financing to fund further operating losses.

Accordingly, prior to the Petition Date, the Debtor actively pursued strategic alternatives while at the same time implementing aggressive measures to conserve cash. For example, prior to the Petition Date, the Debtor ceased operations at its now-inactive commissary locations in Commerce City, CO; New Brighton, MN; and Pewaukee, WI, and closed five retail factory stores located in Littleton, CO; Colorado Springs, CO; Rochester, MN; Grand Chute, WI; and Mall of America, MN. The Debtor determined that the best alternative to maximize the value of its assets for its creditors, as well as to preserve as many of its stores and the jobs of the employees that work in those stores as possible, was to sell its Assets to a willing buyer on a going concern basis.

**E. Prepetition Sale Efforts.**

Prior to the Petition Date, KKDC and the Debtor marketed the Assets to existing KKDC area developers and third parties that might be interested in the Assets and would likely be able to consummate a purchase thereof. Westward Dough, an existing KKDC area developer for a territory that includes Nevada, Utah, Idaho, Montana and Wyoming, was the only entity to make an offer for the Assets.

As a result, on February 2, 2006, the Debtor entered into the Asset Purchase Agreement with Westward Dough, who agreed to pay \$10 million for (a) the Debtor's rights as the exclusive area developer for the Covered Territory, (b) all of the Debtor's inventory and equipment, and (c) the Debtor's interest in the leases and improvements at 12 of the Debtor's 20 retail locations.<sup>2</sup> The Asset Purchase Agreement was subject to higher and better offers.

**F. Financial Information.**

The Debtor's schedules of assets and liabilities and statement of financial affairs, which were filed with the Bankruptcy Court on March 7, 2006 and subsequently amended on April 6, 2006 (collectively, the "Schedules and Statements"), enumerate all of the Debtor's assets and liabilities as of the Petition Date. In addition, the Debtor has filed monthly reports of its operations with the Bankruptcy Court summarizing the Debtor's postpetition financial performance. The Schedules and Statements and any monthly operating reports are available for public inspection in the office of the Clerk of the United States Bankruptcy Court, 219 South Dearborn, 6<sup>th</sup> Floor, Chicago, Illinois 60604 during regular business hours or by visiting the United States Bankruptcy Court's website at [www.ilnb.uscourts.gov](http://www.ilnb.uscourts.gov) or BMC's website at [www.bmcgroup.com](http://www.bmcgroup.com). The information contained in the Debtor's schedules of assets and liabilities, as amended, are summarized as follows.

**1. Assets:**

As of the Petition Date, the Debtor's assets at their respective book values were comprised of the following:

**Assets**

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<sup>2</sup> The purchased locations were Aurora, CO; Grand Junction, CO; Lone Tree, CO; Thornton, CO; Apple Valley, MN; Coon Rapids, MN; Eden Prairie, MN; Maple Grove, MN; St. Paul, MN; Ashwaubenon, WI; Brookfield, WI; and West Allis, WI.



Cash on Hand:	\$41,800.00
Financial Accounts:	\$737,719.96
Utility Security Deposits:	\$67,674.96
Accounts Receivable:	\$2,281,614.71
Minnesota Tax Refund:	\$212,108.22
Licenses, Franchises and Intangibles:	\$966,649.87
Automobile:	\$500.00
Office Equipment and Furnishings:	\$237,798.00
Machinery, Fixtures and Equipment:	\$13,573,600.95
Inventory:	\$407,656.26
<u>Improvements to Real Property:</u>	<u>\$10,072,223.92</u>
TOTAL	\$28,599,346.85

## 2. Liabilities:

As of the Petition Date, the Debtor's liabilities were comprised of the following:

Secured Claims:	\$10,992,910.43
Priority Claims	\$456,786.49
<u>General Unsecured Claims:</u>	<u>\$18,506,379.76<sup>3</sup></u>
TOTAL:	\$29,956,076.68

## G. The Chapter 11 Case.

On February 3, 2006, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor has continued to manage its affairs as a debtor and debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

### 1. Summary of Key Motions:

(a) Motion to Obtain Postpetition Financing and Authorizing Debtor to Utilize Cash Collateral; Granting Adequate Protection to Prepetition Secured Lenders. On February 7, 2006, the Bankruptcy Court entered an interim order granting authority for the Debtor to enter into the DIP Facility in an interim principal amount of \$700,000. The Debtor

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<sup>3</sup> This amount includes certain Claims that are listed as contingent, unliquidated and/or disputed, but excludes claims listed as "unknown."

was also authorized to use the cash collateral of US Bank and provide the Prepetition Secured Lenders certain adequate protection liens. On March 16, 2006, the Bankruptcy Court gave final approval of the DIP Facility in the principal amount of \$3.5 million.

(b) Motion for Continued Use of Cash Management System. On February 7, 2006, the Bankruptcy Court entered an order authorizing the Debtor to continue to operate its existing bank accounts, to continue to use its existing business forms and to continue to use its centralized cash management system.

(c) Motion to Pay Prepetition Wages, Salaries and Other Compensation and Employee Benefits. On February 7, 2006, the Bankruptcy Court granted the Debtor's request to pay all compensation and benefits owed to its employees. The Debtor is authorized to compensate its employees for obligations payable as of the Petition Date, as well as obligations that become due after the Petition Date.

(d) Motion to Continue Customer Programs. On February 7, 2006, the Bankruptcy Court authorized the Debtor to continue to (i) process credit card transactions in the ordinary course of business, (ii) honor outstanding gift certificates, and (iii) participate in Krispy Kreme's gift card and coupon programs.

(e) Reject Executory Contracts and Unexpired Leases. On February 7, 2006, February 28, 2006 and April 6, 2006, the Bankruptcy Court approved the rejection of several real property leases and executory contracts that were no longer integral to the Debtor's operations and were not assumed by Westward Dough.

(f) Applications for Retention of Debtor's Professionals. The Debtor received Bankruptcy Court authority to retain Perkins Coie LLP, as counsel for the Debtor, and BMC, as the Debtor's notice and claims agent.

(g) Motion to Establish Bid Procedures and to Sell Substantially All of the Debtor's Assets. On February 7, 2006, the Bankruptcy Court entered the Order, Pursuant to 11 U.S.C. § 363 and Fed. R. Bankr. P. 2002 and 6004, (i) Approving Bid Procedures for the Potential Sale of Substantially All of the Debtor's Assets, (ii) Approving Notice Procedures Regarding the Proposed Sale, and (iii) Scheduling a Hearing Date to Consider the Sale (the "Bid Procedures Order"). The Bid Procedures Order, among other things, approved the Glazed Investments, LLC Bidding Procedures (the "Bidding Procedures") to be employed with respect to the proposed disposition of the Debtor's Assets.

Pursuant to Bid Procedures Order, the Debtor solicited bids for the Assets by, among other things, serving notice of the sale on all entities known to have expressed an interest in a transaction with respect to all or part of the Assets at any time and advertising the sale in the *Wall Street Journal (National Edition)*. However, only three entities signed confidentiality agreements seeking additional information on the Debtor's and the Assets, and none submitted a bid on the Assets.

Without any competing offers for the Assets, the Debtor did not hold an auction, and the Court entered the Sale Order on March 16, 2006 approving the sale of substantially all of the Debtor's Assets to Westward Dough pursuant to the Asset Purchase Agreement. The sale closed on March 30, 2006.

**2. Appointment of the Creditors' Committee.**

On February 13, 2006, the Office of the United States Trustee appointed the Creditors' Committee. On February 17, 2006, the Creditors' Committee retained Pachulski Stang Ziehl Young Jones & Weintraub, as its lead counsel, and Robert F. Coleman & Associates, as its local counsel.

**3. First Meeting of Creditors.**

The United States Trustee convened a first meeting of creditors pursuant to section 341 of the Bankruptcy Code on March 9, 2006.

**4. Bar Dates.**

On March 16, 2006, the Bankruptcy Court entered an order establishing May 8, 2006 as the last date for all creditors (other than Governmental Units) to file proofs of claim against the Debtor, and August 2, 2006 as the last date for Governmental Units to file proofs of claim against the Debtor. The Court also authorized the Debtor to provide notice of the bar dates by mail and approved a bar date notice.

**IV. SUMMARY OF THE PLAN**

**A. Plan Settlement Term Sheet.**

Immediately after retaining its counsel, the Creditors' Committee began requesting, and the Debtor and Krispy Kreme provided, numerous documents and information regarding the company, its businesses and history. This information exchange led to extensive and productive negotiations between the parties, through their counsel, over the course of the next several weeks in an effort to reach a consensual plan for the treatment of General Unsecured Claims.

These discussions culminated in the Plan Settlement Term Sheet, dated March 15, 2006, between the Debtor, the Creditors' Committee and Krispy Kreme (the "Term Sheet"), which has been incorporated into the Plan. Under the Plan, holders of Allowed General Unsecured Claims (other than KKDC) will receive their ratable share of the Class 4 Distribution Pool as illustrated on Schedule 1 to the Plan. The Debtor expects that the Class 4 general unsecured creditors will receive between 13.6% and 20% (approximately) of their Allowed Claims. Krispy Kreme agreed to subordinate any distribution it is entitled to receive on account of its Claims against the Debtor to the extent necessary to ensure a distribution to holders of Allowed General Unsecured

Claims equal to Schedule 1. Krispy Kreme also agreed to advance funds to the Debtor, if necessary, to fund the Class 4 Distribution Pool.

The treatment of General Unsecured Claims in the Plan is the product of the negotiation and execution of the Term Sheet.

**B. Overview of the Plan.**

The Plan is a liquidating plan. It contemplates that all of the Debtor's rights, title and interests in all of its Assets, including but not limited to the Net Proceeds of the sale to Westward Dough, will revert in the post-Confirmation Debtor. The Net Proceeds of the sale to Westward Dough, the proceeds from the collection or sale of any remaining estate Assets (including but not limited to the collection of accounts receivable) and any cash on hand will fund the Plan and distributions to holders of Allowed Claims in accordance therewith. To the extent such estate Assets are insufficient to make any payments to holders of Allowed Claims under the Plan, Krispy Kreme will advance the required funds to the Debtor for such payments to be made.

**C. Designation and Treatment of Claims and Interests Under the Plan.**

There are six (6) classes of Claims and one (1) class of Interests under the Plan. Administrative Claims and Tax Claims are not subject to classification pursuant to 11 U.S.C. § 1123(a)(1) and, therefore, are not entitled to vote. Class 5 is unimpaired and, accordingly, is presumed to have accepted the Plan pursuant to 11 U.S.C. § 1126(f). Impaired Classes 1A, 1B, 1C, 2 and 4 are entitled to vote on the Plan. The Plan contemplates distribution of the estate Assets to Allowed Claims in the following Classes of claimants, in order of priority as listed:

**1. Unimpaired Claims and Interests.**

**a. Unclassified Claims.**

Unclassified Claims consisting of all Administrative Claims and Tax Claims will be paid in full in cash generally as soon as reasonably practicable (i) after the Effective Date, or (ii) if

such Claim is Allowed after the Effective Date, when such Claim is Allowed. United States Trustee and other bankruptcy fees required to be paid pursuant to 28 U.S.C. § 1930 will be paid in full on or before the Effective Date.

