

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
TPP ACQUISITION, INC. d/b/a The Picture People,	§	Case No. 16-33437-hdh-11
	§	
Debtor.	§	

**THE DEBTOR’S AND OFFICIAL COMMITTEE OF UNSECURED CREDITORS’
SECOND AMENDED JOINT PLAN OF LIQUIDATION FOR TPP ACQUISITION, INC.
D/B/A THE PICTURE PEOPLE UNDER CHAPTER 11 OF THE UNITED STATES
BANKRUPTCY CODE (FINAL VERSION)**

Dated April 19, 2017

Robert D. Albergotti
State Bar No. 009790800
Ian T. Peck
State Bar No. 24013306
Jarom J. Yates
State Bar No. 24071134
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: robert.albergotti@haynesboone.com
Email: ian.peck@haynesboone.com
Email: jarom.yates@haynesboone.com

ATTORNEYS FOR DEBTOR

Samuel A. Newman (*admitted pro hac vice*)
snewman@gibsondunn.com
Olivia Adendorff (TX SBN: 24069994)
oadendorff@gibsondunn.com
Michael S. Neumeister (*admitted pro hac vice*)
mneumeister@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
2100 McKinney Avenue, Suite 1100
Dallas, Texas 75201
Telephone: 214.698.3100
Facsimile: 214.571.2900

- and -

D. Wade Emmert (TX SBN: 00793688)
wade@emmertparvin.com
EMMERT & PARVIN, LLP
1701 N. Market Street, Suite 404
Dallas, Texas 75202
Telephone: 469.607.4500
Facsimile: 469.607.4501

**CO-COUNSEL FOR OFFICIAL
COMMITTEE OF UNSECURED
CREDITORS**



TABLE OF CONTENTS

ARTICLE I. DEFINED TERMS, RULES OF INTERPRETATION, CONSTRUCTION OF TERMS, COMPUTATION OF TIME AND GOVERNING LAW 1

- A. Defined Terms..... 1
- B. Rules of Interpretation and Construction of Terms..... 1
- C. Computation of Time..... 2
- D. Reference to Monetary Figures..... 2
- E. Governing Law..... 2

ARTICLE II. TREATMENT OF UNCLASSIFIED ADMINISTRATIVE AND PRIORITY TAX CLAIMS 2

- A. Allowed Administrative Claims..... 2
- B. Allowed Priority Tax Claims..... 5
- C. Reservation of Rights Under Bankruptcy Code § 505..... 5
- D. Ordinary Course Liabilities..... 5

ARTICLE III. CLASSIFICATION OF CLAIMS AND INTERESTS..... 6

- A. Classification of Claims and Interests..... 6
- B. Identification of Classes..... 6
- C. Unimpaired Classes..... 6
- D. Impaired, Voting Classes..... 6
- E. Impaired, Non-Voting Classes..... 7
- F. Acceptance or Rejection of the Plan..... 7
- G. Elimination of Classes for Voting Purposes..... 7
- H. Controversy Concerning Classification, Impairment or Voting Rights..... 7

ARTICLE IV. TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS..... 8

- A. Treatment of Class 1 – Senior Secured Lenders Claims..... 8
- B. Treatment of Class 2 – Allowed Other Secured Claims..... 8
- C. Treatment of Class 3 - Allowed Secured Tax Claims..... 8
- D. Treatment of Class 4 - Allowed Priority Non-Tax Claims..... 9
- E. Treatment of Class 5 - Allowed General Unsecured Claims..... 9
- F. Treatment of Class 6 – Interests..... 10

ARTICLE V. MEANS FOR IMPLEMENTATION OF THE PLAN..... 10

- A. Cancellation of Interests and Dissolution of Debtor..... 10
- B. The Debtor’s Assets..... 10
- C. Pre-Effective Date Payments..... 10
- D. Corporate Action..... 11
- E. Liquidation Trust..... 11

ARTICLE VI. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES.... 17

- A. Rejection of Executory Contracts and Unexpired Leases..... 17
- B. Rejection Claim Bar Date..... 17
- C. Reservation of Rights..... 17

ARTICLE VII. OBJECTIONS TO AND PROCEDURES FOR RESOLVING DISPUTES REGARDING CLAIMS AND INTERESTS..... 18

- A. Objections to Claims and Interests..... 18
- B. Claims Filed After Objection Deadline..... 18
- C. Claims Listed as Contingent, Unliquidated, or Disputed in Schedules..... 18
- D. Retention of Claims and Defenses..... 19
- E. Claims Administration Responsibilities..... 19

F. Adjustment to Claims Without Objection 19

G. Disallowance of Claims or Interests. 19

H. Offer of Judgment..... 19

I. Limitation on Setoff. 19

ARTICLE VIII. PROVISIONS GOVERNING DISTRIBUTIONS OF PROPERTY UNDER THE PLAN..... 20

A. General..... 20

B. Delivery of Distributions. 20

C. Rounding of Fractional Distributions. 20

D. Unclaimed Distributions..... 21

E. Uncashed Checks. 21

F. Compliance with Tax Requirements. 21

G. De Minimis Distributions. 21

H. Disputed Distribution Reserve..... 21

I. Setoffs..... 22

ARTICLE IX. EFFECT OF CONFIRMATION OF THE PLAN 22

A. Legally Binding Effect. 22

B. Vesting of Property in the Liquidation Trust..... 22

C. Derivative Litigation Claims. 22

D. Release..... 22

E. Exculpation..... 23

ARTICLE X. RETENTION OF RIGHTS OF ACTION..... 24

A. Liquidation Trustee’s Preservation, Retention and Maintenance of Rights of Action..... 24

B. Preservation of All Rights of Action Not Expressly Settled or Released. 24

ARTICLE XI. MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN 25

A. Modification or Amendment of the Plan. 25

B. Revocation or Withdrawal of the Plan..... 25

ARTICLE XII. RETENTION OF JURISDICTION..... 25

A. Bankruptcy Court Jurisdiction..... 25

B. Limitation on Jurisdiction..... 27

ARTICLE XIII. MISCELLANEOUS PROVISIONS 27

A. Conditions to Effectiveness. 27

B. Due Authorization by Claim Holders..... 27

C. Filing of Additional Documentation. 28

D. Further Authorizations..... 28

E. Post Confirmation Service List..... 28

F. Successors and Assigns. 28

G. Transfer of Claims. 28

H. Exemption from Transfer Tax..... 28

I. Notices. 29

J. Dissolution of the Creditors’ Committee. 29

K. U.S. Trustee Fees..... 29

L. Implementation. 29

M. Oversight Between the Confirmation Date and the Effective Date. 29

N. No Admissions. 30

O. Substantial Consummation. 30

P. Good Faith. 30

Q. Final Decree..... 30

R. Discharge of the Debtor..... 30

EXHIBITS

Glossary of Defined Terms..... A
Rights of Action..... B

INTRODUCTION

TPP Acquisition, Inc. d/b/a The Picture People, the Debtor and debtor-in-possession in this Chapter 11 Case, and the Committee (together, the “Proponents”) hereby propose this Joint Chapter 11 Plan under Bankruptcy Code § 1121. The Plan is a liquidating Plan designed to maximize the value of the Estate by the establishment of a Liquidation Trust to liquidate the remaining assets of the Debtor’s Estate, to create reserves for payment of certain Allowed Claims, to resolve the outstanding Claims against and Interests in the Debtor, and to coordinate distribution of the Cash in the Estate and any other proceeds of liquidation in furtherance of the Plan.

ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. No materials, other than the Disclosure Statement and any exhibits and schedules attached thereto or referenced therein, have been approved by the Proponents for use in soliciting acceptances or rejections of the Plan.

ARTICLE I.

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

A. Defined Terms.

All capitalized terms not defined elsewhere in the Plan shall have the meaning assigned to them in the Glossary of Defined Terms attached hereto as **Exhibit A**. Any capitalized term used in the Plan and not defined herein, but that is defined in the Bankruptcy Code, has the meaning assigned to that term in the Bankruptcy Code. Any capitalized term used in this Plan and not defined herein or in the Bankruptcy Code, but that is defined in the Bankruptcy Rules, has the meaning assigned to that term in the Bankruptcy Rules.

B. Rules of Interpretation and Construction of Terms.

1. For the purposes of the Plan, any reference in the Plan to an existing document or exhibit filed or to be filed means that document or exhibit as it may have been or may be amended, supplemented, or otherwise modified.
2. The words “herein,” “hereof,” and “hereunder” and other words of similar import refer to the Plan as a whole and not to any particular article, section, subsection or clause contained in the Plan, unless the context requires otherwise.
3. Whenever from the context it appears appropriate, each term stated in either the singular or the plural includes the singular and the plural, and pronouns stated in the masculine, feminine, or neuter form include the masculine, feminine, and neuter form.
4. Captions and headings to articles, sections, and exhibits are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of the Plan.

5. The rules of construction set forth in Bankruptcy Code § 102 shall apply.

6. All exhibits to the Plan are incorporated into the Plan by this reference and are a part of the Plan as if set forth fully herein. The Plan Supplement shall be filed with the Bankruptcy Court not fewer than ten (10) days prior to the commencement of the Confirmation Hearing. When filed, the Plan Supplement will be part of the Plan. Holders of Claims and Interests may obtain a copy of all Plan Documents, once filed, by written request sent to Haynes and Boone, LLP, Attn: Kim Morzak, 2323 Victory Ave., Suite 700, Dallas, Texas 75219-7673.

C. Computation of Time.

In computing any period of time, date, or deadline prescribed or allowed in the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply. If the date on which a transaction may or must occur pursuant to the Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

D. Reference to Monetary Figures.

All references in the Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

E. Governing Law.

Except to the extent the Bankruptcy Code or the Bankruptcy Rules are applicable, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Texas without giving effect to the principles of conflicts of law thereof.

ARTICLE II. TREATMENT OF UNCLASSIFIED ADMINISTRATIVE AND PRIORITY TAX CLAIMS

In accordance with Bankruptcy Code § 1123(a)(1), Administrative Claims and Priority Tax Claims have not been classified and thus are excluded from the Classes of Claims set forth in the Plan.

A. Allowed Administrative Claims.

1. General: Subject to the Administrative Claims Bar Date provisions herein and unless otherwise provided for in the Plan or an order of the Bankruptcy Court, each Holder of an Allowed Administrative Claim (except for Professional Fee Claims) shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Administrative Claim within ten (10) Business Days after the later of (a) the Effective Date, (b) the Allowance Date, and (c) such date as is mutually agreed upon by the Debtor or the Liquidation Trustee (as applicable) and the Holder of such Allowed Administrative Claim, either payment in Cash equal to the unpaid amount of such Allowed Administrative Claim or such other less favorable treatment as to which the

Debtor or the Liquidation Trustee (as applicable) and the Holder of such Allowed Administrative Claim shall have agreed upon in writing. Haynes and Boone, Gibson Dunn, Emmert & Parvin, and Emerald (together, the “Subordinating Professionals”) have agreed to subordinate their right to payment of their Allowed Administrative Claims in excess of the applicable Carve-Out (the “Subordinated Professional Fee Claims”) to other Allowed Administrative Claims and Priority Tax Claims. As more fully described in Article V, the Administrative Claims for expenses identified in the DIP Budget in the amounts identified in the DIP Budget that are not Allowed as of the Effective Date but that are Allowed after the Effective Date may be paid from the Wind-Down Reserve or the proceeds of the Remaining Assets, or, to the extent deemed to be an “Assumed Liability” under the APA, may be sought to be paid by the Purchaser or any other entity liable for such amounts under the TPP Sale Order. Upon payment in full of all Allowed Administrative Claims and Allowed Priority Tax Claims, and upon the establishment of appropriate reserves with respect to any Administrative Claims and Priority Tax Claims that are Disputed, the Subordinating Professionals shall be entitled to share *pari passu* in any subsequent distributions by the Liquidation Trustee and shall each be entitled to payment in full of all Subordinated Professional Fee Claims prior to any payment or Distributions on account of General Unsecured Claims.

2. Payment of Statutory Fees: All fees payable pursuant to 28 U.S.C. § 1930 shall be paid in full in Cash from the Liquidation Trust when due.

3. Administrative Claims Bar Dates and Objection Deadlines:

a. Deadline: Except as otherwise provided in Sections II.A.3 or II.D of the Plan, requests for payment of unpaid Administrative Claims for which no bar date has otherwise been previously established must be included in a motion or application and filed and served on the Post-Confirmation Service List no later than the Administrative Claims Bar Date. Holders of Administrative Claims that are required to file requests for payment of such Administrative Claims and that do not file such requests by the Administrative Claims Bar Date are forever barred from asserting such Administrative Claims against the Debtor, the Liquidation Trust, or their property. Objections to Administrative Claims must be filed and served on the Liquidation Trustee and the Holder of the Administrative Claim that is the subject of such objection no later than the Administrative Claim Objection Deadline.

b. Form: Requests for payment of Administrative Claims included in a Proof of Claim are of no force and effect, and are Disallowed in their entirety as of the Confirmation Date unless such Administrative Claim is subsequently filed by timely motion or application as provided herein. However, to the extent a Governmental Unit is not required to file a request for payment of an Administrative Claim pursuant to Bankruptcy Code § 503(b)(1)(D), a Proof of Claim filed by such Governmental Unit prior to the applicable bar date set forth in the Plan for filing a request for payment of such Administrative Claim shall fulfill the requirements of this section of the Plan.

c. Professionals: All Professionals shall file and serve on the Post-Confirmation Service List an application for final allowance of any Professional Fee Claim no later than the Professional Fee Claim Bar Date. Objections to Professional Fee Claims must be filed and served on the Liquidation Trustee and the Professional to whose application the objections are addressed no later than the Professional Fee Claim Objection Deadline. Any Professional that does not file an application for final allowance of any Professional Fee Claim by the Professional Fee Claim Bar Date is forever barred from asserting any such Professional Fee Claim against the Debtor, the Liquidation Trust, the Professional Fee Reserve, or their respective property.

d. Fees and Expenses of Liquidation Trustee: The Liquidation Trustee shall be reimbursed for his or her reasonable fees and out-of-pocket expenses (including the reasonable fees and expenses of any professionals employed by the Liquidation Trustee), incurred in connection with services provided to the Liquidation Trust, from the assets of the Liquidation Trust in accordance with the Liquidation Trust Agreement without application to the Bankruptcy Court. Except to the extent otherwise provided in the Liquidation Trust Agreement, any professional fees and reimbursements for expenses incurred by the Liquidation Trustee after the Effective Date may be paid solely from the assets of the Liquidation Trust (excluding the funds in the Wind-Down Reserve and the Professional Fee Reserve) without application to the Bankruptcy Court.

e. Post-Petition Tax Claims: Requests for payment of Post-Petition Tax Claims for which no bar date has otherwise been previously established must be filed on or before the Post-Petition Tax Claim Bar Date. A Holder of any Post-Petition Tax Claim that is required to file a request for payment of such taxes and does not file and serve such request on the Post-Confirmation Service List by the Post-Petition Tax Claim Bar Date is forever barred from asserting any such Post-Petition Tax Claim against the Debtor, the Liquidation Trust, the Reserves, or their respective property, whether any such Post-Petition Tax Claim is deemed to arise prior to, on, or subsequent to the Effective Date. To the extent that the Holder of an Allowed Post-Petition Tax Claim holds a Lien to secure its Post-Petition Tax Claim under applicable state law, the Holder of such Post-Petition Tax Claim shall retain its Lien until its Allowed Post-Petition Tax Claim has been paid in full. Objections to Post-Petition Tax Claims must be filed and served on the Liquidation Trustee, and the Holder of the Post-Petition Tax Claim that is the subject of such objection no later than the Post-Petition Tax Claim Objection Deadline.

