

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re:)	Chapter 11
)	
OTB HOLDING LLC, <i>et al.</i> , ¹)	Case No. 25-52415 (SMS)
)	
)	(Jointly Administered)
Debtors.)	
<hr/>		Related Docket Nos. 522, 523, 533

NOTICE OF FILING PLAN SUPPLEMENT

PLEASE TAKE NOTICE that, on July 21, 2025, the above-captioned debtors and debtors in possession (the “Debtors”) filed (i) the *Debtors’ Amended Joint Chapter 11 Plan as of July 21, 2025* [Docket No. 522] (as may be amended, supplemented, restated, or modified from time to time, and together with the Plan Supplement (defined below), the “Plan”); and (ii) the *Disclosure Statement with Respect to the Amended Joint Chapter 11 Plan Dated as of July 21, 2025* [Docket No. 523] (as may be amended, supplemented, restated, or modified from time to time, the “Disclosure Statement”) in the United States Bankruptcy Court for the Northern District of Georgia (the “Bankruptcy Court”).²

PLEASE TAKE FURTHER NOTICE that, on July 24, 2025, the Court entered the *Order (I) Approving the Disclosure Statement on an Interim Basis; (II) Setting a Combined Hearing on Final Approval of the Disclosure Statement and Plan Confirmation; (III) Approving Procedures for the Solicitation and Tabulation of Votes to Accept or Reject the Debtors’ Chapter 11 Plan; and (IV) Approving Related Notice and Objection Procedures* [Docket No. 533] that, among other things, (a) approved on an interim basis the Disclosure Statement as containing “adequate information” pursuant to section 1125(a) of title 11 of the United States Bankruptcy Code subject to final approval at the hearing to consider final approval of the Disclosure Statement and confirmation of the Plan currently scheduled for September 5, 2025 (the “Combined Hearing”) and (b) authorized the Debtors to solicit acceptances for the Plan.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: OTB Holding LLC (3213), OTB Acquisition LLC (8500), OTB Acquisition of New Jersey LLC (1506), OTB Acquisition of Howard County LLC (9865), Mt. Laurel Restaurant Operations LLC (5100), OTB Acquisition of Kansas LLC (9014), OTB Acquisition of Baltimore County, LLC (6963). OTB Holding LLC’s service address is One Buckhead Plaza, 3060 Peachtree Road, NW, Atlanta, GA 30305.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Plan.



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PLEASE TAKE FURTHER NOTICE that the Plan and the Disclosure Statement contemplate the submission of the Plan Supplement in advance of the Combined Hearing.

PLEASE TAKE FURTHER NOTICE that the Debtors hereby file this *Notice of Filing Plan Supplement* (as may be amended, supplemented, restated, or modified from time to time, the “Plan Supplement”) in support of confirmation of the Plan.

PLEASE TAKE FURTHER NOTICE that the Plan Supplement includes the following document, as may be amended, supplemented, restated, or modified from time to time by the Debtors in accordance with the Plan, as set forth below:

<u>Exhibit</u>	<u>Description</u>
Exhibit A	Liquidating Trust Agreement

PLEASE TAKE FURTHER NOTICE that the Liquidating Trust Agreement contained in the Plan Supplement is integral to and considered part of the Plan. If the Plan is confirmed, the Liquidating Trust Agreement contained in the Plan Supplement will be approved by the Bankruptcy Court pursuant to the order confirming the Plan.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right, subject to the terms and conditions set forth in the Plan, to alter, modify, amend, remove, augment, or supplement the Plan Supplement; provided that if the Plan Supplement is altered, amended, modified, or supplemented in any material respect prior to the Combined Hearing, the Debtors will file a blackline of the Plan Supplement with the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve the right, subject to the terms and conditions set forth in the Plan, to add additional documents to the Plan Supplement.

PLEASE TAKE FURTHER NOTICE that the Plan and the Plan Supplement, **are available electronically, free of charge, at <https://veritaglobal.net/ontheborder>**. You may request paper copies of the Plan and Disclosure Statement and the exhibits thereto by: (a) contacting the Voting Agent by regular mail or overnight courier or hand delivery at OTB Holding Ballot Processing c/o KCC dba Verita 222 N. Pacific Coast Highway, Suite 300 El Segundo, CA 90245; (b) calling (888) 647-1744 (U.S./Canada) or (310) 751-2628 (International); or (c) by clicking the “Submit an Inquiry” option at <https://veritaglobal.net/ontheborder/inquiry>.

PLEASE TAKE FURTHER NOTICE that the Combined Hearing is currently scheduled for **September 5, 2025 at 9:30 a.m., prevailing Eastern Time, in Courtroom 1201, United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia 30303.**

PLEASE TAKE FURTHER NOTICE that the Combined Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than by such adjournment being announced in open court or by a notice of adjournment being filed with

the Bankruptcy Court and served on parties entitled to notice under Bankruptcy Rule 2002 and the *Local Rules of the United States Bankruptcy Court For the Northern District of Georgia* or otherwise.