**b. Class 3 Claims (Other Priority Claims).**

All Allowed Other Priority Claims against the Debtor will receive the full amount of the Allowed Claim in cash on or as soon as reasonably practicable after the later of (i) the Effective Date, and (ii) when such Claim becomes an Allowed Claim.

**c. Class 5 Interests.**

Equity Interests in the Debtor of whatever nature or description and however held will retain their Interests in the Debtor, but will not receive any distribution on account of such Interests.

**2. Impaired Claims.**

**a. Class 1 Claims (Allowed Secured Claims of the Prepetition Secured Lenders).**

All Allowed Claims of ANB, GE and US Bank, pursuant to the ANB Loans, the GE Notes and the US Bank Loan Documents, respectively.

(i) Class 1A Claim (Allowed Claim of ANB). The Allowed Claim of ANB. In full satisfaction and release of all Allowed Claims against the Debtor held by any holder of a Class 1A Claim, and in full satisfaction and release of any Claims against Krispy Kreme under the Class 1 Claim Guarantees, (A) \$322,862.18 was paid to ANB on the closing date of the sale of substantially all of the Debtor's Assets to Westward Dough from the Net Proceeds of such sale, and (B) on the Effective Date, the balance of the Allowed Claim of ANB shall be paid in full in cash.

(ii) Class 1B Claim (Allowed Claim of GE). The Allowed Claim of GE. In full satisfaction and release of all Allowed Claims against the Debtor held by any holder of a Class 1B Claim, and in full satisfaction and release of any Claims against Krispy Kreme under the Class 1 Claim

Guarantees, (A) \$2,294,590.50 was paid to GE on the closing date of the sale of substantially all of the Debtor's Assets to Westward Dough from the Net Proceeds of such sale, and (B) on the Effective Date, the balance of the Allowed Claim of GE shall be paid in full in cash.

(iii) Class 1C Claim (Allowed Claim of US Bank). The Allowed Claim of US Bank. In full satisfaction and release of all Allowed Claims against the Debtor held by any holder of a Class 1C Claim, and in full satisfaction and release of any Claims against Krispy Kreme under the Class 1 Claim Guarantees, (A) \$2,713,426.34 was paid to US Bank on the closing date of the sale of substantially all of the Debtor's Assets to Westward Dough from the Net Proceeds of such sale, and (B) on the Effective Date, the balance of the Allowed Claim of US Bank shall be paid in full in cash.

As a condition precedent to receiving and retaining the distributions set forth in Section 4.1 of the Plan, holders of Class 1 Claims will be required to (a) execute a release, in form and substance reasonably satisfactory to Krispy Kreme, of any and all Claims under the Class 1 Claim Guarantees, and (b) return to Krispy Kreme any outstanding letters of credit or any other collateral securing any Claim of such holder against Krispy Kreme related to its Class 1 Claims or its Class 1 Claim Guarantees.

**b. Class 2 Claims (Allowed Secured Claims other than those of the Prepetition Secured Lenders).**

All Allowed Secured Claims against the Debtor other than the Class 1A, 1B or 1C Claims. In the sole discretion of the Debtor, each holder of an Allowed Class 2 Claim will receive either (i) the full amount of its Allowed Claim in cash as soon as reasonably practicable after the later of (A) the Effective Date, and (B) when such Claim becomes an Allowed Claim, or (ii) the collateral securing such Claim without representation or warranty by, or further recourse against, the Debtor.

**c. Class 4 Claims (General Unsecured Claims).**

All Allowed General Unsecured Claims against the Debtor. In full satisfaction and release of all Claims against the Debtor, each holder of an Allowed Class 4 Claim will receive its pro-rata share of the Class 4 Distribution Pool only from the Class 4 Distribution Pool, to be distributed pursuant to Section 10.2 of the Plan.

On the Effective Date, Krispy Kreme will waive its rights to receive any distribution from the Class 4 Distribution Pool; provided that, on account of its Class 4 Claims against the Debtor, Krispy Kreme will receive all funds of the Debtor's estate remaining (if any) after payment in full of all Allowed Administrative Claims and Allowed Tax Claims and payment of Allowed Claims in Classes 1, 2, 3 and 4 as set forth in the Plan.

Also on the Effective Date, the maximum amount of the Class 4 Distribution Pool (based upon the dollar amount in the "Aggregate Dollars Payable to Trade Claims" column on Schedule 1, which corresponds to the total of all Allowed Claims and Contested Claims in Class 4 as of the Effective Date, excluding the Claims of Krispy Kreme) will be funded into a segregated account held for the benefit of holders of the Class 4 Claims (except Krispy Kreme). If the Debtor has insufficient funds to fully fund the maximum amount of the Class 4 Distribution Pool on the Effective Date, Krispy Kreme will advance the Debtor sufficient monies to fully fund the Class 4 Distribution Pool on the Effective Date. The Debtor and the Creditors' Committee are still in discussions with respect to the mechanics of the segregated account for the Class 4 Distribution Pool. The parties hope to resolve this issue prior to the Confirmation Date.

There will be two (2) distributions from the Class 4 Distribution Pool to holders of Class 4 Claims: (a) an initial distribution thirty-five (35) days after the Effective Date to holders of Class 4 Claims that have been Allowed by the date that is thirty (30) days after the Effective Date in an amount equal to the number that is obtained by dividing the amount of the individual



Allowed Claim by the maximum amount of potential Allowed Class 4 Claims (except Krispy Kreme), and multiplying that fraction by \$520,000; and (b) a final distribution to holders of Allowed Class 4 Claims upon conclusion of the claims reconciliation process in an amount such that (taking into account any payments already made) each holder of an Allowed Class 4 Claim receives a pro-rata share of the Class 4 Distribution Pool. Any amounts initially funded into the Class 4 Distribution Pool on the Effective Date that are not to be distributed on account of Allowed Class 4 Claims consistent with Schedule 1, will be paid to Krispy Kreme pursuant to Section 4.3.1 of the Plan.

For purposes of this section in the Plan, the “maximum amount of potential Allowed Class 4 Claims (except Krispy Kreme)” will mean the total of all Allowed Claims and Contested Claims in Class 4 as of thirty (30) days after the Effective Date, excluding the claims of Krispy Kreme.

**D. Implementation of the Plan.**

**1. Continued Limited Liability Company Existence; Vesting of Assets.**

The Debtor will continue to exist after the Effective Date as a separate limited liability company in accordance with the laws of the state of Delaware and pursuant to its certificate of formation and limited liability operating agreement in effect prior to the Effective Date, provided however, that the purpose of the post-Effective Date Debtor will be limited to taking such actions as are necessary to implement, and are consistent with implementing, the Plan. As soon as reasonably practicable after the Debtor exhausts its assets by making the final distribution of cash under this Plan, the Debtor will (a) effectuate its dissolution in accordance with the laws of the state of Delaware, and (b) cause the resignation of all of its officers and directors.

**E. Means for Implementation of the Plan.**

**1. Sources of Funding.**

On March 16, 2005, the Bankruptcy Court entered the Sale Order approving the sale of substantially all of the Debtor's Assets to Westward Dough for \$10 million. The sale closed on March 30, 2006. On the closing date, the following amounts were paid to the holders of the Class 1 Claims from the Net Proceeds of such sale: \$2,713,426.34 to US Bank, \$2,294,590.50 to GE and \$322,862.18 to ANB. The Remaining Net Proceeds of the sale of substantially all of the Debtor's Assets to Westward Dough, the proceeds from the collection or sale of any remaining estate Assets and any cash on hand will fund the Plan and distributions to holders of Allowed Claims in accordance therewith. To the extent such estate assets are insufficient to make any payments to holders of Allowed Claims under the Plan, Krispy Kreme will advance funds to the Debtor sufficient for such payments to be made, and any such advance will be deemed to have been made on account of the Class 1 Claim Guarantees regardless of the obligation of the Debtor paid with funds advanced by Krispy Kreme.

**2. No Transfer Taxes.**

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant to this Plan, including, but not limited to, the sale of substantially all of the Debtor's Assets to Westward Dough, will not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax or other similar tax or governmental assessment in the United States.

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

**1. All Executory Contracts and Unexpired Leases Are Rejected.**

All prepetition executory contracts and unexpired leases that have not been previously assumed will be deemed rejected by the Debtor as of the Effective Date.

2. **Bar Date of Claims Resulting from the Rejection of Contracts Under the Plan.**

All claims arising from the rejection of executory contracts or unexpired leases under this Plan must be filed within twenty (20) days of the Effective Date.

G. **Retention of Causes of Action.**

1. **Reservation.**

The Debtor will reserve all of its Claims and causes of action arising under either the Bankruptcy Code or under other applicable federal or state law, including, but not limited to, any third-party claims, counterclaims and cross-claims. Specifically and without limiting the foregoing, the Debtor retains all Claims and causes of action under chapter 5 of the Bankruptcy Code to recover preferential transfers and fraudulent conveyances under bankruptcy and applicable non-bankruptcy law.

2. **Preferences.**

*Notwithstanding the treatment of Allowed Class 4 Claims as described above, certain holders of Class 4 Claims that (a) are entitled to vote on the Plan, and (b) the Debtor asserts have received avoidable preferences, may receive, in conjunction with their ballot for voting on the Plan, an option to elect to waive all Claims against the Debtor in exchange for a release by the Debtor of its Claims against such holder.* If such election is not made by the holder of such Class 4 Claim by the deadline for voting on the Plan, then all rights and Claims of any kind by the Debtor against such holder, and by such holder against the Debtor, will be reserved. Further, if the Debtor intends to pursue a preference action against any holder of a Class 4 Claim who does not receive a ballot containing the aforementioned election option, then the Debtor will not initiate any such preference action unless it first extends to such holder of a Class 4 Claim a

formal written offer pursuant to which such creditor may elect to waive all of its Claims against the Debtor in exchange for a release by the Debtor of all of its Claims against such creditor.

**H. Discharge, Release, Injunctive and Related Provisions.**

**1. Discharge of the Debtors.**

Pursuant to section 1141(d)(3) of the Bankruptcy Code, Confirmation 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 successors, property of the estate or its property, except as expressly provided in the Plan.

**2. Releases by the Debtor.**

Except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Releasees to facilitate the expeditious sale of the Assets, the funding of the Plan, including payment in full of Allowed Administrative Claims, Allowed Tax Claims, Allowed Other Priority Claims, Allowed Secured Claims and the Class 4 Distribution Pool, the Releasees, on the Effective Date, will be deemed released by the Debtor and the Debtor's estate from any and all Claims, obligations, suits, damages, causes of action, remedies and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that the Debtor or its estate would have been legally entitled to assert in its own right or on behalf of the holder of any Claim or Interest or other person or entity, based in whole or in part upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date.

**3. Injunction.**

**Except as otherwise provided in the Plan, from and after the Effective Date, all holders of Claims or Interests will be permanently enjoined from commencing or continuing in any**

manner, any suit, action or other proceeding, on account of or respecting any Claim, Interest, obligation, debt, right, cause of action, remedy or liability or any other claim or cause of action released or to be released pursuant to the Plan.

**4. Exculpation and Limitation of Liability.**

Neither the Debtor nor the Creditors' Committee, nor any of their respective present or former members, officers, directors, employees, advisors or attorneys will have or incur any liability to any person or entity for any act or omission in connection with, relating to or arising out of this chapter 11 case, except for their gross negligence or willful misconduct.