4. Governmental Bar Dates:

a. Deadline: Except as otherwise provided in this section of the Plan, the deadline for filing Proofs of Claim by Governmental Units shall be the Governmental Bar Date (March 1, 2017) for all Governmental Units. Governmental Units that are required to file Proofs of Claim and that did not file such Proofs of Claim by the Governmental Bar Date are forever barred from

asserting such Claims against the Debtor, the Liquidation Trust, the Reserves, or their property. Objections to Proofs of Claim of Governmental Units must be filed and served on the Liquidation Trustee and the Governmental Unit that is the subject of such objection no later than the Governmental Unit Claims Bar Date.

b. Form: To the extent a Governmental Unit is not required to file a request for payment of an Administrative Claim pursuant to Bankruptcy Code § 503(b)(1)(D), such Governmental Unit must have filed a Proof of Claim prior to the Governmental Bar Date or such claim is Disallowed as of the Effective Date.

B. Allowed Priority Tax Claims.

Subject to the Administrative Claims Bar Date provisions herein and unless otherwise provided for in the Plan or an order of the Bankruptcy Court, each Holder of an Allowed Priority Tax Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Tax Claim, at the Liquidation Trustee's option, (a) the amount of such Holder's Allowed Priority Tax Claim in one Cash payment within 120 days of the Effective Date; (b) the amount of such holder's Allowed Priority Tax Claim, in equal annual Cash payments on each anniversary of the Effective Date with interest thereon at the non-default statutory rate applicable to the tax in question, without penalties, until the last anniversary of the Effective Date that precedes the fifth (5th) anniversary of the Petition Date, with the first such payment to occur on the first anniversary of the Effective Date; or (c) such other treatment as may be agreed to in writing by the holder of the Priority Tax Claim and the Liquidating Trustee. As more fully described in Article V, the Priority Tax Claims identified in the DIP Budget in the amounts identified in the DIP Budget that are not Allowed as of the Effective Date but that are Allowed after the Effective Date may be paid from the Wind-Down Reserve or the proceeds of the Remaining Assets, or, to the extent deemed to be an "Assumed Liability" under the APA, may be sought to be paid by the Purchaser or any other entity liable for such amounts under the TPP Sale Order.

C. Reservation of Rights Under Bankruptcy Code § 505.

For the avoidance of doubt, and without limiting the generality of any similar provision of this Plan, the Debtor and the Estate reserve all rights under Bankruptcy Code § 505, as otherwise applicable, to contest Priority Tax Claims and to seek appropriate determinations under § 505 with respect thereto, all of which rights are transferred under this Plan to the Liquidation Trust.

D. Ordinary Course Liabilities.

Notwithstanding anything in this Article II to the contrary, unless the Debtor or Liquidation Trustee (as applicable) determines in its business judgment that an Ordinary Course Liability may not constitute an actual, necessary cost and expense of preserving the Estate in accordance with Bankruptcy Code § 503(b) (in which case the Debtor or Liquidation Trustee shall notify the Holder of an Ordinary Course Liability that it must file a motion for payment of Administrative Claim), the Debtor or Liquidation Trustee (as applicable) shall pay each Ordinary Course Liability pursuant to the payment terms and conditions of the particular transaction

giving rise to the Ordinary Course Liability. Holders of an Ordinary Course Liability will not be required to file or serve any request for payment of the Ordinary Course Liability unless the Debtor or Liquidation Trustee has informed such Holder of the requirement to file such a notice or motion in accordance with the foregoing sentence.

ARTICLE III. CLASSIFICATION OF CLAIMS AND INTERESTS

A. Classification of Claims and Interests.

1. Pursuant to Bankruptcy Code § 1122, a Claim or Interest is placed in a particular Class for purposes of voting on the Plan and receiving Distributions under the Plan only to the extent: (i) the Claim or Interest qualifies within the description of that Class; (ii) the Claim or Interest is an Allowed Claim or Allowed Interest in that Class; and (iii) the Claim or Interest has not been paid, released, or otherwise compromised before the Effective Date. In accordance with Bankruptcy Code § 1123(a)(1), all Claims and Interests except Administrative Claims and Priority Tax Claims are classified in the Classes set forth below.

B. Identification of Classes.

1. Class 1 – Senior Secured Lender Allowed Claims: Class 1 shall consist of the Senior Secured Lender Allowed Claims.
2. Class 2 – Allowed Other Secured Claims: Class 2 shall consist of all Allowed Other Secured Claims.
3. Class 3 - Allowed Secured Tax Claims: Class 3 shall consist of all Allowed Secured Tax Claims.
4. Class 4 - Allowed Priority Non-Tax Claims: Class 4 shall consist of all Allowed Priority Non-Tax Claims.
5. Class 5 - Allowed General Unsecured Claims: Class 5 shall consist of all Allowed General Unsecured Claims except for Claims placed in Class 5.
6. Class 6 - Interests: Class 6 shall consist of all Interests in the Debtor.

C. Unimpaired Classes.

Class 1, Senior Secured Lender Allowed Claims are Unimpaired under the Plan. Holders of Claims in Class 1 are conclusively presumed to have accepted the Plan and are therefore not entitled to vote to accept or reject the Plan.

D. Impaired, Voting Classes.

Classes 2-5 are Impaired under the Plan. Under Bankruptcy Code § 1126(a), holders of Claims in Classes 2-5 are entitled to vote to accept or reject the Plan.

E. Impaired, Non-Voting Classes.

Class 6 is Impaired under the Plan. Holders of Interests in Class 6 will not retain their Interests under the Plan, and no Distributions on account of such Interests will be made. Under Bankruptcy Code § 1126(g), Holders of Interests in Class 6 are conclusively presumed to have rejected the Plan, and therefore the Debtor will not solicit their votes.

F. Acceptance or Rejection of the Plan.

1. Voting and Acceptance by Impaired Classes of Claims: Each Impaired, Voting Class is entitled to vote separately to accept or reject the Plan. An Impaired, Voting Class of Claims has accepted the Plan if the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in such Class actually voting have voted to accept the Plan.
2. Voting of Disputed Claims and Interests: A Holder of a Disputed Claim that has not been temporarily allowed for purposes of voting on the Plan may vote only such Disputed Claim in an amount equal to the portion, if any, of such Claim shown as fixed, liquidated, and undisputed in the Schedules.
3. Cramdown: If the Bankruptcy Court determines that all applicable requirements of Bankruptcy Code § 1129(a) are met with the exception of Bankruptcy Code § 1129(a)(8), the Plan shall be treated as a request by the Debtor for Confirmation of the Plan in accordance with Bankruptcy Code § 1129(b), notwithstanding the failure to satisfy the requirements of Bankruptcy Code § 1129(a)(8), on the basis that the Plan is fair and equitable and does not discriminate unfairly with respect to each Class of Claims or Interests that is impaired under, and has not accepted, the Plan.

G. Elimination of Classes for Voting Purposes.

Any Class as to which there are no Allowed Claims or Interests or as to which no vote is cast shall be deemed deleted from the Plan for purposes of voting on acceptance or rejection of the Plan by such Class under Bankruptcy Code § 1129(a)(8).

H. Controversy Concerning Classification, Impairment or Voting Rights.

In the event a controversy or dispute should arise involving issues related to the classification, impairment or voting rights of any Holder of a Claim or Interest under the Plan, whether before or after the Confirmation Date, the Bankruptcy Court may, after notice and a hearing, determine such controversy. Without limiting the foregoing, the Bankruptcy Court may estimate for voting purposes (i) the amount of any contingent or unliquidated Claim the fixing or liquidation of which, as the case may be, would unduly delay the administration of the Chapter 11 Case and (ii) any right to payment arising from an equitable remedy for breach of performance. In addition, the Bankruptcy Court may, in accordance with Bankruptcy Code § 506(b), conduct valuation hearings to determine the Allowed Amount of any Secured Claim.

**ARTICLE IV.
TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS**

A. Treatment of Class 1 – Senior Secured Lenders Claims.

Pursuant to the TPP Sale Order, the closing of the TPP Sale was deemed a novation of and extinguished any Claim that the Senior Secured Lenders or any of their respective successors and assigns had or may have against the Debtor or the Estate with respect to the DIP Financing Obligations or the Pre-Petition Financing Obligations (each as defined in the TPP Sale Order) in excess of any valid “Credit Bid” (as defined in the TPP Sale Order). The treatment of the Claims of the Senior Secured Lenders or any of their respective successors and assigns as provided in the TPP Sale Order is reaffirmed pursuant to this Plan. As more fully provided in Article V, upon payment in full of all unpaid Allowed Claims identified in the DIP Budget up to the amounts identified in the DIP Budget, the Debtor or Liquidation Trustee, as applicable, shall promptly transfer any remaining cash held in the Wind-Down Reserve, if any, to the Senior Secured Lenders. Nothing in this Article IV.A shall alter or affect any Rights of Action against the Senior Secured Lenders, the Pre-Petition Secured Lenders, the Purchaser, or any of their respective affiliates, successors, or assigns.

B. Treatment of Class 2 – Allowed Other Secured Claims.

If there is more than one Allowed Other Secured Claim, then each Allowed Other Secured Claim shall be classified in a separate sub-Class. Unless otherwise provided for pursuant to an order of the Bankruptcy Court, each Holder of an Allowed Other Secured Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Other Secured Claim as soon as reasonably practicable after the later of (a) the Effective Date, (b) the Allowance Date, (c) the date such Allowed Other Secured Claim becomes due and owing in the ordinary course of business, and (d) such date as is mutually agreed upon by the Debtor or the Liquidation Trustees (as applicable) and the Holder of such Allowed Other Secured Claim either: (a) at the sole discretion of the Debtor or the Liquidation Trustee (as applicable) (i) Cash equal to the unpaid portion of such Allowed Other Secured Claim, including any interest on such Allowed Other Secured Claim in an amount and to the extent required to be paid pursuant to Bankruptcy Code § 506(b), or (ii) reinstatement of the legal, equitable, and contractual rights of the Holder of such Allowed Other Secured Claim; or (b) such other treatment as may be agreed to by the Debtors and the Holder of such Allowed Other Secured Claim in writing.

C. Treatment of Class 3 - Allowed Secured Tax Claims.

If there is more than one Allowed Secured Tax Claim, each separate Allowed Secured Tax Claim will be classified in a separate sub-Class. Unless otherwise provided for pursuant to an order of the Bankruptcy Court, each Holder of an Allowed Secured Tax Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Secured Tax Claim as soon as reasonably practicable after the later of (a) the Effective Date, (b) the Allowance Date, and (c) such date as is mutually agreed upon by the Debtor or the Liquidation Trustee (as applicable) and the Holder of such Allowed Secured Tax Claim, either (i) Cash equal to the unpaid amount of such Allowed Secured Tax Claim, including any interest on such

Allowed Secured Tax Claim in an amount and to the extent required to be paid pursuant to Bankruptcy Code § 506(b) or (ii) such other less favorable treatment as to which the Debtor or the Liquidation Trustee (as applicable) and the Holder of such Allowed Secured Tax Claim shall have agreed upon in writing. Each Holder of a Secured Tax Claim shall retain its properly perfected Liens on applicable collateral to the same extent and priority previously held, notwithstanding the transfer of such collateral into the Liquidation Trust, until either (i) its Secured Claim has been Allowed and treated in accordance with this provision of the Plan, or (ii) its Secured Claim has been Disallowed. The Holder of an Allowed Secured Tax Claim shall not be entitled to foreclose such Lien absent further order of the Bankruptcy Court.

D. Treatment of Class 4 - Allowed Priority Non-Tax Claims.

Unless otherwise provided for pursuant to an order of the Bankruptcy Court, each Holder of an Allowed Priority Non-Tax Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Priority Non-Tax Claim on the later of (a) the Effective Date, (b) the Allowance Date, and (c) such date as is mutually agreed upon by the Debtor or the Liquidation Trustee (as applicable) and the Holder of such Allowed Priority Non-Tax Claim, either Cash equal to the unpaid amount of such Allowed Priority Non-Tax Claim or such other less favorable treatment as to which the Debtor or the Liquidation Trustee (as applicable) and the Holder of such Allowed Priority Non-Tax Claim shall have agreed upon in writing. In the event that there is insufficient Cash to pay all Allowed Class 4 Claims in full, Holders of Allowed Claims entitled to priority under Bankruptcy Code §§ 507(a)(4), (a)(5), (a)(6), and (a)(7) shall be paid in full in Cash before Distributions are made to Holders of Allowed Claims entitled to priority under other subsections of § 507. In the event that there is insufficient Cash to pay all Allowed Class 4 Claims entitled to priority under a section of the Bankruptcy Code other than §§ 507(a)(4), (a)(5), (a)(6), and (a)(7) in full, the Holders of such Claims will receive a Pro Rata Share of the available Cash. For the avoidance of doubt, Holders of Allowed General Unsecured Claims shall not receive any Distributions until all Priority Non-Tax Claims have been paid in full.