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Date: August 15, 2025
Atlanta, Georgia

Respectfully submitted,

KING & SPALDING LLP

/s/ Jeffrey R. Dutson

Jeffrey R. Dutson

Georgia Bar No. 637106

Brooke L. Bean

Georgia Bar No. 764552

Alice Kyung Won Song

Georgia Bar No. 692753

KING & SPALDING LLP

1180 Peachtree Street NE

Atlanta, Georgia 30309

Telephone: (404) 572-4600

Email: jdutson@kslaw.com

Email: bbean@kslaw.com

Email: asong@kslaw.com

Counsel for the Debtors in Possession

Exhibit A

Liquidating Trust Agreement

LIQUIDATING TRUST AGREEMENT

This Liquidating Trust Agreement (the “Liquidating Trust Agreement”) dated as of [•], 2025, is entered into by and among OTB Holding LLC, OTB Acquisition LLC, OTB Acquisition of New Jersey LLC, OTB Acquisition of Howard County LLC, Mt. Laurel Restaurant Operations LLC, OTB Acquisition of Kansas LLC, and OTB Acquisition of Baltimore Couty, LLC, as debtors and debtors in possession (the “Debtors”) and META Advisors LLC, not individually, but solely in its capacity as trustee of the Liquidating Trust (as defined herein) (the “Liquidating Trustee” and, together with the Debtors, the “Parties”) in accordance with the *Debtors’ Amended Joint Chapter 11 Plan as of July 21, 2025* (including all exhibits thereto, as the same may be further amended, modified, or supplemented from time to time, the “Plan”).¹ This Liquidating Trust Agreement shall be executed in accordance with and shall become effective upon the Effective Date of the Plan.

RECITALS

WHEREAS, on March 4, 2025 (the “Petition Date”), each of the Debtors filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Georgia (the “Bankruptcy Court”) commencing their chapter 11 cases (the “Chapter 11 Cases”);

WHEREAS, on March 17, 2025, the United States Trustee for Region 21 appointed an official committee of unsecured creditors in the Chapter 11 Cases;

WHEREAS, on July 21, 2025, the Debtors filed the Plan;

WHEREAS, on [•], 2025, the Bankruptcy Court entered an order confirming the Plan [Docket No. •] (the “Confirmation Order”);

WHEREAS, the Plan became effective in accordance with its terms on [•], 2025 (the “Effective Date”);

WHEREAS, the Plan provides for the creation and formation of a trust (the “Liquidating Trust”) as of the Effective Date, which provides, inter alia:

(a) For the transfer of all assets of the Debtors and any other assets designated as assets of the Liquidating Trust under the Plan, the Confirmation Order, or this Liquidating Trust Agreement, other than (i) the Retained Property and (ii) the Initial Distribution Amount (such assets, collectively, the “Liquidating Trust Assets”) into the Liquidating Trust for distribution, after payment of all Liquidating Trust expenses (the “Liquidating Trust Expenses”), to holders of Allowed Class 1 Miscellaneous Secured Claims, Allowed Class 2 Secured Lender Claims, Allowed Class 3 Other Priority Claims and Allowed Class 4 General Unsecured Claims (collectively, the “Liquidating Trust Beneficiaries”) pursuant to and in accordance with this Liquidating Trust Agreement, the Plan and the Confirmation Order;

¹ Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Plan.

(b) That, for federal income tax purposes, (i) the Liquidating Trust Beneficiaries of the Liquidating Trust are to be treated as the grantors of the Liquidating Trust and deemed to be the owners of the Liquidating Trust Assets; and (ii) the Debtors are to treat the transfer of the Liquidating Trust Assets to the Liquidating Trust as a deemed transfer to such Liquidating Trust Beneficiaries followed by a deemed transfer by such Liquidating Trust Beneficiaries to the Liquidating Trust in exchange for their respective Liquidating Trust Interests;

(c) For the management of the Liquidating Trust Assets by the Liquidating Trust, acting through the Liquidating Trustee; and

(d) For the distribution of the Liquidating Trust Assets to the Liquidating Trust Beneficiaries as set forth in the Plan.