**I. Miscellaneous Provisions.**

**1. Administrative Claims Bar Date.**

All requests for allowance and/or payment of an Administrative Claim must be filed with the Bankruptcy Court and served on counsel for the Debtor, no later than thirty (30) days after the Effective Date. Notwithstanding the foregoing, no request for allowance and/or payment of an Administrative Claim need be filed with respect to an Administrative Claim that is paid or payable by the Debtor in the ordinary course of business.

**2. Releases and Satisfaction of Subordination of Other Rights.**

All Claims against the Debtor and all rights and Claims between or among holders of such Claims relating in any manner whatsoever to any claimed lien rights, subordination rights or rights to assert Claims that are owned by the Debtor or its estates against any third party, will be deemed satisfied by the distributions made during this chapter 11 case and distributions under, described in, contemplated by and/or implemented in the Plan. Distributions under, described in, contemplated by and/or implemented by the Plan to the various Classes of Claims hereunder will not be subject to levy, garnishment, attachment or like legal process by any holder of a Claim, by

reason of any claimed lien or subordination rights or otherwise, so that each holder of a Claim shall have and receive the benefit of the distributions in the manner set forth in the Plan.

**3. Post-Confirmation Creditors' Committee.**

On the Effective Date, the Creditors' Committee will be reconstituted as the Post-Confirmation Creditors' Committee. Upon the date that all holders of Allowed Class 4 Claims have received all distributions under this Plan, the Post-Confirmation Creditors' Committee will be dissolved and its members will be deemed released of all their duties, responsibilities and obligations in connection with this chapter 11 case and the Plan and its implementation, and the retention or employment of the Post-Confirmation Creditors' Committee's attorneys, accountants and other agents or professionals will terminate. The budget for fees and expenses for professionals retained by the Post-Confirmation Creditors' Committee shall be governed by Section 15.1 of the Plan.

**4. Term of Injunction or Stays.**

All injunctions or stays provided for in this chapter 11 case under sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in this Plan or the Confirmation Order), will remain in full force and effect until the Effective Date.

**V. THE PLAN CONFIRMATION PROCESS**

**A. Acceptance and Confirmation.**

At the Confirmation hearing, the Bankruptcy Court will confirm the Plan only if all the requirements of section 1129 of the Bankruptcy Code are met. Among the requirements for confirmation of the Plan are that the Plan is (1) accepted by the impaired Class of Claims or, if rejected by the impaired Class, that the Plan "does not discriminate unfairly" and is "fair and

equitable” as to the dissenting Class, (2) feasible, and (3) in the best interests of creditors whose Claims are impaired under the Plan.

**B. Acceptance of the Plan.**

For the Plan to be accepted by any Class, it must be accepted by creditors who hold at least two-thirds in dollar amount of the Claims in such impaired Class as to which votes are cast, and who comprise more than one-half of the voting creditors holding Claims in such Class. A Class is impaired if the legal, equitable or contractual rights attaching to the Claims in that Class are modified, other than by curing defaults, reinstating maturity and compensating the holder for certain kinds of reliance damages. Creditors whose Claims are not impaired by the Plan may not vote and are conclusively presumed, pursuant to the Bankruptcy Code, to have accepted the Plan.

If any impaired Class does not accept the Plan, the Debtor may nevertheless seek confirmation of the Plan. As set forth in section 1129(b) of the Bankruptcy Code, to obtain such confirmation and “cram-down” on the dissenting Class or Classes, the Debtor must demonstrate to the Bankruptcy Court that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to each dissenting Class. A plan does not discriminate unfairly, if among other things, the dissenting Class is treated substantially equally with respect to other Classes of equal rank. The Debtor will satisfy the “fair and equitable” test if the Debtor can demonstrate to the Bankruptcy Court that either (1) each holder of a Claim in the dissenting Classes receives or retains, under the Plan, property of a value equal to the allowed amount of its Claim; or (2) the holders of Claims that are junior to the Claims of the holders of such dissenting Class will not receive or retain any property under the Plan.

**C. Operations.**

The Plan is a liquidating plan. The Debtor will continue to exist after the Effective Date as a limited liability company in accordance with the laws of the state of Delaware and pursuant

to its certificate of formation and limited liability operating agreement in effect prior to the Effective Date, provided however, that the purpose of the post-Effective Date Debtor will be limited to taking such actions as are necessary to implement, and are consistent with implementing, this Plan. As soon as reasonably practicable after the Debtor exhausts its assets by making the final distribution of cash under the Plan, the Debtor will (1) effectuate its dissolution in accordance with the laws of the state of Delaware, and (2) cause the resignation of all of its officers and directors.

The Plan contemplates the revesting of all of the Debtor's rights, title and interests in all of its assets in the post-Confirmation Debtor. Additionally, the Debtor will continue to be empowered to execute contracts and documents of transfer on behalf of its estate and the post-Confirmation entity and shall continue to be responsible for administering its estate and the post-Confirmation entity. All distributions under the Plan will be made by the Debtor's estate.

**D. Feasibility.**

As a condition to confirmation of a plan, section 1129(a) of the Bankruptcy Code requires that the confirmation of the Plan is not likely to be followed by the liquidation of the Debtor (unless, like in this case, such liquidation is proposed in the Plan) or the need for further financial reorganization. Because liquidation is proposed in the Plan, and because Krispy Kreme will advance funds to the Debtor, if necessary, to make the distributions contemplated under the Plan, the Debtor believes that the Plan meets the feasibility requirement in that it will be able to make all payments required by the Plan without the necessity for further financial reorganization.

**E. Risk Factors.**

Certain risk factors are inherent in the chapter 11 plan confirmation process. If a plan is accepted by creditors, it is usually because the proposal represents a greater return to creditors than would be available in liquidation. The Debtor believes that the Plan and this Disclosure



Statement accurately reflect the values of its assets and liabilities and that the Debtor's proposed treatment of Allowed Claims, based on such values, is fair and equitable with respect to each Class of creditors.

However, the Debtor cannot guarantee its creditors, with 100% certainty, that its financial projections will prove to be correct, that it will be able to pay all creditors in full or as otherwise projected in the Plan or in this Disclosure Statement, or if any issues with this Disclosure Statement or the Plan are raised and litigated, the Debtor will prevail on each issue. Therefore, there is some risk that even if the Debtor's creditors vote to accept the Plan, it may not be confirmed, and if it is, such creditors may not receive the projected recovery. If the Plan is not confirmed, the Debtor would have the right under the Bankruptcy Code to make modifications to the Plan consistent with the Bankruptcy Court's rulings, and, if required, solicit acceptances to the Plan as modified.

## **VI. GENERAL FEDERAL INCOME TAX CONSIDERATIONS**

The confirmation and execution of the Plan may have tax consequences to holders of Claims and Interests. The Debtor does not offer an opinion as to any federal, state, local or other tax consequences to holders of Claims and Interests as a result of the Confirmation of the Plan. All holders of Claims and Interests are urged to consult their own tax advisors with respect to the federal, state, local and foreign tax consequences of the Plan. THIS DISCLOSURE STATEMENT IS NOT INTENDED, AND SHOULD NOT BE CONSTRUED, AS LEGAL OR TAX ADVICE TO ANY CREDITOR.

## **VII. BEST INTEREST TEST**

Confirmation of the Plan also requires that each claimant either (a) accept the Plan, or (b) receive or retain under the Plan property of a value, as of the Effective Date of the Plan, that is not less than the value such claimant would receive or retain if the Debtor was liquidated under

chapter 7 of the Bankruptcy Code. In order to make this determination, the Court must compare the treatment accorded creditors and equity security holders under the Plan with the treatment such creditors and equity security holders would be entitled to under chapter 7 of the Bankruptcy Code.

*Under the Plan filed in accordance with the Term Sheet: (a) all secured creditors will receive a distribution in the entire amount of their Allowed Claims, (b) all general unsecured creditors will receive an estimated distribution between approximately 13.6% and 20% of their Allowed Claims, and (c) the Interest holders will retain their Interests in the Debtor (but will receive no distribution). Additionally, KKDC will (y) subordinate its distribution on account of all of its Claims to the extent necessary to ensure that holders of Allowed General Unsecured Claims other than KKDC will receive a distribution from the Class 4 Distribution Pool in accordance with Schedule 1 to the Plan, and (z) advance funds to the Debtor sufficient to make any Plan payments to the extent estate Assets are insufficient to make any payments to holders of Allowed Claims under the Plan.*

To determine what creditors and Interest holders would receive if the Debtor was liquidated, the Bankruptcy Court must calculate the liquidation value that would be generated from the administration of the Debtor's assets in a chapter 7 liquidation case. Such amount would then be reduced by the estimated cost and expenses of liquidation and by any additional administrative and priority claims that would, in all likelihood, be imposed in a chapter 7 case. Indeed, the cost of liquidation under a chapter 7 would include the statutory compensation payable to a trustee, as well as the fees payable to the trustee's counsel and other professionals, such as accountants, that the trustee would likely engage, plus the unpaid administrative expenses incurred by the Debtor during this chapter 11 case.

Based upon the foregoing analysis, the Debtor believes that all creditors would receive at least as much value under the Plan as they would receive in a chapter 7 liquidation in large part because, in a chapter 7 case, Krispy Kreme would not be obligated to subordinate – and in fact likely would not subordinate – its distribution to ensure a recovery to General Unsecured Creditors. It is similarly highly improbable that Krispy Kreme would, in a chapter 7 case, advance funds to the Debtor to ensure payments to creditors. As a result, the Plan satisfies the “best interests of the creditors.”

The sale of substantially all of the Debtor’s Assets to Westward Dough for \$10 million closed on March 30, 2006. Less closing costs and other expenses, the Net Proceeds from the sale totaled approximately \$9.8 million. On the closing date, the Debtor also had approximately \$1.8 million of cash on hand, and expects to collect approximately \$1.9 million in outstanding accounts receivables and possibly \$390,000 from tax escrows and refunds post-closing and during the wind-down of the estate. As a result, the Debtor anticipates that the estate Assets available for distribution to creditors will equal approximately \$13.89 million.

The Prepetition Secured Lenders, which hold first priority liens on all of the Assets and, therefore, must be paid in full before other creditors receive value, are owed approximately \$10.6 million. After the payment in full of the Prepetition Secured Lenders’ Claims in a chapter 7 case, there would be approximately \$3.29 million remaining in the Debtor’s estate. Holders of Allowed Administrative Claims, Allowed Tax Claims, Allowed other Secured Claims and Allowed Other Priority Claims would then need to be paid in full before holders of General Unsecured Claims receive a distribution. The Debtor expects that these Claims will total approximately \$3.7 million in the aggregate (including Krispy Kreme’s Administrative Claims, which Krispy Kreme has agreed to subordinate pursuant to the Plan), thereby exhausting the

estate's Assets and leaving no Assets to distribute to General Unsecured Claims in a chapter 7 context.

While the chapter 7 trustee may assert avoidance actions against various creditors, which would likely increase the amount of estate Assets available for distribution, holders of General Unsecured Claims would still receive less in a chapter 7 scenario for several reasons. First, converting this case to a chapter 7 would result in a conservative estimate of \$534,700 of additional fees and expenses incurred by the chapter 7 trustee and its professionals. Therefore, the minimum recovery from preference actions necessary just to pay Administrative Claims, Tax Claims, other Secured Claims, Other Priority Claims and chapter 7 expenses in full (without even taking into consideration the significant fees and costs that would be incurred in pursuing the preference actions) is \$944,700. It is highly unlikely that the chapter 7 trustee would be able to recover \$944,700 from preference actions, and even if he or she did, holders of General Unsecured Claims would still not receive a distribution.