E. Treatment of Class 5 - Allowed General Unsecured Claims.

Unless otherwise provided for pursuant to an order of the Bankruptcy Court, each Holder of an Allowed General Unsecured Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed General Unsecured Claim, a beneficial interest in the Liquidation Trust as set forth in Article V hereof entitling such Holder to receive on account of such Claim, such Holder's Pro Rata Share of any Cash Distribution from the Liquidation Trust to Holders of Allowed General Unsecured Claims in accordance with Article V of this Plan, on or as soon as practicable after the later of (a) the Effective Date, (b) the Allowance Date, (c) the initial Distribution Date and on each periodic Distribution Date thereafter, (d) the date on which all estimated Allowed Claims in Classes 1, 2, 3, and 4 have been paid in accordance with applicable provisions of the Plan (unless (i) sufficient reserves exist, as determined by the Liquidation Trustee in his or her business judgment, to ensure payment in full of all such estimated Allowed Claims or (ii) with respect to any Secured Claim, the Holder of such Secured Claim does not have a Lien on the assets anticipated to be distributed), and (e) such date as is mutually agreed upon by the Liquidation Trustee and the Holder of an Allowed General Unsecured Claim. For the avoidance of doubt, Holders of Allowed General Unsecured Claims

shall not receive any Distributions unless and until all Allowed Secured Claims, Allowed Administrative Claims (including Allowed Professional Fee Claims), Allowed Secured and Priority Tax Claims and Allowed Priority Non-Tax Claims have been paid in full as provided in the Plan. Each Holder of Allowed General Unsecured Claims shall receive such Distributions in accordance with the provisions set forth in Article V. Notwithstanding the foregoing, the Holder of an Allowed General Unsecured Claim may receive such other less favorable treatment as may be agreed to by such Holder and the Liquidation Trustee.

F. Treatment of Class 6 – Interests.

On the Effective Date, all Interests in Class 6 shall be canceled and extinguished and Interest Holders shall not be entitled to receive any Distributions on account of such Interests.

**ARTICLE V.
MEANS FOR IMPLEMENTATION OF THE PLAN**

A. Cancellation of Interests and Dissolution of Debtor.

On the Effective Date, except as otherwise specifically provided for in the Plan: (i) all Interests in the Debtor shall be canceled; (ii) the obligations of, Claims against, and Interests in the Debtor arising under, evidenced by, or relating to any agreements, contracts, indentures, certificates of designation, bylaws, certificates or articles of incorporation, or similar documents in each case governing the Interests shall be released and discharged; and (iii) the Debtor shall be deemed dissolved without further action by the Liquidation Trustee. The Liquidation Trustee may, in his or her discretion, file all necessary certificates of dissolution and take any other actions necessary or appropriate to reflect the dissolution of the Debtor under applicable state law. All applicable regulatory or governmental agencies shall accept any certificates of dissolution or other papers filed by the Liquidation Trustee on behalf of the Debtor and shall take all steps necessary to allow and reflect the prompt dissolution of the Debtor as provided herein, without the payment of any fee, tax, or charge and without need for the filing of reports or certificates, except as the Liquidation Trustee may determine in his or her sole discretion.

B. The Debtor's Assets.

The Debtor's assets include: (i) all Rights of Action, including Avoidance Actions, and the proceeds thereof, including, without limitation, those Rights of Action identified in Article X and Exhibit B of the Plan; (ii) the remaining Wind-Down Cash; and (iii) the Remaining Assets.

C. Pre-Effective Date Payments

On or Prior to the Effective Date, the Debtor shall pay with the Wind-Down Cash all unpaid Professional Fee Claims up to the amount of the applicable Carve-Out, other Administrative Claims, Secured and Priority Tax Claims, Priority Non-Tax Claims, and Ordinary Course Liabilities to the extent all such Claims are consistent with the DIP Budget and have become Allowed Claims on or prior to the Effective Date.

D. Corporate Action.

The entry of the Confirmation Order shall constitute authorization for the Debtor and Liquidation Trustee (as applicable) to take or cause to be taken all corporate actions necessary or appropriate to implement all provisions of, and to consummate, the Plan prior to, on and after the Effective Date and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court without further approval, act or action under any applicable law, order, rule or regulation, including, without limitation, any action required by the Interest holders, officers, or directors of the Debtor, including, among other things: (1) the cancellation of the Interests in the Debtor; (2) all transfers of assets that are to occur pursuant to the Plan; (3) the incurrence of all obligations contemplated by the Plan and the making of Distributions; and (4) the implementation of all settlements and compromises as set forth in or contemplated by the Plan. As of the Effective Date, the Liquidation Trustee is authorized and directed to do all things and to execute and deliver all agreements, documents, instruments, notices and certificates as are contemplated by the Plan and to take all necessary actions required in connection therewith, in the name of and on behalf of the Debtor and the Liquidation Trustee (as applicable).

E. Liquidation Trust.

1. Creation of the Liquidation Trust and Appointment of the Liquidation Trustee: On the Effective Date, the Liquidation Trust shall be created pursuant to the Liquidation Trust Agreement. The Liquidation Trust shall operate under the provisions of the Liquidation Trust Agreement. The Liquidation Trust shall be administered by the the Liquidation Trustee, who shall be overseen by the Liquidation Trust Committee. The Liquidation Trust Committee and the Liquidation Trustee shall be appointed as of the Effective Date and shall be compensated and otherwise bound by the terms of the Liquidation Trust Agreement without further order of the Bankruptcy Court. The Plan will be administered and actions will be taken in the name of the Debtor or Liquidation Trust, as appropriate, through the Liquidation Trustee, irrespective of whether the Debtor has been dissolved. The Liquidation Trust Agreement shall be deemed approved and effective on the Effective Date subject to execution by the Liquidation Trustee and the Debtor. The identity of the Liquidation Trustee and the Liquidation Trust Committee and a form of Liquidation Trust Agreement will be included in the Plan Supplement.
2. Property of the Liquidation Trust: On the Effective Date, the Debtor and Estate shall be deemed to have transferred and/or assigned to the Liquidation Trustee for administration through the Liquidation Trust any and all assets of the Debtor and the Estate as of the Effective Date, including, without limitation and except as otherwise provided in the Plan, (i) all Rights of Action, including Avoidance Actions, and the proceeds thereof, including, without limitation, those Rights of Action identified in Article X and **Exhibit B** of the Plan; (ii) the remaining Wind-Down Cash; (iii) the Remaining Assets; and (iv) attorney-client, work-product and all other privileges. Notwithstanding anything to the contrary herein, and the Wind-Down Cash may only be used to pay Allowed Claims consistent with the DIP Budget.

3. Creation of Reserves: On the Effective Date the Debtor or Liquidation Trustee (as applicable) shall establish the reserves as more fully described below. Notwithstanding any contrary provision contained herein (other than the requirements for segregation of undeliverable distributions set forth in Article VIII below), the Liquidation Trustee shall not be obligated to physically segregate and maintain separate accounts for reserves or for other purposes. Separate reserves and funds may be merely bookkeeping entries or accounting methodologies, which may be revised from time to time, to enable the Liquidation Trustee to determine Cash available for Distributions, reserves and amounts to be paid to parties-in-interest.

a. The Wind-Down Reserve: On the Effective Date, the Debtor or Liquidation Trustee (as applicable) shall establish the Wind-Down Reserve which shall consist of all remaining Wind-Down Cash (except the cash deposited in the Professional Fee Reserve as described below). Amounts held in the Wind-Down Reserve may be used only to pay unpaid Allowed Administrative Claims, Allowed Secured Claims, Ordinary Course Liabilities, Allowed Secured and Priority Tax Claims, and U.S. Trustee fees identified in the DIP Budget and only up to the amounts identified in the DIP Budget. Upon the payment of all Allowed Administrative Claims, Allowed Secured Claims, Ordinary Course Liabilities, Allowed Secured and Priority Tax Claims, and U.S. Trustee fees up to the amounts identified in the DIP Budget, any remaining amounts in the Wind-Down Reserve shall, subject to the Debtor's, the Committee's, or the Liquidation Trustee's (as applicable) right to challenge such obligation under the DIP Order or the TPP Sale Order, be transferred to the Senior Secured Lenders in accordance to the applicable provisions of the Plan.

b. Professional Fee Reserve: On the Effective Date, to the extent that any Estate Professional has not received the full amount permitted under the applicable Carve-Out, the Liquidation Trustee will establish the Professional Fee Reserve in an amount sufficient to fund any such unpaid Carve-Out amounts. After all Allowed Administrative Claims (including Allowed Professional Fee Claims), Allowed Secured and Priority Tax Claims and Allowed Priority Non-Tax Claims have been paid in full, any excess cash obtained by the Liquidation Trust (exclusive of cash placed in the Liquidating Trust Reserve) shall be placed in the Professional Fee Reserve. The Professional Fee Reserve shall be used first for distributions to Holders of Allowed Professional Fee Claims consistent with the Carve-Out amounts in the DIP Budget. Distributions from the Professional Fee Reserve shall be made by the Liquidation Trustee. After the payment in full of the Carve-Out amounts any unused portion of the Professional Fee Reserve shall be allocated to pay down any unpaid Allowed Professional Fee Claims of Professionals that are not Subordinating Professionals. After the payment in full of the Carve-Out amounts and the Allowed Professional Fee Claims of Professionals that are not Subordinating Professionals, any unused portion of the Professional Fee Reserve shall be allocated to pay down any remaining unpaid Subordinated Professional Fee Claims on a pro-rata basis. Within ten (10) days after all Allowed Professional Fee Claims, including Subordinated Professional Fee Claims, have been paid in full, the Liquidation Trustee shall transfer any

unused portion of the Professional Fee Reserve to the general account of the Liquidation Trust to be administered in accordance with the applicable provisions of the Liquidation Trust Agreement and the Plan.

4. Officers, Directors, and Shareholders:

a. Directors, Officers, and Employees: On the Effective Date, the authority, power and incumbency of Stuart Noyes, as chief restructuring officer of the Debtor shall be terminated and cease and Stuart Noyes shall be deemed to have resigned. In addition, on the Effective Date, the authority, power and incumbency of all other directors and officers of the Debtor shall be terminated and cease and all other directors and officers shall be deemed to have resigned.

b. Succession by Liquidation Trustee: On the Effective Date, the Liquidation Trustee succeeds to such powers as would have been applicable to the Debtor's officers, directors and shareholders.

5. Liquidation Trustee: The salient terms of the Liquidation Trustee's employment, including the Liquidation Trustee's duties and compensation, to the extent not set forth in the Plan, shall be set forth in the Liquidation Trust Agreement, including but not limited to the Liquidation Trust Committee's oversight of the Liquidation Trustee's exercise of its responsibilities and powers. In general, the Liquidation Trustee shall be the exclusive trustee of the Liquidation Trust for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate appointed pursuant to Bankruptcy Code § 1123(b)(3)(B). The Liquidation Trustee and the Liquidation Trust Committee shall have fiduciary duties to beneficiaries of the Liquidation Trust in the same manner that members of an official committee of creditors appointed pursuant to Bankruptcy Code § 1102 have fiduciary duties to the creditor constituents represented by such a committee. The Liquidation Trust Agreement shall specify the terms and conditions of the Liquidation Trustee's and Liquidation Trust Committee's compensation, responsibilities and powers. The duties and powers of the Liquidation Trustee shall generally include, without limitation, the following:¹

a. To exercise all power and authority, that may be or could have been exercised, commence all proceedings that may be or could have been commenced and take all actions that may be or could have been taken by any officer, director or shareholder of the Debtor with like effect as if authorized, exercised and taken by unanimous action of such officers, directors and shareholders; including, without limitation, amendment of the articles of organization and by-laws of the Debtor, the dissolution of the Debtor, and the assertion or waiver of any of the Debtor's attorney/client privilege;

b. To maintain escrows and other accounts, make Distributions and take other actions consistent with the Plan and the implementation thereof, including the establishment, re-evaluation, adjustment and maintenance of appropriate

¹ In the case of a conflict between the Liquidation Trust Agreement and the Plan, the Liquidation Trust Agreement shall control.

reserves, in the name of either of the Debtor or the Liquidation Trustee, even in the event of the dissolution of the Debtor;

c. Subject to the applicable provisions of the Plan, to collect and liquidate all assets of the Estate and the Liquidation Trust pursuant to the Plan and to administer the winding-up of the affairs of the Debtor;

d. To object to, defend, compromise, and/or settle any Claims (Disputed or otherwise) as discussed in Article VII hereof without the necessity of approval of the Bankruptcy Court and/or to seek Court approval for any Claims settlement to the extent thought appropriate by the Liquidation Trustee or to the extent such approval is required by prior order of the Bankruptcy Court;

e. To the extent ordered by the Bankruptcy Court, to defend, compromise and/or settle any Rights of Action transferred to the Liquidation Trust in this Plan by filing a notice of compromise and settlement with the Bankruptcy Court, which shall be deemed approved if no objection is filed within twenty-one (21) days after the date of filing, and which shall be subject to approval of the Bankruptcy Court to the extent an objection is filed;

f. To make decisions, without further Court approval, regarding the retention or engagement of professionals, employees and consultants by the Liquidation Trust and to pay the charges incurred by the Liquidation Trust on or after the Effective Date for services of professionals, disbursements, expenses or related support services relating to the winding down of the Debtor and implementation of the Plan, without application to the Bankruptcy Court, with such charges to be paid solely from the Liquidation Trust Assets (excluding the funds in the Wind-Down Reserve and the Professional Fee Reserve);

g. To cause, on behalf of the Liquidation Trust, the Debtor and the Estate, that all necessary tax returns and all other appropriate or necessary documents related to municipal, state, federal or other tax law are prepared and filed timely;

h. To make all Distributions to holders of Allowed Claims provided for or contemplated by the Plan;

i. To invest Cash in accordance with Bankruptcy Code § 345 or as otherwise permitted by a Final Order of the Bankruptcy Court and as deemed appropriate by the Liquidation Trustee;

j. To collect any accounts receivable or other claims and assets of the Debtor or the Estate not otherwise validly disposed of pursuant to the Plan, the APA and/or the Sale Order;

k. To enter into any agreement or execute any document required by or consistent with the Plan and perform all of the obligations of the Debtor or the Liquidation Trustee thereunder;

- l. To abandon in any commercially reasonable manner, including abandonment or donation to a charitable organization at the discretion of the Liquidation Trustee, any assets that the Liquidation Trustee concludes are of inconsequential benefit to Creditors of the Estate or, at the conclusion of the Chapter 11 Case, are determined to be too impractical to distribute;
- m. To investigate, prosecute and/or settle Rights of Action, including, but not limited to Avoidance Actions, participate in or initiate any proceeding before the Bankruptcy Court or any other court of appropriate jurisdiction, participate as a party or otherwise in any administrative, arbitral or other non-judicial proceeding, litigate or settle such Rights of Action on behalf of the Liquidation Trust and pursue to settlement or judgment such actions;
- n. To utilize trust assets to purchase or create and carry all appropriate new insurance policies and pay all insurance premiums and costs it deems necessary or advisable to insure the acts and omissions of the Liquidation Trustee;
- o. To implement and/or enforce all provisions of the Plan;
- p. To maintain appropriate books and records (including financial books and records);
- q. To collect and liquidate all assets of the Estate pursuant to the Plan and administer the winding-up of the affairs of the Debtor including, but not limited to, closing the Chapter 11 Case;
- r. To pay fees incurred pursuant to 28 U.S.C. § 1930(a)(6) and to file with the Bankruptcy Court and serve on the U.S. Trustee quarterly financial reports until such time as such reports are no longer required, a Final Decree is entered closing the Chapter 11 Case or the Chapter 11 Case is converted or dismissed, or the Bankruptcy Court orders otherwise;
- s. To file with the Bankruptcy Court and serve upon the Post-Confirmation Service List, within twenty-five (25) days after the end of each quarter, a report setting forth: (i) the receipt and disposition by the Liquidation Trustee of property of the Estate or the Debtor during the prior quarter, including the disposition of funds in the Liquidation Trust; (ii) all Disputed Claims resolved by the Liquidation Trustee during such period; and (iii) the status of Rights of Action; and
- t. To do all other acts or things consistent with the provisions of the Plan that the Liquidation Trustee deems reasonably necessary or desirable with respect to implementing the Plan.