Second, even assuming that the preference actions did result in sufficient funds to pay all other Claims and expenses in full so that holders of General Unsecured Claims were entitled to recover some estate Assets, the unsecured creditors would be the ones funding such a distribution. In other words, the chapter 7 trustee would necessarily sue general unsecured creditors in order to recover assets to pay the very same general unsecured creditors. Third, according to the Debtor's Schedules and Statements, General Unsecured Claims are approximately \$18.5 million, with approximately \$17.1 million of that amount owed to Krispy Kreme. Therefore, the proceeds from lawsuits against general unsecured creditors would primarily benefit Krispy Kreme as opposed to the other general unsecured creditors.

As a result, holders of Allowed General Unsecured Claims would likely receive no distribution in a chapter 7 liquidation. Because the Plan does not provide for distributions less than the amount that would be available to creditors in a chapter 7 liquidation, confirmation of the Plan is in the best interest of the Debtor's estate. The Debtor's liquidation analysis is attached hereto as Exhibit B.

Alternatively, if the Plan is not confirmed and consummated, the case could also be dismissed or an alternative plan of reorganization could be proposed. Each of which would likely result in a smaller recovery for all creditors. If the case is dismissed, the Prepetition Secured Lenders would foreclose on their security interests in, among other things, the Net Proceeds of the Assets sold to Westward Dough and the Debtor's cash and accounts receivables, leaving little, if any, amounts available to general unsecured creditors. Further, if the bankruptcy case was dismissed, as in a chapter 7 liquidation, Krispy Kreme would not guarantee any recoveries and it would not waive its Claims against the estate – as it agrees to do under the Plan – thereby substantially increasing the General Unsecured Claims pool and further reducing the recovery (if general unsecured creditors receive any distribution at all) of general unsecured creditors.

The Debtor also believes that the Plan described herein will provide a greater and more expeditious return to creditors than an alternative plan because, among other things, if the Plan is not confirmed, the Debtor may be without cash to fund operations or the implementation of a different plan. Accordingly, on information and belief, the Debtor avers that no alternative plan would be feasible.

### **VIII. CONCLUSION**

The Debtor believes that the Plan provides for the maximum recovery for all of its creditors. Accordingly, the Debtor believes that approval of the Plan is in the best interests of the Debtor and its estate and creditors, and recommends that all of its impaired creditors vote to accept the Plan.

Respectfully submitted,

GLAZED INVESTMENTS, LLC

By: /s/ Joel Aaseby  
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**EXHIBIT A**

**Debtor's Amended Liquidating Plan of Reorganization Pursuant to Chapter 11 of the  
United States Bankruptcy Code Dated May 8, 2006**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

In re:	)	Case No. 06-00932
GLAZED INVESTMENTS, LLC,	)	
	)	Chapter 11
Debtor.	)	Hon. Pamela S. Hollis

**DEBTOR'S AMENDED LIQUIDATING PLAN OF REORGANIZATION  
PURSUANT TO CHAPTER 11 OF THE UNITED STATES  
BANKRUPTCY CODE DATED MAY 8, 2006**

Glazed Investments, LLC, a Delaware limited liability company, proposes this Amended Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code.

**INTRODUCTION**

On February 3, 2006, the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Prior to the Petition Date, the Debtor operated twenty Krispy Kreme franchise locations and supplied approximately 1,340 wholesale locations in Minnesota, Wisconsin and Colorado.

The Debtor commenced this chapter 11 case to facilitate the sale of substantially all of its Assets. On March 16, 2006, the Bankruptcy Court authorized the Debtor to consummate the sale of substantially all its Assets to Westward Dough for \$10 million. That sale closed on March 30, 2006. The Net Proceeds from the sale of the Assets, the proceeds from the collection or sale of any remaining estate Assets, any cash on hand and, if necessary, funds that Krispy Kreme may be required to contribute pursuant to the terms herein will be used to fund the Plan. The Debtor's equity owners will not receive any distribution on account of their ownership Interests in the Debtor.



## ARTICLE I

### **GENERAL PROVISIONS**

#### **1.1 Rules of Interpretation and Construction.**

The rules of construction applicable to the Bankruptcy Code and the Bankruptcy Rules apply to this Plan.

#### **1.2 Entire Agreement.**

This Plan supersedes all prior discussions, understandings, agreements and documents pertaining or relating to any subject matter of the Plan other than the Plan Settlement Term Sheet, dated March 15, 2006, between the Debtor, the Creditors' Committee and Krispy Kreme.

#### **1.3 Governing Law.**

The Bankruptcy Code and the Bankruptcy Rules apply to the rights and obligations arising under this Plan. All non-bankruptcy issues shall be governed, construed and enforced in accordance with the laws of the State of Illinois, without giving effect to the principles of conflicts of law of the State of Illinois.

#### **1.4 Severability.**

Should any provision or section of this Plan be determined to be unenforceable, such determination shall not impair, limit or otherwise affect the enforceability of any other provision or section of this Plan.

#### **1.5 Headings.**

Headings of the articles, paragraphs and sections of the Plan are for convenience only and shall not affect the meaning of any Plan provision.

#### **1.6 Notices.**

Any notice to the Debtor shall be made in writing and deemed to have been given when received by counsel for the Debtor, Daniel A. Zazove, Perkins Coie LLP, 131 South Dearborn Street, Suite 1700, Chicago, Illinois 60603. Payments, distributions, notices and requests to holders of Claims shall be sent to (a) the address set forth on the proof(s) of claim filed by any claimant, or (b) if a claimant has not filed a proof of claim, the address of such claimant as set forth on the Debtor's schedules of liabilities filed with the Bankruptcy Court, or (c) if a claimant has not filed a proof of claim and is not listed on the Debtor's schedules of liabilities, the last known address of such holder. Any claimant may designate in writing another address which shall be effective upon receipt by Debtor's counsel.

**1.7 Modification of the Plan.**

The Debtor may amend or modify the Plan prior to Confirmation; provided however, that the Debtor may not make any modifications to any provisions of the Plan that affect holders of Class 4 General Unsecured Claims without the Creditors' Committee's written consent. After Confirmation, the Debtor may, upon order of the Bankruptcy Court, amend or modify the Plan to remedy any defect or omission or reconcile any inconsistency in the Plan as necessary to carry out the purpose and intent of the Plan. A holder of a Claim that has accepted the Plan shall be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim of such holder.

**1.8 Revocation or Withdrawal.**

The Plan may be revoked or withdrawn by the Debtor prior to the Confirmation Date. If the Plan is revoked or withdrawn, then the Plan shall be deemed null and void.

**1.9 Time Periods.**

In computing any time specified by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

## ARTICLE II

### **DESIGNATION OF CLAIMS AND INTERESTS**

#### **2.1 Classification in General.**

A Claim or Interest is classified in a particular Class only to the extent that it qualifies within the description of that Class. The Bankruptcy Court shall have exclusive jurisdiction over disputes concerning the classification of Claims or Interests. Resolution of any such disputes shall not be a condition precedent to Confirmation or Consummation of the Plan.

#### **2.2 Unclassified Claims.**

Unclassified Claims shall consist of all Administrative Claims and Tax Claims.

#### **2.3 Designation of Classes.**

The Classes of Claims and Interests are designated as follows:

**2.3.1 Class 1.** Allowed Claims of ANB, GE and US Bank, pursuant to the ANB Loans, the GE Notes and the US Bank Loan Documents, respectively:

- (i) *Class 1A.* The Allowed Claim of ANB.
- (ii) *Class 1B.* The Allowed Claim of GE.
- (iii) *Class 1C.* The Allowed Claim of US Bank.

**2.3.2 Class 2.** All Allowed Secured Claims against the Debtor other than the Class 1A, 1B or 1C Claims.

**2.3.3 Class 3.** All Allowed Other Priority Claims against the Debtor.

**2.3.4 Class 4.** All Allowed General Unsecured Claims against the Debtor.

2.3.5 Class 5. Equity Interests in the Debtor of whatever nature or description and however held.

### ARTICLE III

#### TREATMENT OF UNIMPAIRED CLAIMS AND INTERESTS

##### 3.1 Unclassified Claims.

3.1.1 Administrative Claims. Subject to the applicable provisions of section 330(a) and 331 of the Bankruptcy Code and except as otherwise provided by the Plan, each holder of an Allowed Administrative Claim shall be paid in full in cash (a) on or as soon as reasonably practicable after the Effective Date, or (b) if such Claim is Allowed after the Effective Date, when such Claim is Allowed, or (c) upon such terms as may be agreed upon by the claimant and the Debtor. Contested Administrative Claims shall be paid only when Allowed by order of the Bankruptcy Court. Professional fees shall be paid promptly upon entry of an order of the Bankruptcy Court approving such professional's application for fees and expenses after notice and a hearing.

3.1.2 Tax Claims. All Allowed Tax Claims will be paid in full in cash as soon as reasonably practicable after the later of (a) the Effective Date, and (b) when such Claim becomes an Allowed Claim.

##### 3.2 Class 3 Claims.

Each holder of an Allowed Class 3 Claim shall receive the full amount of its Allowed Claim in cash on or as soon as reasonably practicable after the later of (a) the Effective Date, and (b) when such Claim becomes an Allowed Claim.

##### 3.3 Class 5 Interests.

The holders of Class 5 Interests shall retain their Interests in the Debtor, but shall not receive any distributions on account of such Interests.

**3.4 Debtor's Right to Object to Claims.**

Nothing in the Plan shall affect the Debtor's rights to object to the Allowance of any Claim, including all rights in respect of legal and equitable defenses, setoffs and recoupments.

**ARTICLE IV**

**TREATMENT OF IMPAIRED CLAIMS**

**4.1 Class 1 Claims.**

In full satisfaction and release of all Allowed Secured Claims against the Debtor held by any holder of a Class 1 Claim, holders of Allowed Class 1 Claims shall receive the following:

**4.1.1 *Class 1A Claim:*** In full satisfaction and release of all Allowed Claims against the Debtor held by any holder of a Class 1A Claim, and in full satisfaction and release of any Claims against Krispy Kreme under the Class 1 Claim Guarantees, (a) \$322,862.18 was paid to ANB on the closing date of the sale of substantially all of the Debtor's Assets to Westward Dough from the Net Proceeds of such sale, and (b) on the Effective Date, the balance of the Allowed Claim of ANB shall be paid in full in cash.

**4.1.2 *Class 1B Claim:*** In full satisfaction and release of all Allowed Claims against the Debtor held by any holder of a Class 1B Claim, and in full satisfaction and release of any Claims against Krispy Kreme under the Class 1 Claim Guarantees, (a) \$2,294,590.50 was paid to GE on the closing date of the sale of substantially all of the Debtor's Assets to Westward Dough from the Net Proceeds of such sale, and (b) on the Effective Date, the balance of the Allowed Claim of GE shall be paid in full in cash.

**4.1.3 Class 1C Claim:** In full satisfaction and release of all Allowed Claims against the Debtor held by any holder of a Class 1C Claim, and in full satisfaction and release of any Claims against Krispy Kreme under the Class 1 Claim Guarantees, (a) \$2,713,426.34 was paid to US Bank on the closing date of the sale of substantially all of the Debtor's Assets to Westward Dough from the Net Proceeds of such sale, and (b) on the Effective Date, the balance of the Allowed Claim of US Bank shall be paid in full in cash.