6. Resignation, Death, or Removal of the Liquidation Trustee or Members of the Liquidation Trust Committee: The Liquidation Trustee or the members of the Liquidation Trust Committee may resign at any time upon thirty (30) days' written notice to the Post-Confirmation Service List provided that successors to the Liquidation Trustee

or the Liquidation Trust Committee are appointed pursuant to the Liquidation Trust Agreement. No successor Liquidation Trustee member of the Liquidation Trust Committee shall in any event have any liability or responsibility for the acts or omissions of any of his or her predecessors. Every successor Liquidation Trustee or member of the Liquidation Trust Committee shall execute, acknowledge and file with the Bankruptcy Court and deliver to the Post-Confirmation Service List an instrument in writing accepting such appointment hereunder, and thereupon such successor Liquidation Trustee or member of the Liquidation Trust Committee, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of his or her predecessor.

7. Reliance by the Liquidation Trustee: The Liquidation Trustee and Liquidation Trust Committee may rely, and shall be fully protected in acting or refraining from acting, upon any resolution, statement, certificate, instrument, opinion, report, notice, request, consent, order or other instrument or document which it reasonably believes to be genuine and to have been signed or presented by the proper party or parties, and the Liquidation Trustee and Liquidation Trust Committee may conclusively rely as to the truth of the statements and correctness of the opinions expressed therein.

8. Tax Treatment of Liquidation Trust: The Debtor intends that the Liquidation Trust will be treated as a “liquidating trust” within the meaning of Section 301.7701-4(d) of the Treasury Regulations. Accordingly, the Liquidation Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash any non-Cash assets, make timely distributions to the beneficiaries of the Liquidation Trust, and not unduly prolong its duration. The transfer of the Debtor’s and the Estate’s remaining assets to the Liquidation Trust shall be treated as a transfer to the beneficiaries of the Liquidation Trust for all purposes of the Internal Revenue Code (e.g., sections 61(a)(12), 483, 1001, 1012 and 1274) followed by a deemed transfer by such beneficiaries to the Liquidation Trust. The Liquidation Trust shall be considered a “grantor” trust, and the beneficiaries of the Liquidation Trust shall be treated as the grantors and deemed owners of the Liquidation Trust. To the extent valuation of the transferred property to the Liquidation Trust is required under applicable law, the Liquidation Trustee shall value the transferred property and notify in writing the beneficiaries of the Liquidation Trust of such valuations. The assets transferred to the Liquidation Trust shall be valued consistently by the Liquidation Trustee and the Trust beneficiaries, and these valuations will be used for all federal income tax purposes.

9. Liquidation Trust Interests: Liquidation Trust Interests shall not be represented by certificates and shall be transferable subject, as applicable, to Bankruptcy Rule 3001(e) and any other provision of law.

10. Costs of Liquidation Trust: The Liquidation Trustee shall pay Plan administration costs, costs of holding and liquidating any non-Cash property, and costs of prosecution of any and all Rights of Action held by the Liquidation Trust, including but not limited to taxes and professional fees, from the funds in the Liquidation Trust, excluding funds in the Wind-Down Reserve and the Professional Fee Reserve.

11. Distributions: Distributions to Holders of Allowed General Unsecured Claims shall be made at the discretion of the Liquidation Trustee through the exercise of its business judgment. After the payment in full of all Allowed Administrative Claims, Allowed Professional Fee Claims, Allowed Secured and Priority Tax Claims, Allowed Priority Non-Tax Claims, and Allowed Secured Claims, any remaining cash shall be distributed to the holders of Allowed General Unsecured Claims as more fully described in Article VIII of the Plan.

ARTICLE VI.
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Rejection of Executory Contracts and Unexpired Leases.

Except as otherwise provided in the Confirmation Order, unless rejected or assumed by prior order of the Bankruptcy Court, each Executory Contract and Unexpired Lease shall be rejected as of the Confirmation Date (which rejection shall be effective on the Effective Date), and such rejected Executory Contracts and Unexpired Leases shall no longer represent binding obligations of the Debtor or the Liquidation Trust after the Effective Date. Entry of the Confirmation Order shall constitute approval of such rejections under Bankruptcy Code §§ 365 and 1123.

B. Rejection Claim Bar Date.

Any Claim arising out of the rejection of an Executory Contract or Unexpired Lease pursuant to the Confirmation Order or prior order of the Bankruptcy Court must be filed with the Bankruptcy Court on or before the Rejection Claim Bar Date, and must be served on the Liquidation Trustee and his/her counsel, if the Liquidation Trustee has retained counsel. Any such Claims not filed by the Rejection Claim Bar Date are discharged and forever barred. Each Allowed Claim arising from the rejection of an Executory Contract shall be treated as an Allowed General Unsecured Claim. The Bankruptcy Court shall determine the amount, if any, of the Claim of any Entity seeking damages by reason of the rejection of any Executory Contract or Unexpired Lease.

C. Reservation of Rights.

Neither the exclusion nor inclusion of any contract or lease by the Debtor on its Schedules, nor anything contained in the Plan, will constitute an admission by the Debtor or the Liquidation Trust that any such contract or lease is or is not in fact an Executory Contract or Unexpired Lease or that the Debtor or the Liquidation Trustee has any liability under any such contract or lease. Nothing in the Plan will waive, excuse, limit, diminish, or otherwise alter any of the defenses, Claims, Rights of Action, or other rights of the Debtor or the Liquidation Trust under any Executory Contract or non-Executory Contract or any Unexpired Lease or expired lease. Nothing in the Plan will increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor or the Liquidation Trustee under any Executory Contract or non-Executory Contract or any Unexpired Lease or expired lease.

**ARTICLE VII.
OBJECTIONS TO AND PROCEDURES FOR
RESOLVING DISPUTES REGARDING CLAIMS AND INTERESTS**

A. Objections to Claims and Interests.

Unless otherwise provided herein or as otherwise ordered by the Bankruptcy Court after notice and a hearing, objections to Claims shall be filed with the Bankruptcy Court and served upon the Holders of each of the Claims to which objections are made as soon as practicable, but in no event later than one hundred eighty (180) days after the Effective Date. Further extensions to the deadline to object to Claims may be granted by the Bankruptcy Court upon motion of the Liquidation Trustee upon notice and a hearing. The fact that a Claim has not been objected to prior to the Confirmation Hearing or solicitation on the Plan should not be deemed by any Holder of a Claim, whether the Claim arises from a Proof of Claim, the Schedules, or a motion with the Bankruptcy Court, to be a determination by the Debtor that such Claim is an Allowed Claim. The Debtor, or the Liquidation Trustee, or any other person or entity with standing, as applicable, may object to any Claim for which the applicable objection deadline has not passed, including with respect to Claims that arise from the Debtor's Schedules.

B. Claims Filed After Objection Deadline.

Following the Proof of Claim Bar Date, no proofs of claim may be filed in the Chapter 11 Case without prior authorization of the Bankruptcy Court and any such proof of claim which is filed without such authorization shall be deemed null, void and of no force or effect. Except as otherwise provided in the Plan, following the Confirmation Date, a Claim may not be amended unless such amendment results in a decrease of the amount of the Claim, the change in priority of the Claim to a lower priority under the Bankruptcy Code, or the withdrawal of the Claim, and any such unauthorized amendment shall be deemed null, void and of no force or effect. Claims filed or identified in the Schedules may be amended or reconsidered only as provided in the Bankruptcy Code and Bankruptcy Rules, except that Claims filed or identified in the Schedules may be objected to by following the same procedures for objecting to Proofs of Claim as provided in the Bankruptcy Code, the Bankruptcy Rules, or the Plan.

C. Claims Listed as Contingent, Unliquidated, or Disputed in Schedules.

ANY CLAIM THAT HAS BEEN OR IS HEREAFTER LISTED IN THE SCHEDULES AS CONTINGENT, UNLIQUIDATED OR DISPUTED, AND FOR WHICH NO PROOF OF CLAIM HAS BEEN TIMELY FILED IS CONSIDERED DISALLOWED ON THE EFFECTIVE DATE WITHOUT FURTHER ACTION BY THE DEBTOR OR THE LIQUIDATION TRUSTEE AND WITHOUT ANY FURTHER NOTICE TO OR ACTION, ORDER, OR APPROVAL OF THE BANKRUPTCY COURT. THE FACT THAT A CLAIM HAS NOT BEEN LISTED IN THE SCHEDULES AS CONTINGENT, UNLIQUIDATED OR DISPUTED, SHOULD NOT BE DEEMED AS A FINAL DETERMINATION BY THE DEBTOR OR ITS PROFESSIONALS THAT SUCH CLAIM IS A VALID CLAIM. UNTIL THE APPLICABLE DEADLINE FOR OBJECTING TO CLAIMS HAS PASSED, OR UNTIL SUCH TIME AS A FINAL ORDER OF THE BANKRUPTCY COURT HAS BEEN ENTERED ALLOWING A

CLAIM, THE DEBTOR, THE LIQUIDATION TRUSTEE, OR ANY OTHER PERSON OR ENTITY WITH STANDING MAY OBJECT TO ANY SUCH CLAIMS.

D. Retention of Claims and Defenses.

After the Effective Date, except as released in the Plan or by Bankruptcy Court order, the Liquidation Trustee shall have and retain any and all rights and defenses the Debtor had with respect to any Claims and Rights of Action immediately prior to the Effective Date.

E. Claims Administration Responsibilities.

Except as otherwise specifically provided in the Plan, after the Effective Date, the Liquidation Trustee shall have the authority: (1) to file, withdraw, or litigate to judgment any objections to Claims; (2) to settle or compromise any Disputed Claim without any further notice to or action, order, or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order, or approval by the Bankruptcy Court.

F. Adjustment to Claims Without Objection.

Any Claim that has been paid or satisfied or any Claim that has been amended or superseded may be adjusted for Distribution purposes by the Liquidation Trustee without any further notice to or action, order, or approval of the Bankruptcy Court.

G. Disallowance of Claims or Interests.

Any Claims held by Entities from which property is recoverable under Bankruptcy Code §§ 542, 543, 550, or 553 or that is a transferee of a transfer avoidable under Bankruptcy Code §§ 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a), shall be deemed Disallowed pursuant to Bankruptcy Code § 502(d), and Holders of such Claims may not receive any Distributions on account of such Claims until such time as such Rights of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Estate by that Entity have been turned over or paid to the Liquidation Trustee.

H. Offer of Judgment.

The Liquidation Trustee is authorized to serve upon a Holder of a Claim an offer to allow judgment to be taken on account of such Holder's Claim, and, pursuant to Bankruptcy Rules 7068 and 9014, Federal Rule of Civil Procedure 68 shall apply to such offer of judgment. To the extent the Holder of a Claim must pay the costs incurred by the Liquidation Trustee after the Liquidation Trustee makes such offer, the Liquidation Trustee is entitled to set off such amounts against the amount of any distribution to be paid to such Holder without any further notice to or action, order, or approval of the Bankruptcy Court.

I. Limitation on Setoff.

In no event shall any Holder of Claims or Interests be entitled to setoff any Claim or Interest against any Claim, right, or cause of action of the Debtor or Liquidation Trustee, as

applicable, unless such right of setoff is asserted in connection with a timely filed proof of claim or non-residential real property lease.

**ARTICLE VIII.
PROVISIONS GOVERNING DISTRIBUTIONS
OF PROPERTY UNDER THE PLAN**

A. General.

Except as otherwise specified herein, the Liquidation Trustee shall make all Distributions required under the Plan.

B. Delivery of Distributions.

Subject to Bankruptcy Rule 9010, Distributions to Holders of Allowed Claims will be made by mail (1) at the address of each such Holder as set forth on the Proof of Claim filed by such Holder, (2) at the address set forth in any written notice of address change delivered after the date of any related Proof of Claim to the Liquidation Trustee, or (3) at the address reflected in the Schedules filed by the Debtor if no Proof of Claim is filed and the Liquidation Trustee has not received a written notice of address change.

If any Distribution to the Holder of an Allowed Claim is returned as undeliverable, the Liquidation Trustee shall use reasonable efforts to determine such Holder's then-current address. After reasonable efforts, if the Liquidation Trustee still cannot determine such Holder's then-current address, no further Distributions shall be made to such Holder unless and until the Liquidation Trustee is notified of such Holder's then-current address.

Undeliverable distributions shall be set aside and held in a segregated account in the name of the Liquidation Trustee. If the Liquidation Trustee is able to determine or is notified of such Holder's then-current address, then such Distribution shall be paid or distributed to such Holder within ten (10) Business Days of the date the Liquidation Trustee determines the Holder's then-current address. If the Liquidation Trustee cannot determine, or is not notified of, a Holder's then-current address by the later of three (3) months after the Distribution Date or three (3) months after the date of the first Distribution to such Holder, the Distribution reserved for such Holder shall be deemed an unclaimed Distribution to which section D of this Article shall apply.

C. Rounding of Fractional Distributions.

Notwithstanding any other provision of the Plan, the Liquidation Trustee shall not be required to make any Distributions or payment of fractional cents. Whenever any payment of Cash of a fraction of a cent would otherwise be required under the Plan, the actual payment may reflect a rounding of such fraction (up or down) to the nearest whole cent, with half cents or less being rounded down.

D. Unclaimed Distributions.

If the current address of a Holder of an Allowed Claim entitled to a Distribution has not been determined by the later of three (3) months after the Distribution Date or three (3) months after the date of the first Distribution to such Holder, then such Holder shall be deemed to have released such Allowed Claim. If such Holder was entitled to a pro-rata Distribution as a Holder of an Allowed Claim, then that Holder's Distribution(s) shall revert back to the Liquidation Trust to be further administered pursuant to the provisions of the Plan.

E. Uncashed Checks.

Checks issued in respect of Allowed Claims will be null and void if not negotiated within ninety days after the date of issuance thereof. In no event shall any funds escheat to a Governmental Unit.

F. Compliance with Tax Requirements.

In connection with the Plan and to the extent applicable, the Liquidation Trustee shall comply with all 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.

G. De Minimis Distributions.

Ratable Distributions to Holders of Allowed Claims will not be made if such Distribution will result in a Distribution amount of less than \$10.00.

H. Disputed Distribution Reserve.

Prior to making any Distribution on account of a General Unsecured Claim under the Plan, the Liquidation Trustee shall establish a Disputed Distribution Reserve into which the Distributions on account of a Disputed General Unsecured Claim shall be deposited. If a Distribution has been made, upon either (i) agreement of the Liquidation Trustee and the Holder of any applicable Disputed General Unsecured Claim, or (ii) entry of a Final Order allowing the applicable Disputed General Unsecured Claim, the Distribution reserved for such Claim shall be paid to the Holder of such Claim from the Disputed Distribution Reserve. Upon (x) agreement of the Liquidation Trustee and the Holder of any applicable Disputed General Unsecured Claim, or (y) entry of a Final Order disallowing the applicable Disputed General Unsecured Claim, the Distribution reserved for such Claim shall be released to the Liquidation Trust to be used or distributed pursuant to the Plan. If, after all Disputed General Unsecured Claims have been settled or resolved by Final Order, and all applicable Distributions have been made from the Disputed Distribution Reserve pursuant to this Article VII.H, then any Cash remaining in the Disputed Distribution Reserve shall be released to the Liquidation Trust to be used or distributed pursuant to the Plan.

I. Setoffs.

Except as otherwise expressly provided in the Plan and pursuant to Bankruptcy Code §§ 502(d) or 553 of the Bankruptcy Code or any applicable non-bankruptcy law, the Debtor or the Liquidation Trustee (as applicable) may upon application and approval by the Bankruptcy Court, setoff against any Distribution to be made pursuant to the Plan on account of an Allowed Claim any claims, rights or Rights of Action held by the Debtor or the Liquidation Trustee against the Holder of the Allowed Claim, or in relation to the Allowed Claim; provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim shall constitute a waiver or release by the Debtor or the Liquidation Trustee of any such claims, rights or Rights of Action. If the Debtor or the Liquidation Trustee (as applicable) fails to setoff against a Claim and seeks to collect from the Holder of such Claim after Distribution to that Holder pursuant to the Plan, the Debtor or the Liquidating Trustee (as applicable) shall be entitled to full recovery on the claims of the Debtor or the Liquidation Trustee, if any, against the Holder of such Claim.

**ARTICLE IX.
EFFECT OF CONFIRMATION OF THE PLAN**

A. Legally Binding Effect.

Provisions of this Plan shall bind all Claim and Interest Holders, whether or not they accept this Plan. On and after the Effective Date, all Claim and Interest Holders shall be precluded and enjoined from asserting any Claim or Interest against the Estate or the Liquidation Trust or their assets or properties based on any transaction or other activity of any kind that occurred prior to the Confirmation Date except as permitted under the Plan.

B. Vesting of Property in the Liquidation Trust.

On the Effective Date, except as otherwise expressly provided in the Plan, title to all Estate property shall vest in the Liquidation Trust free and clear of all Liens of any kind.

C. Derivative Litigation Claims.

Claims or causes of action derivative of or from the Debtor are Estate property under Bankruptcy Code § 541. On and after the Effective Date, all such Derivative Litigation Claims, regardless of whether pending on the Petition Date, will be retained by, vest in, and/or become property of the Liquidation Trust.

D. Release.

EFFECTIVE AS OF THE EFFECTIVE DATE, THE DEBTOR, ON BEHALF OF ITSELF AND THE ESTATE, HEREBY RELEASES THE RELEASE PARTIES FROM (I) ANY AND ALL CLAIMS, CAUSES OF ACTION, AND OTHER LIABILITIES ARISING BEFORE THE EFFECTIVE DATE, AND (II) ANY AND ALL CLAIMS, CAUSES OF ACTION, AND OTHER LIABILITIES ARISING FROM THE ACTIONS TAKEN OR NOT TAKEN IN CONNECTION WITH THE PLAN AND THE CHAPTER 11 CASE UNLESS SUCH CONDUCT AMOUNTS TO GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR ACTUAL FRAUD.

E. Exculpation.

ON THE EFFECTIVE DATE, (I) THE DEBTOR'S CRO AND WINTER HARBOR AND (II) THE CREDITORS' COMMITTEE AND ITS INDIVIDUAL MEMBERS, AND (III) THE ESTATE PROFESSIONALS SHALL EACH HAVE NO LIABILITY TO THE DEBTOR, THE DEBTOR'S ESTATE, ANY HOLDER OF A CLAIM OR EQUITY INTEREST OR TO ANY OTHER PERSON BASED IN WHOLE OR IN PART ON ANY ACT, ACTION TAKEN, TRANSACTION, OMISSION, ACTION NOT TAKEN, OR OTHER EVENT OCCURRING BEFORE THE COMMENCEMENT OF THE CHAPTER 11 CASE OR DURING THE COURSE OF THE CHAPTER 11 CASE (INCLUDING THROUGH THE EFFECTIVE DATE), IN ANY WAY RELATING TO THE CHAPTER 11 CASE, THE PLAN, THE DIP CREDIT AGREEMENT, THE DEBTOR'S BUSINESS, THE DECISION TO FILE A BANKRUPTCY PETITION ON BEHALF OF THE DEBTOR, THE WINDDOWN AND OPERATION OF THE DEBTOR DURING THE CHAPTER 11 CASE, THE ADMINISTRATION OF THE CHAPTER 11 CASE, THE NEGOTIATION AND IMPLEMENTATION OF THE PLAN, CONFIRMATION OF THE PLAN, CONSUMMATION OF THE PLAN (INCLUDING ALL DISTRIBUTIONS HEREUNDER), THE ADMINISTRATION OF THE PLAN, AND THE PROPERTY TO BE DISTRIBUTED UNDER THE PLAN (EXCEPT AS TO RIGHTS, OBLIGATIONS, DUTIES, AND CLAIMS ESTABLISHED UNDER THE PLAN). IN ALL SUCH INSTANCES, SUCH PARTIES SHALL BE AND HAVE BEEN ENTITLED TO REASONABLY RELY ON THE ADVICE OF COUNSEL WITH RESPECT TO THEIR DUTIES AND RESPONSIBILITIES IN CONNECTION WITH THE CHAPTER 11 CASE AND UNDER THE PLAN. ANY AND ALL CLAIMS, CAUSES OF ACTIONS, RIGHTS, OR ANY LIABILITIES DESCRIBED ABOVE HELD BY ANY PERSON OR PARTY IN INTEREST AGAINST THE FOREGOING PARTIES LISTED IN SUBSECTIONS (I) AND (II) ABOVE ARE FULLY WAIVED, BARRED, RELEASED, AND DISCHARGED IN ALL RESPECTS (EXCEPT AS TO RIGHTS, OBLIGATIONS, DUTIES, AND CLAIMS ESTABLISHED UNDER THE PLAN). NOTWITHSTANDING ANYTHING IN THE PLAN TO THE CONTRARY, NOTHING IN THE PLAN, THE PLAN DOCUMENTS, OR THE CONFIRMATION ORDER SHALL AFFECT THE LIABILITY OF ANY PERSON THAT RESULTS FROM ANY ACT OR OMISSION DETERMINED BY A FINAL ORDER TO HAVE CONSTITUTED WILLFUL MISCONDUCT, GROSS NEGLIGENCE, INTENTIONAL FRAUD, OR CRIMINAL CONDUCT. NOTWITHSTANDING ANY LANGUAGE HEREIN TO THE CONTRARY, NOTHING HEREIN IS INTENDED, NOR SHALL IT BE CONSTRUED, TO ELIMINATE, WAIVE OR RELEASE ANY OF DEBTOR'S PRESENT OR FORMER MANAGERS, OFFICERS OR DIRECTORS (OTHER THAN THE CRO) FROM ANY LIABILITIES THAT MAY HAVE ARISEN OR OCCURRED PREPETITION, INCLUDING, WITHOUT LIMITATION, THE RIGHTS OF ACTION (AS DEFINED HEREIN) AGAINST ANY OF DEBTOR'S PRESENT OR FORMER MANAGERS, OFFICERS OR DIRECTORS (OTHER THAN THE CRO).

**ARTICLE X.
RETENTION OF RIGHTS OF ACTION**

A. Liquidation Trustee's Preservation, Retention and Maintenance of Rights of Action.

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement entered into in connection with the Plan, in accordance with Bankruptcy Code § 1123(b)(3), the Liquidation Trustee shall retain and shall have the exclusive right, authority, and discretion (without further order of the Bankruptcy Court) to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, or withdraw, litigate to judgment, or exercise attorney/client privilege in relation to any and all Rights of Action that the Debtor or the Estate may hold against any Entity, whether arising before or after the Petition Date, and the powers and duties of a trustee under the Bankruptcy Code with respect to such Rights of Action. The Debtor reserves and shall retain the foregoing Rights of Action for the Liquidation Trust notwithstanding the rejection of any Executory Contract or Unexpired Lease during the Chapter 11 Case.

Without limiting the effectiveness or generality of the foregoing provisions, and out of an abundance of caution, the Debtor and the Estate specifically reserve and retain the claims and causes of action, to be transferred to the Liquidation Trustee for administration through the Liquidation Trust as part of the Rights of Action as more fully described in **Exhibit B**. This Article X of the Plan, Exhibit B to the Plan, Articles 4.H, 5.I, and 5.K of the Disclosure Statement and Exhibit 3 of the Disclosure Statement are provided to give maximum notice of potential claims that the Debtor is presently aware of and shall in no way act as a limitation on any other potential claims that may exist, including by way of *expressio unius est exclusio alterius* or any other applicable doctrine or rule of contractual interpretation. Except as provided for in Articles VIII.D and VIII.E, it is the specific intention of the Plan that each and every Avoidance Action, and any other claim or cause of action, whether arising before or after the Petition Date, and whether arising under state law or the Bankruptcy Code, be preserved and retained under this Plan and be transferred to the Liquidation Trustee for administration through the Liquidation Trust on the Effective Date of this Plan.

B. Preservation of All Rights of Action Not Expressly Settled or Released.

Unless a Right of Action is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order, such Rights of Action (including any counterclaims) are preserved and on the Effective Date shall be transferred to and retained by the Liquidation Trustee for later adjudication for the benefit of the beneficiaries of the Liquidation Trust including, without limitation, all: (i) defenses to Claims; (ii) affirmative defenses to Claims; (iii) setoffs and recoupments against any Claim, Creditor or other person; (iv) rights to turnover, accounting, contribution, indemnification, or reimbursement against any Creditor or other person; (v) rights to any tax refund; (vi) Avoidance Actions; (vii) Rights of Action; and (viii) claims and causes of action against any Creditor or person whatsoever, including for affirmative relief and to reduce any liability. Therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such Rights of Action (including counterclaims) on or after the Confirmation of the Plan.

**ARTICLE XI.
MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN**

A. Modification or Amendment of the Plan.

This Plan may be amended or modified by (i) joint agreement of the Proponents or (ii) the Liquidation Trustee, as applicable, as provided in Bankruptcy Code § 1127 and Bankruptcy Rule 3019.

B. Revocation or Withdrawal of the Plan.

The Proponents may revoke or withdraw this Plan at any time prior to the Confirmation Date only upon agreement by both the Debtor and the Committee. Upon such revocation and/or withdrawal, the exclusivity period shall continue to apply exclusively to the Debtor and the Debtor may file a subsequent plan, including a subsequent joint plan, but shall not be obligated to file any future plan as a joint plan. If the Proponents revoke or withdraw the Plan prior to the Confirmation Date, or if the Confirmation Date or the Effective Date does not occur, then: (i) this Plan shall be deemed null and void in all respects; (ii) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void in all respects; and (iii) nothing contained in the Plan shall be deemed to constitute an admission, waiver or release of any claims by or against the Debtor or any other Entity, or to prejudice in any manner the rights of the Debtor, its Estate or any Entity in any further proceedings involving the Debtor.

**ARTICLE XII.
RETENTION OF JURISDICTION**

A. Bankruptcy Court Jurisdiction.

Notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court, even after the Chapter 11 Case has been closed, shall have jurisdiction over all matters arising under, arising in, or relating to the Chapter 11 Case, including proceedings to:

1. Ensure that the Plan is fully consummated and implemented;
2. Enter such orders that may be necessary or appropriate to implement, consummate, or enforce the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan or the Disclosure Statement;
3. Consider any modification of the Plan under Bankruptcy Code § 1127;
4. Hear and determine all Claims, controversies, suits, and disputes against the Debtor or the Liquidation Trustee to the full extent permitted under 28 U.S.C. §§ 157 and 1334;

5. Allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim, including the resolution of any and all objections to the allowance or priority of Claims;
6. Hear, determine, and adjudicate any litigation involving or prosecuting the Rights of Action or other claims or causes of action constituting Estate property or property of the Liquidation Trust, including but not limited to any Challenge Proceeding (as defined in the DIP Order);
7. Decide or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any motions or applications involving the Debtor or the Liquidation Trustee that are pending on or commenced after the Effective Date;
8. Resolve any cases, controversies, suits, or disputes that may arise in connection with the consummation, interpretation, or enforcement of the Plan, or any entity's obligations incurred in connection with the Plan, or any other agreements governing, instruments evidencing, or documents relating to any of the foregoing, including the interpretation or enforcement of any rights, remedies, or obligations under any of the foregoing;
9. Hear and determine all controversies, suits, and disputes that may arise out of or in connection with the enforcement of any subordination and similar agreements among Creditors under Bankruptcy Code § 510;
10. Hear and determine all requests for compensation and/or reimbursement of expenses that may be made for fees and expenses incurred before the Effective Date;
11. Enforce any Final Order, the Confirmation Order, the TPP Sale Order, the Final Decree, and all injunctions contained in those orders;
12. Enter an order concluding and terminating the Chapter 11 Case;
13. Correct any defect, cure any omission, or reconcile any inconsistency in the Plan, or the Confirmation Order, or any other document or instruments created or entered into in connection with the Plan;
14. Determine all questions and disputes regarding title to the Estate property;
15. Classify the Claims of any Creditor and the treatment of those Claims under the Plan, re-examine Claims that may have been allowed for purposes of voting, and determine objections that may be filed to any Claims;
16. Take any action described in the Plan involving the Debtor or the Liquidation Trustee;
17. Enter and implement such orders that are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

18. Hear, determine and adjudicate any motions or other litigation or controversy brought pursuant to Bankruptcy Code § 1112;
19. Hear, determine, and adjudicate all matters the Bankruptcy Court has authority to determine under Bankruptcy Code § 505, including determining the amount of any unpaid liability of the Debtor or the Estate for any tax incurred or accrued during the calendar year in which the Plan is confirmed;
20. Enter a Final Decree as contemplated by Bankruptcy Rule 3022; and
21. Hear, determine, and adjudicate any and all Claims brought under the Plan.