**4.2 Class 2 Claims.**

In the sole discretion of the Debtor, each holder of an Allowed Class 2 Claim shall receive either (a) the full amount of its Allowed Claim in cash as soon as reasonably practicable after the later of (i) the Effective Date, and (ii) when such Claim becomes an Allowed Claim, or (b) the collateral securing such Claim without representation or warranty by, or further recourse against, the Debtor.

**4.3 Class 4 Claims.**

In full satisfaction and release of all Claims against the Debtor, each holder of an Allowed Class 4 Claim shall receive its pro-rata share of the Class 4 Distribution Pool, to be distributed pursuant to Section 10.2 of this Plan.

**4.3.1 Krispy Kreme Distribution.**

On the Effective Date, Krispy Kreme shall waive its rights to receive any distribution from the Class 4 Distribution Pool; provided that, on account of its Class 4 Claims against the Debtor, Krispy Kreme shall receive all funds of the Debtor's estate remaining (if any) after payment in full of all Allowed Administrative Claims and Allowed Tax Claims and payment of Allowed Claims in Classes 1, 2, 3 and 4 as set forth in this Plan.

## ARTICLE V

### **ACCEPTANCE OR REJECTION OF THE PLAN**

#### **5.1 Voting Classes.**

Each holder of an Allowed Claim in Classes 1A, 1B, 1C, 2 and 4 shall be entitled to vote to accept or reject the Plan.

#### **5.2 Acceptance by Impaired Classes.**

An impaired Class of holders of Claims shall have accepted the Plan if the Plan is accepted by at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims of such Class that have voted to accept or reject the Plan. A Class of holders of Claims shall be deemed to accept the Plan in the event that no holder of a Claim within that Class submits a ballot by the deadline for doing so. All Claims shall be allowed for voting purposes only unless objected to prior to the hearing on Confirmation of the Plan.

#### **5.3 Presumed Acceptance of the Plan.**

Classes 3 and 5 are unimpaired under the Plan and, therefore, are presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

#### **5.4 Non-Consensual Confirmation.**

In the event that any impaired Class of Claims shall fail to accept the Plan in accordance with section 1129(a) of the Bankruptcy Code, the Debtor reserves the right to request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code or amend the Plan.

## ARTICLE VI

### **IMPLEMENTATION OF THE PLAN**

#### **6.1 Continued Limited Liability Company Existence; Vesting of Assets.**

(a) Subject to the provisions of this Plan, the Debtor shall continue to exist after the Effective Date as a limited liability company in accordance with the laws of the state of Delaware and pursuant to its certificate of formation and limited liability operating agreement in effect prior to the Effective Date, provided however, that the purpose of the post-Effective Date Debtor shall be limited to taking such actions as are necessary to implement, and are consistent with implementing, this Plan. Any dispute as to the propriety of any action sought to be taken by the Debtor after the Effective Date shall be resolved by the Bankruptcy Court. As soon as reasonably practicable after the Debtor exhausts its assets by making the final distribution of cash under this Plan, the Debtor shall (i) effectuate its dissolution in accordance with the laws of the state Delaware, and (ii) cause the resignation of all of its officers and directors.

(b) Except as expressly provided elsewhere in this Plan, on the Effective Date, all property of the Debtor's estate shall revest in the Debtor.

#### **6.2 Duties and Responsibilities of Post-Confirmation Debtor.**

After the Confirmation Date, the post-Confirmation Debtor shall continue to be empowered to execute contracts and documents of transfer on behalf of its estate and the post-Confirmation entity and shall continue to be responsible for administering its estate and the post-



Confirmation entity. In addition, the post-Confirmation Debtor shall have the power, authority, and the obligation to:

(a) establish interest bearing, segregated accounts for the Class 4 Distribution Pool and the Remaining Net Proceeds;

(b) distribute the proceeds of the Debtor's estate in accordance with the terms of this Plan;

(c) object to the allowance of any Claim filed or scheduled in this chapter 11 case as it deems appropriate and settle, dismiss or otherwise dispose of any such Claim;

(d) prosecute avoidance actions under 11 U.S.C. §§ 544, 547, 548, 549, 550 and 553;

(e) retain and pay at normal and customary rates, on a monthly basis, professionals in connection with this case, including, but not limited to, professionals retained by the Debtor, the Creditors' Committee and the Post-Confirmation Creditors' Committee;

(f) execute on behalf of the estate any contract or documents necessary or advisable to effectuate the terms of the Plan;

(g) act as the disbursing agent of the estate in accordance with the terms of the Plan;

(h) prepare and submit to taxing authorities all tax returns and other such information as may be required by the taxing authorities; and

(i) undertake such further actions that may be necessary, desirable or incident to any of the foregoing or to effectuate this Plan.

## **ARTICLE VII**

### **MEANS FOR IMPLEMENTATION OF THE PLAN**

#### **7.1 Sources of Funding.**

On March 16, 2005, the Bankruptcy Court entered the Sale Order approving the sale of substantially all of the Debtor's Assets to Westward Dough for \$10 million. The sale closed on March 30, 2006. On the closing date, the following amounts were paid to the holders of the

Class 1 Claims from the Net Proceeds of such sale: \$2,713,426.34 to US Bank, \$2,294,590.50 to GE and \$322,862.18 to ANB. The Remaining Net Proceeds of the sale of substantially all of the Debtor's Assets to Westward Dough, the proceeds from the collection or sale of any remaining estate Assets and any cash on hand shall fund the Plan and distributions to holders of Allowed Claims in accordance with this Plan. To the extent such estate assets are insufficient to make any payments to holders of Allowed Claims under this Plan, Krispy Kreme shall advance funds to the Debtor sufficient for such payments to be made, and any such advance shall be deemed to have been made on account of the Class 1 Claim Guarantees regardless of the obligation of the Debtor paid with funds advanced by Krispy Kreme.

## **7.2    No Transfer Taxes.**

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant to this Plan, including, but not limited to, the sale of substantially all of the Debtor's Assets to Westward Dough, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, stamp act, real estate transfer tax, mortgage recording tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

# **ARTICLE VIII**

## **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

### **8.1    All Executory Contracts and Unexpired Leases Are Rejected.**

All executory contracts and unexpired leases that (a) the Debtor entered into prior to the commencement of this chapter 11 case, (b) are executory or unexpired, as applicable, as of the Effective Date, and (c) have not been assumed or rejected pursuant to 11 U.S.C. § 365 prior to the Effective Date, shall be deemed rejected by the Debtor as of the Effective Date.

## **8.2     Bar Date for Claims Resulting from the Rejection of Contracts**

### **Hereunder.**

All claims arising from the rejection of executory contracts or unexpired leases under this Plan must be filed within twenty (20) days of the Effective Date.

## **ARTICLE IX**

### **PROCEDURE FOR RESOLVING CONTESTED CLAIMS**

#### **9.1     Claims Objection Bar Date.**

After the Effective Date, only the Debtor may file objections to the allowance of Claims. Unless the Bankruptcy Court orders otherwise, the Debtor shall file all objections to the allowance of any Claim on or before the Claims Objection Bar Date. If no such objection is filed on or before the Claim Objection Bar Date with respect to a particular Claim, such Claim shall be deemed Allowed. The Debtor reserves the right to seek extensions of the Claims Objection Bar Date.

#### **9.2     Objection to Claims; Prosecution of Contested Claims.**

After the Effective Date, the Debtor, after consulting with the Post-Confirmation Creditors' Committee, shall have authority to file, settle, compromise or withdraw any objections to Claims without the consent or approval of any third party and without further order of the Bankruptcy Court.

### **9.3 Allowance of Claims.**

Except as expressly provided herein or in any order entered in this chapter 11 case prior to the Effective Date (including the Confirmation Order), no Claim shall be deemed Allowed, unless and until (a) such Claim is deemed Allowed by the Bankruptcy Code, (b) the Bankruptcy Court enters a Final Order allowing such Claim, or (c) the Debtor, after consulting with the Post-Confirmation Creditors' Committee, agrees to allow such Claim. Except as expressly provided in the Plan or any order entered in this chapter 11 case prior to the Effective Date (including the Confirmation Order), the Debtor will have and retain any and all rights and defenses it had with respect to any Claim as of the Petition Date.

### **9.4 Disallowance of Claims of Entities from Whom Property is**

#### **Recoverable.**

Pursuant to 11 U.S.C. § 502(d), the Bankruptcy Court shall disallow any Claim of any entity: (a) from which property is recoverable under sections 542, 543, 550 or 553 of the Bankruptcy Code, or (b) that is a transferee of a transfer avoidable under sections 522(1), 522(h), 544, 545, 547, 548, 549 or 724(a) of the Bankruptcy Code. Such Claims may be Allowed in the event that the entity or transferee has turned over such property, or paid such amount, to the Debtor.

## **ARTICLE X**

### **PROVISIONS REGARDING DISTRIBUTIONS**

#### **10.1 General.**

All distributions under the Plan will be made by the Debtor's estate. Whenever any distribution to be made under the Plan is due on a day other than a business day, such

distribution shall instead be made, without interest, on the immediately succeeding business day, but will be deemed to have been made on the date due.

#### **10.2 Class 4 Distribution Pool.**

On the Effective Date, the maximum amount of the Class 4 Distribution Pool (based upon the dollar amount in the "Aggregate Dollars Payable to Trade Claims" column on Schedule 1, which corresponds to the total of all Allowed Claims and Contested Claims in Class 4 as of the Effective Date, excluding the Claims of Krispy Kreme) shall be funded into a segregated account held for the benefit of holders of the Class 4 Claims (except Krispy Kreme). If the Debtor has insufficient funds to fully fund the maximum amount of the Class 4 Distribution Pool on the Effective Date, Krispy Kreme shall advance the Debtor sufficient monies to fully fund the Class 4 Distribution Pool on the Effective Date.

There shall be two (2) distributions from the Class 4 Distribution Pool to holders of Class 4 Claims: (a) an initial distribution thirty-five (35) days after the Effective Date to holders of Class 4 Claims that have been Allowed by the date that is thirty (30) days after the Effective Date in an amount equal to the number that is obtained by dividing the amount of the individual Allowed Claim by the maximum amount of potential Allowed Class 4 Claims (except Krispy Kreme), and multiplying that fraction by \$520,000; and (b) a final distribution to holders of Allowed Class 4 Claims upon conclusion of the claims reconciliation process in an amount such that (taking into account any payments already made) each holder of an Allowed Class 4 Claim receives a pro-rata share of the Class 4 Distribution Pool. Any amounts initially funded into the Class 4 Distribution Pool on the Effective Date that are not to be distributed on account of Allowed Class 4 Claims consistent with Schedule 1, shall be paid to Krispy Kreme pursuant to Section 4.3.1 of this Plan.

For purposes of this Section 10.2, the “maximum amount of potential Allowed Class 4 Claims (except Krispy Kreme)” shall mean the total of all Allowed Claims and Contested Claims in Class 4 as of thirty (30) days after the Effective Date, excluding the claims of Krispy Kreme.

### **10.3 Class 1 Claims.**

As a condition precedent to receiving and retaining the distributions set forth in Section 4.1 of this Plan, holders of Class 1 Claims shall be required to (a) execute a release, in form and substance reasonably satisfactory to Krispy Kreme, of any and all Claims under the Class 1 Claim Guarantees, and (b) return to Krispy Kreme any outstanding letters of credit or any other collateral securing any Claim of such holder against Krispy Kreme related to its Class 1 Claims or its Class 1 Claim Guarantees.

### **10.4 Delivery of Distributions.**

Subject to the provisions of Bankruptcy Rule 2002(g), and except as otherwise provided herein, distributions and deliveries to holders of Allowed Claims shall be made in accordance with the notice provisions in Section 1.6.

### **10.5 Undeliverable and Unclaimed Distributions; Time Bar to Cash Payments.**

(a) If any final distribution is returned to the Debtor as undeliverable, no further distributions shall be made to such holder unless and until the Debtor is notified, in writing, of such holder’s then current address. Checks issued by the Debtor on account of Allowed Claims that are not returned as undeliverable, but are not negotiated within sixty (60) days from and after the date of issuance thereof shall be null and void.

(b) Any holder of an Allowed Claim that does not assert its rights pursuant to the Plan to receive a final distribution within ninety (90) days from and after the date (a) such distribution is returned as undeliverable, or (b) of the issuance of a check that has not been returned as undeliverable, but is null and void because it was not timely negotiated, shall have such holder's Claim for such distribution discharged and shall be forever barred from asserting any such Claim against the estate, the Debtor or its assets.

(c) Any entities ultimately receiving undeliverable cash, voided checks or unclaimed distributions shall not be entitled to any interest or other accruals of any kind. Nothing contained in the Plan shall require the Debtor to attempt to locate any holder of an Allowed Claim or an Allowed Interest. Any undeliverable or unclaimed distributions shall be ratably redistributed to holders of Allowed Claims in accordance with this Plan until such Allowed Claims are paid in full, and thereafter shall be retained by Krispy Kreme.

#### **10.6 Compliance with Tax Requirements/Allocation.**

To the extent applicable, the Debtor shall comply with all tax withholding and reporting requirements imposed on it by any governmental unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements.

#### **10.7 Setoffs.**

The Debtor may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, setoff against any Allowed Claim and the distributions to be made pursuant to the Plan on account thereof (before any distribution is made on account of such Claim) the claims, rights and causes of action of any nature that the Debtor may hold against the holder of

such Allowed Claim; provided however, that neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtor of any such claims, rights and causes of action that the Debtor may possess against such holder; provided further, that nothing contained in the Plan is intended to limit the rights of any creditor to effectuate a setoff prior to the Effective Date in accordance with the provisions of sections 362 and 553 of the Bankruptcy Code.

#### **10.8 Distributions to Contested Claims.**

Except as otherwise provided herein, no distribution will be made with respect to all or any portion of any Contested Claim pending the entire resolution thereof in the manner prescribed herein.

#### **10.9 Distributions Under Five Dollars.**

Other than the final distribution, no distribution of less than \$5.00 shall be made to the holders of any Allowed Claim.

#### **10.10 Interest on Claims.**

Unless otherwise specifically provided for in this Plan or the 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 Petition Date on any Claim. Unless such Claim is a Secured Claim entitled to postpetition interest pursuant to section 506 of the Bankruptcy Code, interest shall not accrue or be paid upon any Contested Claim with respect to the period from the Petition Date to the date a final distribution is made thereon, if and after such Contested Claim becomes an Allowed Claim.



## ARTICLE XI

### **CONDITIONS PRECEDENT TO THE EFFECTIVE DATE**

#### **11.1 Conditions Precedent to Effective Date of the Plan.**

The occurrence of the Effective Date and substantial consummation of the Plan shall be subject to the satisfaction of the following conditions precedent:

(a) (i) The Confirmation Order shall have been entered by the Bankruptcy Court in form and substance satisfactory to the Debtor, (ii) more than ten (10) days shall have elapsed since the Confirmation Date, and (iii) except as provided below, the Confirmation Order is in full force and effect and is not stayed; and

(b) All actions, documents and agreements necessary to implement the Plan shall have been effected or executed.

Notwithstanding the foregoing, the Effective Date may occur notwithstanding the pendency of an appeal of the Confirmation Order or any order related thereto so long as there is no stay in effect. The Effective Date may occur before the expiration of time to take an appeal or to seek reconsideration of the Confirmation Order without the giving of any notice to any objecting party. The Debtor may seek the dismissal of any appeal as moot following the Effective Date.

#### **11.2 Waiver of Conditions Precedent.**

To the extent practicable or legally permissible, the Debtor may at any time waive, in whole or in part, in its sole discretion, each of the conditions precedent above without notice or order of the Bankruptcy Court and without any formal action other than proceeding as if such condition did not exist.

#### **11.3 Effect of Non-Occurrence of Conditions to the Effective Date.**

If the Effective Date of the Plan does not occur, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall (a) constitute a

waiver or release of any Claims by or against, or any Interests in, the Debtor, (b) prejudice in any manner the rights of the Debtor, or (c) constitute an admission, acknowledgment, offer or undertaking by the Debtor in any respect.

#### **11.4 Limited Scope.**

Nothing in this Plan is intended, nor should it be construed, to enlarge or diminish the liability of the officers or directors of the Debtor for any of the obligations of the Debtor. Any such liability shall be determined in accordance with applicable non-bankruptcy law.

### **ARTICLE XII**

#### **RETENTION OF CAUSES OF ACTION**

##### **12.1 Reservation.**

As of the Confirmation Date, (a) the Debtor shall reserve all of its Claims and causes of action arising under either the Bankruptcy Code (including, but not limited to, sections 510, 542, 543, 544, 545, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code or otherwise) or under other applicable federal or state law, including, but not limited to, any third-party claims, counterclaims and cross-claims; and (b) the Debtor shall have the sole and exclusive authority, after consulting with the Post-Confirmation Creditors' Committee, to prosecute, abandon, settle or adjust its Claims or causes of action without the consent or approval of any third party and without further order of the Bankruptcy Court.

##### **12.2 No Waiver.**

Unless a Claim or cause of action against a creditor or other person or entity is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order, the Debtor expressly reserves such Claim or cause of action for later adjudication by the Debtor, including,

but not limited to, Claims and causes of action not specifically identified or which the Debtor may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances which may change or be different from those which the Debtor now believes to exist.

### **12.3 Preferences.**

A number of holders of Class 4 Claims received payments prior to the Petition Date that the Debtor asserts constitute avoidable preferences under section 547 of the Bankruptcy Code. Holders of Class 4 Claims that (a) are entitled to vote on the Plan, and (b) the Debtor asserts have received avoidable preferences, may receive, in conjunction with their ballot for voting on the Plan, an option to elect to waive all Claims against the Debtor in exchange for a release by the Debtor of its Claims against such holder. If such election is not made by the holder of such Class 4 Claim by the deadline for voting on the Plan, then all rights and Claims of any kind by the Debtor against such holder, and by such holder against the Debtor, shall be reserved. Further, if the Debtor intends to pursue a preference action against any holder of a Class 4 Claim who does not receive a ballot containing the aforementioned election option, then the Debtor shall not initiate any such preference action unless it first extends to such holder of a Class 4 Claim a formal written offer pursuant to which such creditor may elect to waive all of its Claims against the Debtor in exchange for a release by the Debtor of all of its Claims against such creditor.

## **ARTICLE XIII**

### **DISCHARGE, RELEASE, INJUNCTIVE AND RELATED PROVISIONS**

#### **13.1 Discharge of the Debtors.**

Pursuant to section 1141(d)(3) of the Bankruptcy Code, Confirmation 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 successors, property of the estate or its property, except as expressly provided in this Plan.

### **13.2 Releases by the Debtor.**

Except as otherwise specifically provided herein, for good and valuable consideration, including the service of the Releasees to facilitate the expeditious sale of the Assets, the funding of the Plan, including payment in full of Allowed Administrative Claims, Allowed Tax Claims, Allowed Other Priority Claims, Allowed Secured Claims and the Class 4 Distribution Pool, the Releasees, on the Effective Date, shall be deemed released by the Debtor and the Debtor's estate from any and all Claims, obligations, suits, damages, causes of action, remedies and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that the Debtor or its estate would have been legally entitled to assert in its own right or on behalf of the holder of any Claim or Interest or other person or entity, based in whole or in part upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date.

### **13.3 Injunction.**

**Except as otherwise provided herein, from and after the Effective Date, all holders of Claims or Interests shall be permanently enjoined from commencing or continuing in any manner, any suit, action or other proceeding, on account of or respecting any Claim, Interest, obligation, debt, right, cause of action, remedy or liability or any other claim or cause of action released or to be released pursuant hereto.**

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

(a) Neither the Debtor nor the Creditors' Committee, nor any of their respective present or former members, officers, directors, employees, advisors or attorneys shall have or incur any liability to any holder of a Claim or an Interest, or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to or arising out of this chapter 11 case, formulating, negotiating or implementing the Plan, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the confirmation of the Plan, the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan (including the distributions), except for their gross negligence or willful misconduct, and in all respects shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

(b) The foregoing exculpation and limitation on liability shall not, however, limit, abridge or otherwise affect the rights, if any, of the Debtor to enforce, sue on, settle or compromise the claims retained pursuant to Article 12 of this Plan.

#### **ARTICLE XIV**

##### **RETENTION OF JURISDICTION**

14.1 Until entry of the final decree closing the Debtor's bankruptcy case pursuant to Bankruptcy Rule 3022, the Bankruptcy Court shall retain subject matter jurisdiction of this case and all proceedings arising therein or related thereto. Without in any manner

limiting the scope of the foregoing, the Bankruptcy Court shall retain jurisdiction for the following purposes:

(a) finally determine the classification, priority, allowance, disallowance, amount or objection to any Claim, including, without limitation, any Administrative Claim, or to estimate the Allowed amount of any Claim pursuant to section 502(c) of the Bankruptcy Code;

(b) determine all matters relating to the estate assets, including, but not limited to, the Net Proceeds, the Remaining Net Proceeds and the Class 4 Distribution Pool, and the distribution thereof;

(c) issue such orders as may be necessary for the implementation, execution, and consummation of this Plan, including orders to ensure the conformity with the terms and conditions of this Plan and other orders of the Bankruptcy Court, notwithstanding any otherwise applicable non-bankruptcy law;

(d) determine any and all applications for allowance of compensation and expense reimbursement for periods on or before the Consummation Date and to determine any other request for payment of Administrative Claims;

(e) determine all matters which may be pending before the Bankruptcy Court on or before the Effective Date;

(f) resolve any cases, controversies, suits or disputes that may arise in connection with the Consummation, interpretation or enforcement of the Plan or any person's or entity's obligations incurred in connection with the Plan that arises at any time before this case is closed, including determination, to the extent a dispute arises, of the entities entitled to a distribution within any particular Class of Claims and of the scope and nature of any obligations to cure defaults under assumed contracts and leases, if any;

(g) issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any person or entity with Consummation or enforcement of the Plan, except as otherwise provided herein;

(h) determine any and all applications pending on the Confirmation Date for the rejection, assumption or assignment of executory contracts or unexpired leases and the allowance of any Claims resulting therefrom;

(i) determine all applications, adversary proceedings, contested matters and other litigated matters which were brought or which could have been brought on or before the Effective Date;

(j) determine all matters relating to any Asset sale;

(k) ensure that distributions to holders of Allowed Claims are accomplished pursuant to the provisions hereof;

(l) enter such orders as may be necessary or appropriate to implement or consummate the provisions hereof and all contracts, instruments, releases and other agreements or documents created in connection with the Plan;

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

(n) determine such other matters and for such other purposes as may be provided in, or that may arise in connection with or relate to, this Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan or the Disclosure Statement;

(o) modify this Plan or to remedy any apparent non-material defect or omission in this Plan, or to reconcile any non-material inconsistency in this Plan so as to carry out its intent and purposes; and

(p) enter an order and/or final decree concluding this chapter 11 case.