B. Limitation on Jurisdiction.

In no event shall the provisions of this Plan be deemed to confer in the Bankruptcy Court jurisdiction greater than that established by the provisions of 28 U.S.C. §§ 157 and 1334.

**ARTICLE XIII.
MISCELLANEOUS PROVISIONS**

A. Conditions to Effectiveness.

The Plan will not be effective unless:

1. The Confirmation Order becomes a Final Order. This condition may be waived at the joint discretion of the Debtor and the Committee.
2. All Plan Documents and other applicable corporate documents necessary or appropriate to the implementation of the Plan have been executed, delivered, and where applicable, filed with the appropriate governmental authorities, including, but not limited to, the execution of the Liquidation Trust Agreement substantially in the form it appears in the Plan Supplement. This condition may be waived at the joint discretion of the Proponents.
3. The Debtor has cash sufficient to pay all Allowed Administrative Claims (except the Subordinated Professional Fee Claims of Subordinating Professionals), Allowed Secured and Priority Tax Claims, and Allowed Priority Non-Tax Claims that have been Allowed as of the Effective Date, unless otherwise agreed by affected Holders of Allowed Administrative Claims and Allowed Secured and Priority Tax Claims.

B. Due Authorization by Claim Holders.

Each and every Creditor who elects to participate in the Distributions provided for herein warrants that the Creditor is authorized to accept in consideration of its Claim against the Debtor the Distributions provided for in this Plan and that there are no outstanding commitments, agreements, or understandings, express or implied, that may or can in any way defeat or modify the rights conveyed or obligations undertaken by the Creditor under this Plan.

C. Filing of Additional Documentation.

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

D. Further Authorizations.

The Liquidation Trustee may seek such orders, judgments, injunctions, and rulings as he or she may deem necessary to further carry out the intentions and purposes of, and give full effect to the provisions of, the Plan.

E. Post Confirmation Service List.

Any Entity that desires to receive notices or other documents required to be served under the Plan after the Confirmation Date must request that the Liquidation Trustee add such Entity to the Post-Confirmation Service List to be maintained by the Liquidation Trustee. Entities not on the Post-Confirmation Service List shall not receive notices or other documents required to be served under the Plan after the Confirmation Date. Any Entity that provides an email address may be served by email after the Confirmation Date. The Liquidation Trustee shall file the Post-Confirmation Service List with the Bankruptcy Court and amend the Post-Service Confirmation List from time to time.

F. 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.

G. Transfer of Claims.

Any transfer of beneficial interests in the Liquidation Trust shall be in accordance with Bankruptcy Rule 3001(e). Notice of any such transfer shall be forwarded to the Liquidation Trustee and counsel of record for the Liquidation Trustee by registered or certified mail. Both the transferee and transferor shall execute any notice, and the signatures of the parties shall be acknowledged before a notary public. The notice must clearly describe the beneficial interest to be transferred. No transfer of a partial interest shall be allowed. All transfers must be of one hundred percent of the transferor's interest in the beneficial trust interest.

H. Exemption from Transfer Tax.

Under Bankruptcy Code § 1146(c), the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under the Plan, may not be taxed under any law imposing a stamp tax or similar tax.

I. Notices.

Any notice required to be given under this Plan shall be in writing. Any notice that is allowed or required hereunder except for a notice of change of address shall be considered complete on the earlier of (a) three days following the date the notice is sent by United States mail, postage prepaid, or by overnight courier service, or in the case of mailing to a non-United States address, air mail, postage prepaid, or personally delivered, (b) the date the notice is actually received by the Entities on the Post-Confirmation Service List by facsimile or computer transmission, or (c) three days following the date the notice is sent to those Entities on the Post-Confirmation Service List as it is adopted by the Bankruptcy Court at the Confirmation Hearing and as amended from time to time.

J. Dissolution of the Creditors' Committee.

On the Effective Date, the Committee shall dissolve; provided, however, that following the Effective Date, the Committee shall continue in existence and have standing and a right to be heard for the following limited purposes: (i) Claims and/or applications for compensation by Professionals and requests for allowance of Administrative Claims for substantial contribution pursuant to section 503(b)(3)(D) of the Bankruptcy Code; (ii) any appeals to which the Committee is a party; and (iii) responding to creditor inquiries for one-hundred-twenty (120) days following the Effective Date. Upon the dissolution of the Committee, the current and former members of the Committee and their respective officers, employees, counsel, advisors and agents, shall be released and discharged of and from all further authority, duties, responsibilities and obligations related to and arising from and in connection with the Chapter 11 Case, and the retention or employment of the Committee's respective attorneys, accountants and other agents shall terminate, except that the Committee and their respective Professionals shall have the right to pursue, review and object to any applications for compensation or reimbursement of expenses filed in accordance with Article II hereof.

K. U.S. Trustee Fees.

The Debtor will pay pre-Confirmation fees owed to the U.S. Trustee by the Effective Date of the Plan or such other date as agreed upon by the Debtor and the U.S. Trustee. After Confirmation, the Liquidation Trustee will file with the Bankruptcy Court and serve on the U.S. Trustee quarterly financial reports in a format prescribed by the U.S. Trustee, and the Liquidation Trustee will pay post-confirmation quarterly fees from the Liquidation Trust or, to the extent applicable, the Wind-Down Reserve, to the U.S. Trustee until a Final Decree is entered or the case is converted or dismissed as provided in 28 U.S.C. § 1930(a)(6).

L. Implementation.

The Liquidation Trustee shall be authorized to perform all reasonable, necessary and authorized acts to consummate the terms and conditions of the Plan.

M. Oversight Between the Confirmation Date and the Effective Date.

During the period from the Confirmation Date through and until the Effective Date, the Debtor shall continue to maintain its property as debtor in possession, subject to the oversight of

the Bankruptcy Court as provided in the Bankruptcy Code, the Bankruptcy Rules and all orders of the Bankruptcy Court that are then in full force and effect.

N. No Admissions.

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed an admission by the Debtor, the Committee, the Liquidation Trustee or any other Entity with respect to any matter set forth herein, including, without limitation, liability on any Claim or Interest or the propriety of the classification of any Claim or Interest.

O. Substantial Consummation.

Substantial Consummation of the Plan shall occur on the Effective Date.

P. Good Faith.

Confirmation of the Plan shall constitute a finding that (i) the Plan has been proposed in good faith and in compliance with the provisions of the Bankruptcy Code and (ii) the solicitation of acceptances or rejections of the Plan to all Entities and the offer, issuance, sale, or purchase of any security offered or sold under the Plan has been in good faith and in compliance with applicable provisions of the Bankruptcy Code.

Q. Final Decree.

On Substantial Consummation, the Liquidation Trustee may, in its sole and absolute discretion, request the Bankruptcy Court to enter a Final Decree closing the Chapter 11 Case and such other orders that may be necessary and appropriate.

R. Discharge of the Debtor.

Pursuant to Bankruptcy Code § 1141(d)(3), Confirmation will not discharge the Claims against the Debtor; provided, however, that no Holder of a Claim or Interest may, on account of such Claim or Interest, seek or receive any payment or other distribution from, or seek recourse against, the Debtor or the Liquidation Trustee or their respective successors, assigns or property, except as expressly provided in the Plan, and the automatic stay under Section 362(a) of the Bankruptcy Code shall remain in effect until all Remaining Assets have been fully administered and the Debtor's Chapter 11 Case is closed.

Dated: April 19, 2017

Debtor and Debtor-In-Possession

/s/ Stuart Noyes

By: Stuart Noyes
Its: Chief Restructuring Officer

- and -

HAYNES AND BOONE, LLP

By: /s/ Robert D. Albergotti

Robert D. Albergotti
State Bar No. 009790800
Ian T. Peck
State Bar No. 24013306
Jarom J. Yates
State Bar No. 24071134

HAYNES AND BOONE, LLP

2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: robert.albergotti@haynesboone.com
Email: ian.peck@haynesboone.com
Email: jarom.yates@haynesboone.com

**COUNSEL TO THE DEBTOR AND
THE DEBTOR-IN-POSSESSION**

- and -

The Official Committee of Unsecured Creditors

By: Simon Property Group, Inc., solely in its capacity as Co-Chairperson of the Official Committee of Unsecured Creditors and not in any other capacity

/s/ Ronald M. Tucker

By: Ronald M. Tucker
Title: Vice President/Bankruptcy Counsel

- and -

GIBSON, DUNN & CRUTCHER LLP

Samuel A. Newman (*admitted pro hac vice*)
snewman@gibsondunn.com
Olivia Adendorff (TX SBN: 24069994)
oadendorff@gibsondunn.com
Michael S. Neumeister (*admitted pro hac vice*)
mneumeister@gibsondunn.com
2100 McKinney Avenue, Suite 1100
Dallas, Texas 75201
Telephone: 214.698.3100
Facsimile: 214.571.2900

- and -

EMMERT & PARVIN, LLP
D. Wade Emmert (TX SBN: 00793688)
wade@emmertparvin.com
1701 N. Market Street, Suite 404
Dallas, Texas 75202
Telephone: 469.607.4500
Facsimile: 469.607.4501

CO-COUNSEL FOR OFFICIAL COMMITTEE OF UNSECURED CREDITORS

EXHIBIT A
GLOSSARY OF DEFINED TERMS

1. **Administrative Claim**: A Claim for costs and expenses of administration pursuant to Bankruptcy Code §§ 503(b) and 507(a)(2) including: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estate and operating the business of the Debtor (such as wages, salaries, or payments for goods and other services); (b) compensation for legal, financial advisory, accounting, and other services, and reimbursement of expenses Allowed pursuant to Bankruptcy Code §§ 328, 330(a), or 331 or otherwise for the period commencing on the Petition Date and ending on the Effective Date; (c) all fees and charges assessed against the Estate pursuant to chapter 123 of the Judicial Code; and (d) all requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Case pursuant to Bankruptcy Code §§ 503(b)(3), (4), and (5).
2. **Administrative Claims Bar Date**: The first Business Day that is thirty (30) days after the Effective Date or such earlier deadline established by an order of the Bankruptcy Court.
3. **Administrative Claim Objection Deadline**: The first Business Day that is thirty (30) days after the Administrative Claims Bar Date or such earlier applicable deadline established by an order of the Bankruptcy Court.
4. **Allowance Date**: (a) As to a Disputed Claim, the date on which such Disputed Claim becomes an Allowed Claim by a Final Order, (b) as to a Claim Allowed by a Final Order, the date on which the order allowing such Claim becomes a Final Order, and (c) as to any other Claim the date on which such Claim becomes an Allowed Claim in accordance with the Plan.
5. **Allowed**: Allowed means, with respect to any Claim, a Claim: (i) which is scheduled as undisputed, non-contingent and liquidated in the Schedules and as to which neither a Proof of Claim nor objection thereto has been timely filed, and as to which the deadline for objecting to Claims has passed as provided in the Plan or any other Final Order of the Bankruptcy Court; (ii) as to which a Proof of Claim has been timely filed in a liquidated, non-contingent amount and either (a) no objection thereto has been timely filed and the deadline for objecting to such Claim has passed as provided in the Plan or any other Final Order of the Bankruptcy Court, or (b) such Claim has been allowed (but only to the extent allowed) by a Final Order of the Bankruptcy Court; (iii) which has been expressly allowed under the provisions of this Plan; or (iv) which is an Administrative Claim approved by Final Order of the Bankruptcy Court. An Allowed Claim: (y) includes a previously Disputed Claim to the extent such Disputed Claim becomes Allowed when the context so requires; and (z) shall be net of any valid setoff amount against such Claim based on a valid offset right of the Debtor, which valid setoff amount shall be deemed to have been setoff in accordance with the provisions of this Plan. Unless otherwise specified herein or by order of the Bankruptcy Court, Allowed Administrative Claims and Allowed Claims shall not, for any purpose under the Plan, include interest on such Administrative Claims or Claims on or after the Petition Date.
6. **Allowed Amount**: The amount at which a Claim or Interest is Allowed.

7. APA: That certain Asset Purchase Agreement by and between Monroe Capital Partners Fund LP and Monroe Capital Corporation and TPP Acquisition, Inc. dated September 29, 2016, approved by the Bankruptcy Court pursuant to the TPP Sale Order.
8. Avoidance Actions: Any causes of action arising under Bankruptcy Code §§ 506, 510, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, and 553 or comparable provisions of applicable non-bankruptcy law, including, but not limited to, claims or causes of actions against parties listed in response to questions 3 and 4 of the Debtor's Statement of Financial Affairs, except to the extent such causes of action were transferred to the Purchaser pursuant to the APA and TPP Sale Order.
9. Ballot: The form or forms distributed to Holders of Claims in Impaired Voting Classes to be used to indicate acceptance or rejection of the Plan.
10. Balloting Agent: KCC.
11. Bankruptcy Code: Title 11 of the United States Code, 11 U.S.C. §§ 101-1532.
12. Bankruptcy Court: The United States Bankruptcy Court for the Northern District of Texas, Dallas Division.
13. Bankruptcy Rules: The Federal Rules of Bankruptcy Procedure, and the general, local, and chambers rules and orders of the Bankruptcy Court.
14. Blackstreet: Blackstreet Capital Management LLC and its affiliates.
15. Blackstreet Dividend Recapitalization: The transaction pursuant to which Blackstreet caused the Debtor to incur certain obligations under the Prepetition Loan Documents and caused the Debtor to issue a dividend to the Debtor's then-shareholders using the proceeds of the loans obtained pursuant to the Prepetition Loan Documents and other available cash.
16. Business Day: Any day, other than a Saturday, Sunday, or legal holiday.
17. Carve-Out: The various budget allocations contained in the DIP Budgets for the various Estate Professionals, subject to any right of the Estate Professionals under the DIP Order to seek a reallocation of the respective budget allocation for such Estate Professional. Carve-Out shall refer to a specific subset of the Carve-Outs as applicable to a particular Estate Professional.
18. Cash: Cash, cash equivalents, and other readily marketable securities or instruments, including, without limitation, direct obligations of the United States and certificates of deposit issued by federally insured banks, including interest accrued or earned thereon.
19. Chapter 11 Case: The Chapter 11 case filed by the Debtor on the Petition Date in the Bankruptcy Court under case number 16-33437-hdh-11.
20. Claim: Any claim against the Debtor as defined in Bankruptcy Code § 101(5).