## ARTICLE XV

### MISCELLANEOUS PROVISIONS

#### **15.1 Professional Fee Claims.**

All final requests for compensation or reimbursement of professional fees pursuant to sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code for services rendered prior to the Effective Date and substantial contribution claims under section 503(b)(4) of the Bankruptcy Code must be filed and served on the Debtor and its counsel no later than thirty (30) days after the Effective Date, unless otherwise ordered by the Bankruptcy Court. Objections to applications of such professionals or other entities for compensation or reimbursement of expenses must be filed and served on the Debtor and its counsel and the requesting professional or other entity no later than thirty (30) days (or such longer period as may be allowed by order of the Bankruptcy Court) after the date on which the applicable application for compensation or

reimbursement was served. Aggregate fees and expenses for professionals retained by the Creditors' Committee and the Post-Confirmation Creditors' Committee shall not exceed \$100,000 without the prior written consent of Krispy Kreme, which shall not be unreasonably withheld, provided that neither Krispy Kreme nor the Debtor defaults on its obligations under this Plan.

#### **15.2 Administrative Claims Bar Date.**

All requests for allowance and/or payment of an Administrative Claim must be filed with the Bankruptcy Court and served on counsel for the Debtor, no later than thirty (30) days after the Effective Date. Unless such request is objected to within seventy-five (75) business days after the Effective Date, such Administrative Claim shall be deemed Allowed in the amount requested. In the event that an Administrative Claim is objected to and cannot be resolved by the parties, the Bankruptcy Court shall determine the Allowed amount of such Administrative Claim. Notwithstanding the foregoing, no request for allowance and/or payment of an Administrative Claim need be filed with respect to an Administrative Claim that is paid or payable by the Debtor in the ordinary course of business.

#### **15.3 Payment of Statutory Fees.**

All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation hearing, shall be paid on or before the Effective Date and shall thereafter be paid by the Debtor until this chapter 11 case is closed.

#### **15.4 Conflicts.**

To the extent that any provision of the Disclosure Statement (or any exhibits, schedules, appendices, supplements or amendments to the foregoing) conflict with or are in any way inconsistent with the terms of the Plan, the Plan shall govern and control.



#### **15.5 Successors and Assigns.**

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

#### **15.6 Compromises and Settlements After Confirmation.**

After Confirmation, but prior to the Effective Date, pursuant to Bankruptcy Rule 9019(a), the Debtor (with Bankruptcy Court approval, following appropriate notice and opportunity for a hearing) may compromise and settle various Claims against it and/or claims that it may have against other persons or entities.

#### **15.7 Releases and Satisfaction of Subordination and Other Rights.**

All Claims against the Debtor and all rights and Claims between or among holders of such Claims relating in any manner whatsoever to any claimed lien rights, subordination rights or rights to assert Claims that are owned by the Debtor or its estates against any third party, shall be deemed satisfied by the distributions made during this chapter 11 case and distributions under, described in, contemplated by and/or implemented in this Plan. Distributions under, described in, contemplated by and/or implemented by this Plan to the various Classes of Claims hereunder shall not be subject to levy, garnishment, attachment or like legal process by any holder of a Claim, by reason of any claimed lien or subordination rights or otherwise, so that each holder of a Claim shall have and receive the benefit of the distributions in the manner set forth in the Plan.

#### **15.8 Binding Effect.**

The Plan shall be binding upon and inure to the benefit of the Debtor, all present and former holders of Claims against and Interests in the Debtor, its respective successors and assigns.

### **15.9 Post-Confirmation Creditors' Committee.**

On the Effective Date, the Creditors' Committee shall be reconstituted as the Post-Confirmation Creditors' Committee. Except as otherwise set forth herein, the Post-Confirmation Creditors' Committee shall have authority 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. Upon the date that all holders of Allowed Class 4 Claims have received all distributions under this Plan, the Post-Confirmation Creditors' Committee shall be dissolved and its members shall be deemed released of all their duties, responsibilities and obligations in connection with this chapter 11 case and the Plan and its implementation, and the retention or employment of the Post-Confirmation Creditors' Committee's attorneys, accountants and other agents or professionals shall terminate. The budget for fees and expenses for professionals retained by the Post-Confirmation Creditors' Committee shall be governed by Section 15.1 herein.

### **15.10 Term of Injunction or Stays.**

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in this chapter 11 case under sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in this Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date.

## **ARTICLE XVI**

### **DEFINITIONS**

A term used but not defined in this Plan shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules.

The following definitions shall apply for purposes of the Plan:

**16.1** “Administrative Claim” shall mean a Claim for any cost or expense of the administration of this chapter 11 case entitled to priority in accordance with section 503(b), 507(a)(1), 507(b) or 1114(e)(2) of the Bankruptcy Code, including without limitation:

- (a) any actual and necessary costs and expenses incurred after the Petition Date of preserving the estate and the Property;
- (b) all compensation for legal and other services and reimbursement of expenses awarded or allowed under sections 328, 330(a) or 331 of the Bankruptcy Code or otherwise;
- (c) any fees or charges, including fees due the United States Trustee and assessed against the Debtor pursuant to chapter 123 of Title 28 of the United States Code; 28 U.S.C. §§ 1911-1930; and
- (d) any Claim afforded priority status under section 503(b), 507(a)(1), 507(b) or 1114(e)(2) of the Bankruptcy Code pursuant to Final Order of the Bankruptcy Court.

**16.2** “Allowed” shall mean, with respect to any Claim, except as otherwise provided herein:

- (e) any Claim for which a proof of claim has been filed with the Bankruptcy Court on or before the Bar Date or the Governmental Units Bar Date, as applicable:
  - (i) as to which no objection has been made to its allowance by the Claims Objection Bar Date, or
  - (ii) as to which an objection was filed but the objection has been adjudicated and the Claim has been allowed by a Final Order;
- (f) any Claim that is deemed to be Allowed pursuant to:
  - (i) any provision of this Plan,
  - (ii) in any stipulation of amount and nature of Claim executed prior to the Confirmation Date and approved by the Bankruptcy Court, or
  - (iii) in any stipulation with the Debtor of amount and nature of Claim executed on or after the Confirmation Date; and

- (g) any Claim that has been scheduled by the Debtor in its schedules of assets and liabilities as other than disputed, contingent and unliquidated and as to which the Debtor has not filed an objection by the Claims Objection Bar Date.

Unless otherwise specified by the Plan or by order of the Bankruptcy Court, Allowed Claims shall not include interest on such Claims for the period from and after the Petition Date, nor shall they include any Claim which may be disallowed under 11 U.S.C. § 502(d).

**16.3** “Allowed Claim of ANB” shall mean all of the Claims of ANB as of the Effective Date, which shall be Allowed pursuant to this Plan in the aggregate amount of \$645,724.36.

**16.4** “Allowed Claim of GE” shall mean all of the Claims of GE as of the Effective Date, including, but not limited to, postpetition interest, attorneys’ fees and all other costs and expenses, which shall be Allowed pursuant to this Plan in the aggregate amount of \$4,689,181.00.

**16.5** “Allowed Claim of US Bank” shall mean all of the Claims of US Bank, which shall be Allowed pursuant to this Plan in the aggregate amount of \$5,331,113.11 as of April 4, 2006, plus postpetition interest payable under the US Bank Loan Documents at the non-default rate accruing through the date of final payment to US Bank pursuant to Section 4.1.3 of this Plan, plus reasonable fees and cost provided in the US Bank Loan Documents, less scheduled principal amortization payments made by the Debtor to US Bank after April 4, 2006 under the US Bank Loan Documents and authorized by the Final Order (I) Authorizing Debtor (A) to Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362, 364(c)(1), 364(c)(2), 364(c)(3) and 364(e), and (B) to Utilize Cash Collateral Pursuant to 11 U.S.C. § 363; (II) Granting Liens, Security Interests and Superpriority Claims; and (III) Granting Adequate

Protection to Prepetition Secured Parties Pursuant to §§ 105, 361, 362, 363 and 364, dated March 16, 2006.

**16.6** “ANB” shall mean American National Bank.

**16.7** “ANB Loans” shall mean the Construction Loan Agreement and the Commercial Loan Agreement, each between ANB (as successor to Western National Bank of Colorado) and the Debtor, and each dated as of June 19, 2002.

**16.8** “Asset Purchase Agreement” shall mean the Asset Purchase Agreement, dated as of February 2, 2006, by and among Westward Dough and the Debtor, for sale of the Assets for \$10.0 million.

**16.9** “Assets” shall mean (a) all of the Debtor’s inventory and merchandise; (b) all of the Debtor’s right, title and interest in any intellectual property, including know-how, trademarks, service marks, trade names, designs, logos, art work, copyrights, patents, and licenses; (c) all of the Debtor’s interests in real property, including the leases of the Debtor’s stores; (d) all furniture, fixtures, and equipment located at or related to the Debtor’s stores; (e) accounts receivable; and (f) all personal property, tangible or intangible, wherever located.

**16.10** “Bankruptcy Code” shall mean title I of the Bankruptcy Reform Act of 1978, as amended from time to time, including the Bankruptcy Abuse and Consumer Protection Act of 2005, as set forth in sections 101 et seq. of title 11 of the United States Code, and applicable portions of titles 18 and 28 of the United States Code.

**16.11** “Bankruptcy Court” shall mean the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division.

**16.12** “Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure.

**16.13** “Bar Date” shall mean May 8, 2006, the date set by the Bankruptcy Court as the last date for timely submission of a proof of claim on account of all Claims against the Debtor other than (a) Administrative Claims, and (b) Claims held by Governmental Units.

**16.14** “Bid Procedures Order” shall mean the Order, Pursuant to 11 U.S.C. § 363 and Fed. R. Bank. P. 2002 and 6004, (i) Approving Bid Procedures for the Potential Sale of Substantially all of the Debtor’s Assets, (ii) Approving Notice Procedures Regarding the Proposed Sale, and (iii) Scheduling a Hearing Date to Consider the Sale, entered by the Bankruptcy Court on February 7, 2006.

**16.15** “Claim Objection Bar Date” shall mean the deadline for the Debtor or any other person or entity to file an objection to the allowance of any Claim, which shall be thirty (30) days after the Effective Date, unless extended by the Bankruptcy Court.

**16.16** “Class” shall mean a category of holders of Claims or Interests as set forth in Section 2.3 of this Plan.

**16.17** “Class 1 Claim Guarantees” shall mean any guaranty of any Class 1 Claim made at any time by Krispy Kreme.

**16.18** “Class 4 Distribution Pool” shall mean the amount of funds calculated pursuant to Schedule 1 to this Plan.

**16.19** “Confirmation” shall mean the entry of the Confirmation Order in form and substance satisfactory to the Debtor.

**16.20** “Confirmation Date” shall mean the date upon which the Confirmation Order is entered by the Bankruptcy Court on its docket, within the meaning of Bankruptcy Rules 5003 and 9021.

**16.21** “Confirmation Order” shall mean the order of the Bankruptcy Court confirming the Plan.

**16.22** “Consummation” shall mean the entry into force of this Plan, and the implementation and effectuation of its terms, pursuant to 11 U.S.C. § 1142.

**16.23** “Contested Claim” shall mean any Claim against the Debtor (a) to the extent the allowance of which is the subject of a timely objection or request for estimation in accordance with the Plan, the Bankruptcy Code, the Bankruptcy Rules or the Confirmation Order, or (b) that is not an Allowed Claim.

**16.24** “Creditors’ Committee” shall mean the Official Committee of Unsecured Creditors of the Debtor, which was appointed by the Office of the United States Trustee on February 13, 2006.

**16.25** “Debtor” shall mean Glazed Investments, LLC.

**16.26** “Disclosure Statement” shall mean the Amended Disclosure Statement for the Debtor’s Amended Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code, dated May 8, 2006, together with all exhibits, schedules and supplements thereto, as amended, supplemented or modified from time to time, describing the Plan, that is prepared and distributed in accordance with sections 1125, 1126(b) and/or 1145 of the Bankruptcy Code and Bankruptcy Rule 3018 and/or other applicable law.

**16.27** "Effective Date" shall mean the date selected by the Debtor which is a business day after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect, and (b) all conditions specified in Section 11.1 hereof have been (i) satisfied, or (ii) waived pursuant to Section 11.2 hereof; provided however, that the Effective Date shall occur no later than thirty (30) days after the Confirmation Date as long as the Confirmation Order is not stayed pending appeal.

**16.28** "Final Order" shall mean an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, that has become final for purposes of 28 U.S.C. §§ 158 and 1291 including any order:

- (a) which is no longer subject to appeal; or
- (b) as to which an appeal or certiorari proceeding is pending but a court order granting a stay has not been entered; or
- (c) as to which any appeal has been rendered moot pursuant to applicable provisions of federal law.

**16.29** "GE" shall mean General Electric Capital Business Asset Funding Corporation.

**16.30** "GE Notes" shall mean the following notes issued by GE to the Debtor:

- (i) Promissory Note No. 0007690-999 dated as of November 14, 2001, (ii) Term Note No. 0007690-004 dated as of December 31, 2001, (iii) Promissory Note No. 0007690-006 dated as of December 28, 2001, (iv) Term Note No. 0007690-007 dated as of December 31, 2001, (v) Promissory Note No. 0007690-011 dated as of October 31, 2002, (vi) Term Note No. 0007690-012 dated as of October 31, 2002, (vii) Promissory Note No. 0007690-993/015 dated as of November 13, 2002, (ix) Term Note No. 0007690-016 dated as of December 17, 2002, (x) Term



Note No. 0007690-010 dated as of July 10, 2002, (xi) Promissory Note No. 0007690-005 dated as of October 30, 2001, and (xii) Master Loan Agreement dated as of October 11, 2001.

**16.31** "General Unsecured Claim" shall mean a Claim that is not an Other Priority Claim, Allowed Claim of ANB, Allowed Claim of GE, Allowed Claim of US Bank, Secured Claim, Administrative Claim or Tax Claim.

**16.32** "Governmental Units Bar Date" shall mean August 2, 2006, the date set by the Bankruptcy Court as the last date for timely submission of a proof of claim on account of all Claims against the Debtor held by Governmental Units other than Administrative Claims.

**16.33** "Interest" shall mean any equity ownership interest in the Debtor of whatever nature or description and however held.

**16.34** "KKDC" shall mean Krispy Kreme Doughnut Corporation.

**16.35** "KKI" shall mean Krispy Kreme Doughnut, Inc.

**16.36** "Krispy Kreme" shall mean KKDC, KKI, and their respective affiliates, collectively.

**16.37** "Net Proceeds" shall mean the proceeds from any sale of any of the Assets after deducting all fees and expenses incurred in connection with such sale, including, but not limited to, valid third party liens, attorneys' fees, closing costs and the payment of cure amounts related to contracts that are assumed and assigned to the purchaser of the Assets.

**16.38** "Other Priority Claims" shall mean any Claim that is entitled to priority under section 507(a) of the Bankruptcy Code (other than the Administrative Claims or the Tax Claims).

**16.39** "Petition Date" shall mean February 3, 2006.

**16.40** "Plan" shall mean this Debtor's Amended Liquidating Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code, dated May 8, 2006.

**16.41** "Post-Confirmation Creditors' Committee" shall have the meaning ascribed to it in Section 15.9.

**16.42** "Prepetition Secured Lenders" shall mean US Bank, GE and ANB, collectively.

**16.43** "Releasees" shall mean the Debtor, Krispy Kreme, each of the Prepetition Secured Lenders and each of their respective present and former officers, directors, employees, agents and professionals.

**16.44** "Remaining Net Proceeds" shall mean any Net Proceeds not distributed on account of Allowed Claims at the closing of the sale of substantially all of the Debtor's Assets to Westward Dough.

**16.45** "Sale Order" shall mean the order entered by the Bankruptcy Court on March 16, 2006, approving the sale of substantially all the Debtor's Assets to Westward Dough, pursuant to sections 363 and 365 of the Bankruptcy Code (Docket No. 102).

**16.46** "Secured Claims" shall mean the portion of any Claim, determined in accordance with section 506(a) of the Bankruptcy Code, as of the Confirmation Date, which is (a) secured by a valid, perfected and unavoidable lien on collateral, express or implied, arising by contract, operation of law or otherwise, to the extent of the value of the creditor's interest in the Debtor's interest in the collateral, or (b) subject to setoff under section 553 of the Bankruptcy Code, to the extent of the amount subject to setoff.

**16.47** “Tax Claims” shall mean a Claim of a kind specified in section 507(a)(8) of the Bankruptcy Code other than those specifically described and separately classified herein.

**16.48** “Unclassified Claims” shall mean the Administrative Claims and the Tax Claims, collectively.

**16.49** “US Bank” shall mean U.S. Bank National Association.

**16.50** “US Bank Loan Documents” shall mean that certain Loan and Security Agreement, dated December 19, 2003, between US Bank and the Debtor, together with certain documents executed in connection therewith.

**16.51** “Westward Dough” shall mean Westward Dough Operating Company, LLC.

## **ARTICLE XVII**

### **DISCLOSURE STATEMENT**

The attention of holders, claimants, creditors, persons, entities and equity security holders is directed to the Disclosure Statement filed with the Bankruptcy Court in connection with this Plan.

Respectfully submitted,

GLAZED INVESTMENTS, LLC

By: /s/ Joel Aaseby  
Joel Aaseby

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Attorneys for the Debtor and Debtor in Possession

**SCHEDULE 1**

<u>Claim Amount</u> <u>(In Millions)</u>	<u>Aggregate Dollars</u> <u>Payable to Trade</u> <u>Claims (\$\$ in Millions)</u>	<u>% Recovery</u>
Below 2.5	Lesser of .52 and .25% recovery	
2.6	0.52	0.2
2.7	0.5315	0.196852
2.8	0.543	0.193929
2.9	0.5545	0.191207
3	0.566	0.188667
3.1	0.5775	0.18629
3.2	0.589	0.184063
3.3	0.6005	0.18197
3.4	0.612	0.18
3.5	0.6235	0.178143
3.6	0.635	0.176389
3.7	0.64	0.172973
3.8	0.645	0.169737
3.9	0.65	0.166667
4	0.655	0.16375
4.1	0.66	0.160976
4.2	0.665	0.158333
4.3	0.67	0.155814
4.4	0.675	0.153409
4.5	0.68	0.151111
4.6	0.685	0.148913
4.7	0.6915	0.147128
4.8	0.698	0.145417
4.9	0.7045	0.143776
5	0.711	0.1422
5.1	0.7175	0.140686
5.2	0.724	0.139231
5.3	0.7305	0.13783
5.4	0.737	0.136481
5.5	0.75	0.136364
Above 5.5	0.75	

**EXHIBIT B**

**Debtor's Liquidation Analysis**

## NOTES TO LIQUIDATION ANALYSIS

A. This liquidation analysis presents the estimated net value of the assets if the Debtor were to be liquidated under the provisions of chapter 7 of the Bankruptcy Code and the net proceeds of the liquidation were to be distributed to the Debtor's creditors.

The liquidation analysis has not been examined or reviewed by independent accountants in accordance with standards promulgated by the AICPA. The estimates and assumptions, although considered reasonable by the Debtor, are inherently subject to significant uncertainties and contingencies beyond the control of the Debtor. Accordingly, there can be no assurance that the results shown would be realized if the Debtor were liquidated. Actual results in such a case could vary materially from those presented.

If actual results were lower than those shown, or if the assumptions used in formulating this liquidation analysis were not realized, distributions could be adversely affected.

These Notes to Liquidation Analysis are an integral part of the analysis. Any term not defined herein has the meaning ascribed to such term in the Disclosure Statement.

B. The Debtor may be able to recover approximately \$103,000 related to a tax escrow from a sale-leaseback transaction with Sovereign Glazed I LLC, approximately \$75,000 related to a tax escrow from the development of the Grand Chute, WI property and approximately \$212,000 related to a tax refund from the State of Minnesota for taxes paid on production equipment.

C. The Debtor has not yet performed a detailed analysis of its avoidance actions. However, a preliminary review of the viable preference actions for payments made in 90 days preceding bankruptcy total approximately \$1.2 million in the aggregate. Generally accounting for defenses and the cost of litigation, the Debtor has assigned 50% of this amount (or \$600,000) as the possible recovery from avoidance actions for this purpose of this liquidation analysis.

D. The liquidation expenses include (1) payment of the chapter 7 trustee's fees under 11 U.S.C. § 326 in the amount of \$434,700, and (2) a conservative estimate of attorneys' fees and closing costs in the amount of \$100,000.

Nothing in this liquidation analysis shall be construed as the Debtor allowing any claims or conceding any defenses. The Debtor reserves all of its rights and defenses with respect to each claim and bankruptcy cause of action.



### Debtor's Liquidation Analysis (A)

<u>Debtor's Assets:</u>	<u>Projected Recovery Amount</u>
Net Proceeds from Sale to Westward Dough	\$9,800,000
Recoverable Outstanding A/R	\$1,900,000
Cash on Hand	\$1,800,000
Tax Escrow/Returns (B)	\$390,000
Total Cash	<u>\$13,890,000</u>
<u>Other Assets:</u>	
Bankruptcy Causes of Action (C)	\$600,000
<b>Total Proceeds</b>	<b><u>\$14,490,000</u></b>
<hr/>	
Liquidation Expenses (D)	<u>\$(534,700)</u>
<b>Net Estate Assets</b>	<b><u>\$13,955,300</u></b>
<u>Estimated Claims:</u>	
Prepetition Secured Lender's Claims	\$10,660,000
Other Secured Claims; Administrative Claims; Tax Claims; Other Priority Claims	\$3,700,000
Net Estate Assets Less Prepetition Secured Lender's Claims and Total Priority/Administrative/Secured Claims	<u>\$(404,700)</u>

Because there would likely be a deficiency with respect to the Allowed Priority, Administrative and Secured Claims, the holders of General Unsecured Claims would likely not receive any distribution in a chapter 7.