21. Claims Register: The official register of Proofs of Claims in the Chapter 11 Case maintained by KCC pursuant to the KCC Retention Orders and available at <http://www.kccllc.net/tpp/register>.
22. Class: A class of Holders of Claims or Interests as set forth in the Plan.
23. Clerk: Clerk of the Bankruptcy Court.
24. Committee: The Official Committee of Unsecured Creditors appointed pursuant to that certain *Appointment of the Official Unsecured Creditors' Committee* [Docket No. 103].
25. Confirmation: The entry of the Confirmation Order.
26. Confirmation Date: 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.
27. Confirmation Hearing: The hearing held by the Bankruptcy Court to consider confirmation of the Plan.
28. Confirmation Order: The order of the Bankruptcy Court confirming the Plan pursuant to Bankruptcy Code § 1129.
29. Convenience Claim: All Allowed General Unsecured Claims in an amount less than \$250.
30. Creditor: A Holder of a Claim.
31. Creditors' Committee: The statutory committee of unsecured creditors appointed in the Chapter 11 Case.
32. CRO: Stuart Noyes, the Debtor's chief restructuring officer.
33. CRO Motion: The *Motion for Entry of an Order Pursuant to 11 U.S.C. §§ 105(a) and 363(b) Authorizing and Approving Debtor's (I) Retention and Employment of Winter Harbors LLC and (II) Employment of Stuart Noyes as Chief Restructuring Officer* [Docket No. 36] pursuant to which the Debtor requested authorization to retain the CRO and certain Winter Harbor employees as the Debtor's temporary employees.
34. CRO Order: That certain *Order Approving Motion for Entry of an Order Pursuant to 11 U.S.C. §§ 105(a) and 363(b) Authorizing and Approving Debtor's (I) Retention and Employment of Winter Harbors LLC and (II) Employment of Stuart Noyes as Chief Restructuring Officer* [Docket No. 220], entered by the Bankruptcy Court on October 6, 2016 approving the CRO Motion, appointing the CRO, and authorizing the retention of certain Winter Harbor employees as the Debtor's temporary employees to aid the CRO in fulfilling his responsibilities and obligations as CRO.
35. D&O Claims: All Rights of Action against the Debtor's current and former officers, directors, and agents or those acting in concert with any of the foregoing for actions at any time

prior to the Petition Date and that are not released or exculpated under the Plan, including but not limited to such claims and causes of action described in Exhibit B to the Plan.

36. Debtor: TPP Acquisition, LLC d/b/a The Picture People.
37. DIP Agent: Monroe Capital Management Advisors LLC.
38. DIP Budget: The budget(s) approved pursuant to the DIP Order.
39. DIP Credit Agreement: The Senior Secured, Superpriority Debtor-in-Possession Loan and Security Agreement as amended, modified, or supplemented dated as of September 2, 2016 by and among the Debtor as borrower and the DIP Lenders and DIP Agent and all ancillary documents relating thereto.
40. DIP Lenders: The lenders pursuant to the DIP Credit Agreement.
41. DIP Liens: The Liens of the Senior Secured Lenders pursuant to the DIP Credit Agreement and DIP Order.
42. Derivative Litigation Claim: Any Claim, cause of action, demand, or any other right to payment derivative of or from the Debtor that is property of the Estate under 11 U.S.C. § 541.
43. DIP Order: That certain *Final Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507 and Fed. R. Bankr. P. 2002, 4001 and 9014 (I) Authorizing Debtor and Debtor In Possession to Obtain Post-Petition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens and Super-Priority Claims, (IV) Granting Adequate Protection to Prepetition Lenders, (V) Modifying the Automatic Stay, and (VI) Granting Related Relief* [Docket No. 230], entered by the Bankruptcy Court on October 7, 2016.
44. Disallowed: A Claim, or any portion thereof, that (a) has been disallowed by either a Final Order, pursuant to a settlement, or by operation or law, or (b)(i) is listed in the Schedules at zero or as contingent, disputed or unliquidated and (ii) as to which a bar date has been established but no Proof of Claim has been filed or deemed timely filed with the Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order of the Bankruptcy Court or otherwise deemed timely filed under applicable law.
45. Disclosure Statement: That certain *Disclosure Statement Under 11 U.S.C. § 1125 in Support of the Plan of Liquidation for TPP Acquisition, LLC d/b/a The Picture People*.
46. Disclosure Statement Approval Date: The date the Bankruptcy Court enters the Disclosure Statement Approval Order.
47. Disclosure Statement Approval Order: The order of the Bankruptcy Court approving the Disclosure Statement and authorizing the solicitation of acceptances of the Plan.
48. Disclosure Statement Hearing: The hearing held by the Bankruptcy Court to consider approval of the Disclosure Statement.

49. Disputed: With respect to any Claim, any Claim as to which a proof of claim has been filed or is deemed to have been filed under applicable law or an Administrative Claim as to which an objection has been or is filed in accordance with the Plan, the Bankruptcy Code, or the Bankruptcy Rules, which objection has not been withdrawn or determined by a Final Order. For the purposes of the Plan, a Claim is a Disputed Claim prior to any objection to the extent that (a) the amount of a Claim specified in a Proof of Claim exceeds the amount of any corresponding Claim scheduled by the Debtor in the Schedules; (b) any corresponding Claim scheduled by the Debtor in the Schedules has been scheduled as disputed, contingent or unliquidated, irrespective of the amount scheduled; (c) no corresponding Claim has been scheduled by the Debtor in the Schedules; or (d) the Claim is subject to disallowance pursuant to Bankruptcy Code § 502(d).

50. Disputed Distribution Reserve: The reserve to be established by the Liquidation Trustee pursuant to Article VIII.H with respect to Disputed General Unsecured Claims.

51. Distribution: A distribution in accordance with this Plan and/or the Liquidation Trust Agreement of property required by the Plan and/or the Liquidation Trust Agreement to be distributed to the Holders of Allowed Claims, or the property so distributed.

52. Distribution Date: A Date when Distributions occur under the Plan and/or the Liquidation Trust Agreement.

53. Effective Date: The date selected by the Debtor that is a Business Day after the Confirmation Date on which the conditions as specified in Article XIII(A) of the Plan have been satisfied or waived. Unless otherwise specifically provided in the Plan, anything required to be done by the Debtor or the Liquidation Trustee on the Effective Date may be done on the Effective Date or as soon as reasonably practicable thereafter.

54. Emerald: Emerald Capital Advisors.

55. Emmert & Parvin: Emmert & Parvin, LLP.

56. Entity: The meaning assigned to such term by § 101(15) of the Bankruptcy Code.

57. Estate: The bankruptcy estate of the Debtor created by virtue of Bankruptcy Code § 541 upon the commencement of the Chapter 11 Case.

58. Estate Professionals: The professionals that have been retained during the course of the Chapter 11 Case by the Debtor or the Committee pursuant to either §§ 327 or 328 of the Bankruptcy Code, including without limitation, Haynes and Boone, SSG, KCC, Gibson Dunn, Emmert and Parvin, LLP and Emerald.

59. Executory Contract: A contract to which the Debtor is a party that is subject to assumption or rejection under Bankruptcy Code § 365.

60. Fee Procedures Order: That certain *Order Granting Debtor's Motion to Establish Procedures for Interim Compensation and Reimbursement of Expenses for Case Professionals*

[Docket No. 260], entered by the Bankruptcy Court on October 14, 2016, pursuant to which the Bankruptcy Court approved procedures for the interim payment of Estate Professionals.

61. Final Decree: The decree or decrees for the Chapter 11 Case contemplated under Bankruptcy Rule 3022.

62. Final Order: As applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought.

63. Gibson Dunn: Gibson, Dunn & Crutcher LLP, counsel for the Committee.

64. General Unsecured Claim: Any Claim that is not an Administrative Claim, Secured Claim, Priority Tax Claim, Priority Non-Tax Claim, or Convenience Claim against the Debtor, including, without limitation, (a) any claim arising from the rejection of an Executory Contract or Unexpired Lease and (b) any portion of a Claim to the extent the value of the Holder's interest in property securing such Claim is less than the amount of the Claim, as determined pursuant to § 506(a) of the Bankruptcy Code.

65. Governmental Bar Date: March 1, 2017, the date that is the first Business Day after one hundred eighty (180) days from the Petition Date.

66. Governmental Unit: Any Entity or organization qualifying as a governmental unit as defined in Bankruptcy Code § 101(27).

67. Governmental Unit Claims Objection Deadline: March 31, 2017

68. Holder: An Entity holding a Claim, Interest, or Liquidation Trust Interest as applicable.

69. Impaired: With respect to any Class of Claims or Interests, impairment within the meaning of Bankruptcy Code § 1124.

70. Interest: Any stock or similar equity interest in the Debtor, including without limitation, warrants, options, or contractual rights to purchase or acquire such interest at any time and all rights arising with respect thereto.

71. Internal Revenue Code: The Internal Revenue Code of 1986, as amended.

72. IRS: The Internal Revenue Service.

73. Judicial Code: Title 28 of the United States Code, 28 U.S.C. §§ 1-4001.

74. KCC: Kurtzman Carson Consultants LLC.

75. KCC Retention Order: The Bankruptcy Court orders entered at Docket Nos. 74 and 134 approving the retention of DRC as the Debtor's (i) claims, noticing, and solicitation agent and (ii) administrative agent.

76. Lien: With respect to any property or asset, any mortgage, lien, interest pledge, charge, security interest, encumbrance, mechanics' lien, materialman's lien, statutory lien or right, and other consensual or non-consensual lien, whenever granted and including, without limitation, those charges or interests in property within the meaning of "lien" under Bankruptcy Code § 101(37).

77. Liquidation Analysis: The liquidation analysis attached as Exhibit 3 to the Disclosure Statement.

78. Liquidation Trust: The trust created pursuant to Article V of the Plan and the Liquidation Trust Agreement.

79. Liquidation Trust Agreement: The agreement for the establishment and operation of the Liquidation Trust substantially in the form as included in the Plan Supplement. Subject to approval of the Bankruptcy Court, the Liquidation Trust Agreement shall be in a form agreed to by the Debtor, the Committee and the Liquidation Trustee.

80. Liquidation Trust Assets: All assets of the Debtor's Estate transferred to the Liquidation Trust as more fully described in Article V.B of the Plan and any proceeds thereof.

81. Liquidation Trust Committee: A committee of no more than three (3) persons selected by the Committee from the current members of the Committee, which shall oversee the administration of the Liquidation Trust pursuant to the terms of the Liquidation Trust Agreement. The members of the Liquidation Trust Committee shall be identified in the Plan Supplement.

82. Liquidation Trust Interests: All beneficial interests in the Liquidation Trust.

83. Liquidation Trustee: The individual identified in the Plan Supplement (or his/her successor) after the Effective Date, appointed pursuant to the Plan for the purpose of acting as initial trustee of the Liquidation Trust. Subject to approval of the Bankruptcy Court, the Liquidation Trustee shall be selected by the Committee in its sole discretion.

84. Non-Professional Administrative Claim: All Administrative Claims other than Professional Fee Claims.

85. Ordinary Course Liability: Claims incurred after the Petition Date and prior to the Effective Date in the ordinary course of business of the Debtor, relating to the Debtor's business, consistent with past practices during the pendency of and, as applicable, taking into account, the Chapter 11 Case.

86. Petition Date: September 2, 2016.

87. Plan: The Chapter 11 plan filed by the Debtor and the Committee as co-proponents, as such document may be amended or modified.
88. Plan Documents: The Plan and all exhibits thereto, the Disclosure Statement and all exhibits thereto, and the Plan Supplement.
89. Plan Objection Deadline: March 9, 2017 at 4:00 p.m. (prevailing Central Time).
90. Plan Supplement: The supplement to the Plan containing, inter alia, the form of the Liquidation Trust Agreement as referred to in the Plan and any exhibits thereto, to be filed no later than ten (10) days prior to the Confirmation Hearing.
91. Post-Confirmation Service List: The list of those Entities who have notified the Liquidation Trustee in writing, at or following the Effective Date, of their desire to receive notice of all pleadings filed after the Confirmation Date and have provided the email or physical address to which such notices shall be sent.
92. Post-Petition Tax Claim: An Administrative Claim or other Claim by a Governmental Unit for taxes (and for interest and/or penalties related to such taxes) for any tax year or period, which accrued or were assessed within the period from and including the Petition Date through and including the Effective Date.
93. Post-Petition Tax Claim Bar Date: The first Business Day that is the later of (i) forty-five (45) days following the Effective Date and (ii) ninety (90) days following the filing with the applicable Governmental Unit of the tax return for such taxes for such tax year or period, or by such earlier deadline governing a particular Post-Petition Tax Claim contained in an order of the Bankruptcy Court entered before the Effective Date.
94. Post-Petition Tax Claim Objection Deadline: The first Business Day that is thirty (30) days after the Post-Petition Tax Claim Bar Date or such earlier deadline governing the objection to a particular Post-Petition Tax Claim contained in an order of the Bankruptcy Court entered before the Effective Date.
95. Pre-Petition Loan Documents: The Prepetition Credit Agreement (as defined in the DIP Order) and all ancillary documents thereto.
96. Pre-Petition Secured Lenders: The lenders pursuant to the Prepetition Credit Agreement.
97. Priority Non-Tax Claim: Any Claim accorded priority in right of payment pursuant to Bankruptcy Code § 507(a), other than a Priority Tax Claim or an Administrative Claim.
98. Priority Tax Claim: Any Claim of the kind specified in Bankruptcy Code § 507(a)(8).
99. Professional: An Entity retained or to be compensated under Bankruptcy Code §§ 327, 328, 330, 331, 503(b)(3)(D), 503(b)(4), 503(b)(5) or 1103.
100. Professional Fee Claim: An Administrative Claim of a Professional for compensation for services rendered and/or reimbursement of costs and expenses incurred on or before the

tenth (10th) day after the Effective Date and including fees and expenses incurred in preparing final fee applications and participating in hearings on such applications.

101. Professional Fee Claim Bar Date: The first Business Day that is thirty (30) days after the Effective Date or such earlier deadline governing a particular Professional Fee Claim contained in an order of the Bankruptcy Court entered before the Effective Date.

102. Professional Fee Claim Objection Deadline: With respect to each application for allowance of a Professional Fee Claim, the first Business Day that is twenty (20) days after such application is filed.

103. Professional Fee Reserve: The reserve to be established by the Liquidation Trustee within a reasonable time after the Effective Date in an amount that, in the Liquidation Trustee's business judgment, is sufficient to pay estimated Allowed Professional Fee Claims.

104. Proof of Claim: Any proof of claim filed with the Bankruptcy Court or with DRC with respect to the Debtor pursuant to Bankruptcy Code § 501 and Bankruptcy Rules 3001 and 3002.

105. Proof of Claim Bar Date: November 15, 2016, the shortened bar date established by the Bankruptcy Court for filing Proofs of Claim, with certain exceptions, in the *Notice of Shortened Proof of Claim Bar Date* [Docket No. 270].

106. Pro Rata Share: As to a particular Holder of a particular Claim, the ratio that the amount of such Claim held by such Claim Holder bears to the aggregate amount of all Claims in the particular Class or category. Such ratio shall be calculated as if all Claims in the particular Class or category asserted against the Debtor are Allowed Claims as of the Effective Date, unless specifically provided otherwise in the Plan.

107. Purchaser: Monroe Capital Partners Fund LP and Monroe Capital Corporation as initial purchasers and TPP Operating, Inc., as the purchaser designee.

108. Non-Voting Class: A Class of Claims or Interests not entitled to vote to accept or reject the Plan.

109. Record Date: February 14, 2017, or such other date as shall be ordered by the Bankruptcy Court.

110. Rejection Claim Bar Date: The first Business Day that is thirty (30) days after the Effective Date or such earlier date that may be set by the Bankruptcy Court concerning a particular Executory Contract or Unexpired Lease.

111. Release Parties: The CRO, Winter Harbor, the Creditors' Committee and its individual members, the Estate Professionals, and each of their respective shareholders, officers, directors, and professionals, including lawyers and financial advisors. For the avoidance of doubt, the Release Parties do not include (i) the Debtor, (ii) the Debtor's current and former officers, directors, and agents or those acting in concert with any of the foregoing (except the CRO and Winter Harbor), (iii) the Pre-Petition Secured Lenders, DIP Lenders, DIP Agent, Purchaser, or their affiliates, in each case in any capacity, or (iv) Blackstreet.

112. Remaining Assets: Means all property interests, rights, claims, defenses and causes of action of the Debtor or its Estate, including but not limited to unpaid Tax Refunds, insurance policy proceeds, returned deposits, unexercised contract rights, and unpaid insurance policy premium refunds that belonged to the Debtor after the closing of the TPP Sale. For the avoidance of doubt, to the extent the DIP Liens encumber any of the foregoing assets, the DIP Liens shall remain in place with respect to any such assets and neither the Plan or the transfer of any such assets to the Liquidation Trust shall impair or otherwise affect the extent, validity, or existence of the DIP Liens with respect to the foregoing assets.

113. Reserves: The Professional Fee Reserve and the Liquidation Trust Expense Reserve.

114. Rights of Action: Any and all claims, debts, demands, rights, defenses, actions, causes of action, suits, controversies, contracts, agreements, promises, obligations, accounts, defenses, offsets, powers, privileges (including attorney/client privilege), licenses, and franchises, of any kind or character whatsoever, including Avoidance Actions, whether known or unknown, suspected or unsuspected, reduced to judgment, not reduced to judgment, liquidated, unliquidated, secured, unsecured, whether arising before, on, or after the Petition Date, in contract or in tort, at law or in equity, or under any other theory of law, whether asserted or assertable directly or indirectly or derivatively, including, without limitation, those Rights of Action identified in Article X and **Exhibit B** of the Plan. For the avoidance of doubt, the Rights of Action do not include any of the foregoing to the extent the same were transferred to the Purchaser pursuant to the APA and TPP Sale Order.

115. Schedules: The schedules of assets and liabilities and schedules of Executory Contracts and Unexpired Leases, as may be amended from time to time, filed by the Debtor pursuant to Bankruptcy Code § 521, the official bankruptcy forms, and the Bankruptcy Rules [Docket No. 137].

116. Secured Claim: A Claim that is (a) secured in whole or part, as of the Petition Date (or otherwise by an order of the Bankruptcy Court or pursuant to the terms of the Plan), by a Lien against property of the Debtor that is valid, perfected, and enforceable under applicable law and is not subject to avoidance under the Bankruptcy Code or applicable nonbankruptcy law or (b) subject to setoff under Bankruptcy Code § 553; provided however, with respect to both (a) and (b), a Claim is a Secured Claim only to the extent of the value, net of any Lien senior to the applicable Lien, of the Estate's interest in the assets or property securing any such Claim or the amount subject to setoff, as the case may be.

117. Senior Secured Lenders: The DIP Agent and DIP Lenders.

118. Senior Secured Lender Allowed Claims: All Claims held by the Senior Secured Lenders against the Debtor or its Estate Pursuant to the DIP Order, the DIP Credit Agreement, and the Prepetition Loan Documents.

119. Secured Tax Claim: A Secured Claim of a Governmental Unit based on a tax allegedly owed by the Debtor.

120. SSG: SSG Advisors, LLC, Debtor's investment banker.

121. Statement of Financial Affairs: The statement of financial affairs, as may be amended from time to time, filed by the Debtor pursuant to Bankruptcy Code § 521, the official bankruptcy forms, and the Bankruptcy Rules [Docket No. 161].
122. Substantial Consummation: The actions taken on the Effective Date.
123. Tax Refunds: All refunds received by the Debtor from any state taxing authority or from the IRS after a determination that the Debtor has no federal or applicable state tax liability.
124. TPP Sale: The sale of certain of the Debtor's assets to the Purchaser pursuant to the APA, TPP Sale Order, and other ancillary documents.
125. TPP Sale Closing Date: November 8, 2016.
126. TPP Sale Order: The *Order Granting the Debtor's Motion, Pursuant to Bankruptcy Code Sections 105(a), 363, and 365, and Bankruptcy Rules 2002, 6004, and 6006, for Entry of an Order Authorizing the Sale of Assets Free and Clear of All Liens, Claims, Encumbrances, and Other Interests and Granting Related Relief* [Docket No. 355] pursuant to which the Bankruptcy Court approved the TPP Sale.
127. Treasury Regulations: The regulations promulgated under the Internal Revenue Code by the Department of the Treasury of the United States.
128. Unexpired Lease: A lease to which the Debtor is a party that is subject to assumption or rejection under Bankruptcy Code § 365.
129. Unimpaired: With respect to a Class of Claims or Interests, a Class of Claims or Interests that is unimpaired within the meaning of Bankruptcy Code § 1124.
130. U.S. Trustee: The Office of the United States Trustee for Region 6.
131. Voting Class: A Class entitled to vote to accept or reject the Plan.
132. Voting Deadline: August 11, 2016 at 4:00 p.m. (prevailing Central Time).
133. Wind-Down Cash: The remaining Cash held by the Debtor after the TPP Sale Closing Date and funded by the DIP Lenders in accordance with the DIP Order, DIP Credit Agreement, and DIP Budget.
134. Wind-Down Reserve: The reserve to be established as soon as practicable after the Effective Date to be funded with any remaining Wind-Down Cash and to be used to satisfy Allowed Claims consistent with the DIP Budget.
135. Winter Harbor: Winter Harbor LLC, in its capacity as CRO and as otherwise provided in the *Order Approving Motion for Entry of Order Pursuant to 11 U.S.C. §§ 105(a) and 363(b) Authorizing and Approving Debtor's (I) Retention and Employment of Winter harbor LLC and (II) Employment of Stuart Noyes as Chief Restructuring Officer* [Docket No. 220].

EXHIBIT B
RIGHTS OF ACTION

Pursuant to the terms of the Plan and 11 U.S.C. § 1123(b)(3)(B) and except for items excluded pursuant to Article X of the Plan, on the Effective Date, all of the Debtor's Rights of Action and counterclaims will be retained under the Plan and transferred to and vest in the Liquidation Trust to be prosecuted exclusively by the Liquidation Trustee for the benefit of Holders of Liquidation Trust Interests and other Holders of Claims as provided in the Plan, including, without limitation, the following Rights of Action:²

1. All claims, counterclaims, causes of action and potential claims and causes of action held by the Debtor and the Estate and/or anyone acting in concert with them, including, but not limited to, Avoidance Actions, the D&O Claims, commercial torts, tortious interference with contractual and/or business relations, unfair competition, breach of contract, loss of income, setoff, recoupment, fraud, fraudulent inducement, misrepresentation, fraudulent or negligent omission, fraudulent or preferential transfers arising other than under the United States Bankruptcy Code, conversion, replevin, lender liability, recharacterization of debt as equity, equitable subordination, challenges as to the extent, priority and validity of any purported claims, liens and/or security interests, injury to property and/or title to property, negligence, recklessness, conspiracy, aiding and abetting, breach of fiduciary duty, breach of confidential relationship, mismanagement, violation of securities laws, self-dealing, usurpation of corporate opportunity, insolvent trading, breach of duty of loyalty, allowing, authorizing and/or receiving unlawful or improper distributions, unreasonable related party transactions, uncommercial transactions, improper redemption of equity interests, breach of duty of good faith, breach of duty to provide information, breach of duties of care and/or diligence, failure to make informed decisions, improper use of information to gain improper advantage and other, similarly grounded claims and causes of action against, without limitation, current and/or former shareholders, members, equity interest holders, debt holders, partners, prospective joint venture participants, joint venture participants, prospective contracting parties, contracting parties, prospective purchasers, purchasers, prospective sellers, sellers, directors, officers, managers, employees, agents, contractors, insurers, sureties, investment bankers, consultants, advisors, representatives, competitors, vendors and/or other creditors of the Debtor and/or entities affiliated with or otherwise related to any of the foregoing.
2. All Avoidance Actions (as that term is defined in the Plan), including without limitation, (i) for all payments made by the Debtor to creditors within 90 days prior to the filing of the bankruptcy petition, including but not limited to, all persons and entities identified in question 3 of the Debtor's Statement of Financial Affairs filed in the Chapter 11 Case, and (ii) for all payments made by the Debtor to "insiders" within one year prior to the filing of the bankruptcy petition, including but not limited to, those persons and entities identified in question 4 of the Debtor's Statement of Financial Affairs, and (iii) arising

² For the Avoidance of Doubt, the Debtor's Rights of Action do not include any Rights of Action transferred to the Purchaser pursuant to the APA or the TPP Sale Order or that have been released pursuant to the DIP Order or the TPP Sale Order. Any Rights of Action against the Prepetition Lenders or the Senior Secured Lenders are limited by the terms of the DIP Order.

under sections 506(c), 510, 542, 543, 544, 545, 547, 548, 549, 550, 551, 552(b), 553, or 724 of the Bankruptcy Code, or arising under similar state and federal statutes and common law, including the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, or similar state law.

3. All Claims, counterclaims, defenses, and Rights of Action referenced in the Plan.
4. All other counterclaims and defenses, including without limitation the rights of setoff and recoupment, and all defenses of the Estate under 11 U.S.C. § 558.
5. All claims, counterclaims, causes of action and potential claims and causes of action held by the Debtor and the Estate as of the Effective Date, whether or not previously asserted, are preserved under the Plan for the benefit of the Liquidation Trust. The Debtor and/or the Liquidation Trustee, as the case may be, expressly reserve and preserve all rights to supplement at any time any and all retained claims and causes of action, including, without limitation, those described hereinafter, whether based on the results of prior, ongoing, or future investigations or otherwise.
6. All Rights of Action against any person or Entity listed on question 3 of the Debtor's Statement of Financial Affairs, as well as related Entities, principals, officers, and employees of any of the foregoing and any mediate or immediate transferees, including without limitation, all Avoidance Actions.
9. All Rights of Action against any person or Entity listed on question 4 of the Debtor's Statement of Financial Affairs, as well as related Entities, principals, officers, and employees of any of the foregoing and any mediate or immediate transferees, including without limitation, all Avoidance Actions.
10. All claims and causes of action against any person or Entity for fraudulent or preferential transfers under any applicable law, including without limitation any claims and causes of action against Blackstreet or the Senior Secured Lenders in connection with the Blackstreet Dividend Recapitalization.
11. All Rights of Action against any person or Entity for recovery of accounts receivable or enforcement of contractual obligations.
12. All Rights of Action against any federal, state, local or foreign taxing authority, including without limitation, for the recovery of tax credits, refunds, overpayments or other payments are retained and included in the Liquidation Trust Assets to the extent such Rights of Action have not been otherwise sold or transferred to Purchaser and are not capable of being setoff to reduce any claim of a taxing authority.
13. All Rights of Action arising under or related to any policy of insurance against any insurer, such insurer's agents, affiliates, related Entities, principals, officers and employees, or any other person or Entity.
14. All Rights of Action asserting alter ego, veil piercing, or reverse veil piercing.

15. All privileges, including the attorney-client, work-product and other privileges will belong to both the Liquidation Trust and the Debtor.
16. All Rights of Action against any person or Entity, including the Senior Secured Lenders, to enforce the terms of the TPP Sale Order.
17. All Rights of Action referenced in or related to that *The Official Committee of Unsecured Creditors of TPP Acquisition, Inc.'s Complaint for (I) Declaratory Relief; (II) Equitable Subordination; (III) Recharacterization; (IV) Avoidance of Preferences; (V) Avoidance of Fraudulent Transfers; (VI) Tortious Interference; (VII) Breach of Fiduciary Duty; (VIII) Aiding and Abetting Breaches of Fiduciary Duties; (IX) Instrumentality/Control Liability; (X) Principal/Agent Liability; (XI) Reimbursement and Indemnification; (XII) Alter Ego; and (XIII) Disallowance of Certain Claims* Adversary No. 16-03161-hdh, in the Bankruptcy Court filed on December 9, 2016, and any amendment thereto.
18. Any Challenge Proceeding (as defined in the DIP Order).
19. All Rights of Action against the Debtor's current and former officers, directors, and agents or those acting in concert with any of the foregoing arising any act or omission resulting in a breach of such persons' fiduciary duties under applicable law, including but not limited to Rights of Action against the foregoing persons relating to (i) the Blackstreet Dividend Recapitalization, (ii) the retention and termination of officers and directors of the Debtor, (iii) the ordering of inventory and incurrence of accounts payable to Holders of General Unsecured Claims, (iv) the relationship, agreements, and course of business between the Debtor and the Pre-Petition Secured Lender and its affiliates, and each of their respective representatives, and (v) the exercise of diligence or care in connection with all of the following.

The Liquidation Trust and Liquidation Trustee shall continue to analyze all potential Rights of Action and take appropriate action, including, but not limited to, filing lawsuits in appropriate venues. The Debtor does not waive any Rights of Action, counterclaims, or defenses that may exist. Nor shall conditional approval of the Disclosure Statement prejudice the Debtor's or Liquidation Trust's (as applicable) right to assert any claims and causes of action not identified herein, and all such claims and causes of action are expressly reserved and preserved.