WHEREAS, this Liquidating Trust Agreement is executed to establish the Liquidating Trust and facilitate the Plan;

NOW, THEREFORE, pursuant to the Plan and in consideration of the mutual agreements of the Parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and affirmed, the Parties hereby agree as follows:

ARTICLE I

ESTABLISHMENT OF THE TRUST

1.1 Purpose of the Liquidating Trust. The Debtors, the Estates, and the Liquidating Trustee, pursuant to the Plan and the Confirmation Order, and in accordance with the Bankruptcy Code and applicable tax statutes, rules, and regulations, hereby constitute and create the Liquidating Trust for the sole purpose of administering the post-Effective Date responsibilities assigned to the Liquidating Trust under the Plan, including, but not limited to: (i) being vested with, administering, and liquidating the Liquidating Trust Assets; (ii) making Distributions to holders of Allowed Claims in accordance with the Plan and this Liquidating Trust Agreement; (iii) resolving all Disputed Claims and effectuating the claims reconciliation process pursuant to the Plan; (iv) prosecuting, settling, and resolving Causes of Action; (v) recovering, through enforcement, resolution, settlement, collection, or otherwise, assets on behalf of the Liquidating Trust (which assets shall become part of the Liquidating Trust Assets); (vi) exclusively managing the wind-down of the Debtors and their subsidiaries, including, if and to the extent necessary, dissolving, liquidating, or taking similar action with respect to the Debtors or their subsidiaries and terminating their corporate existence, except for those Wind-Down Tasks expressly reserved to the Wind-Down Officer under the Plan or Confirmation Order; (vii) performing all actions and executing all agreements, instruments, and other documents necessary to effectuate the purpose of the Liquidating Trust or as otherwise set forth in this Liquidating Trust Agreement. For the avoidance of doubt, the Liquidating Trustee shall have exclusive authority over all matters not expressly included in the definition of Wind-Down Tasks under the Plan, and the Wind-Down Officer shall have no role in administering or controlling any Liquidating Trust Assets. Further, the Liquidating Trust is created for the purpose of liquidating and distributing the Liquidating Trust Assets with no objective to continue or engage in the conduct of a trade or business. In particular,

the Liquidating Trust, shall (a) make continuing efforts to collect and reduce the Liquidating Trust Assets to Cash in order to meet the Liquidating Trust's obligations, (b) make timely distributions on account of Allowed Claims pursuant to the Plan and this Liquidating Trust Agreement, (c) not unduly prolong the duration of the Liquidating Trust, and (d) take such steps as are reasonably necessary to accomplish such purpose, all as more fully provided in, and subject to the terms and provisions of, the Plan, the Confirmation Order, and this Liquidating Trust Agreement. Notwithstanding any provision of Georgia law or any other applicable law to the contrary, the Liquidating Trust shall not have authority to engage in any trade or business, and no portion of the Liquidating Trust Assets shall be used in the conduct of a trade or business, except as is reasonably necessary for the prompt and orderly collection and reduction to Cash of the Liquidating Trust Assets.

1.2 Name of the Liquidating Trust; References to the Liquidating Trust. The Liquidating Trust established hereby shall be known as the "OTB Liquidating Trust." In connection with the exercise of its powers, the Liquidating Trust and the Liquidating Trustee may use such name or such variations thereof as the Liquidating Trustee sees fit and may transact the affairs of the Liquidating Trust in such name. All references to the Liquidating Trust in this Liquidating Trust Agreement shall include the Liquidating Trust, acting by and through the Liquidating Trustee.

1.3 Offices.

(a) The principal office of the Liquidating Trust, and such additional offices as the Liquidating Trustee may determine to establish, shall be located at such place or places inside or outside the State of Georgia as the Liquidating Trustee may designate from time to time.

(b) Unless or until a Successor Liquidating Trustee is appointed in accordance with Article II of this Liquidating Trust Agreement, service of process upon the Liquidating Trust may be made by service upon the Liquidating Trustee. The principal office of the Liquidating Trustee is located at 3 World Trade Center, 175 Greenwich Street, 67th Floor, New York, NY 10007.

1.4 Transfer of Assets to Create Liquidating Trust.

(a) In accordance with Section 7.04 of the Plan, the Debtors and the Estates hereby irrevocably grant, release, assign, transfer, convey and deliver, for and on behalf of the Liquidating Trust Beneficiaries, to the Liquidating Trust all of their rights, title, and interests in and to all of the Liquidating Trust Assets, as set forth in this Liquidating Trust Agreement, the Plan, or Confirmation Order. In accordance with Section 1141 of the Bankruptcy Code, except as otherwise provided herein or in the Plan, the Liquidating Trust Assets shall automatically vest in the Liquidating Trust free and clear of all Claims, Liens, contractually imposed restrictions, charges, encumbrances and Interests of Creditors and equity security holders and exempt from any stamp, real estate transfer, mortgage reporting, sales, use or other similar tax to the maximum extent permitted under Section 1146 of the Bankruptcy Code, as of the Effective Date, to have and to hold unto the Liquidating Trust and to be applied as specified in the Plan, the Confirmation Order and this Liquidating Trust Agreement without need for any further action by the Debtors,

the Liquidating Trustee, or the Bankruptcy Court. Such transfer includes, but is not limited to, all rights to assert, waive or otherwise exercise all rights of setoffs and recoupment and defenses of the Debtors or their Estates to any counterclaims that may be asserted by any and all defendants as to any Causes of Action or by holders of Disputed Claims, any attorney-client privilege, work product protection or other privilege, immunity, or confidentiality provision vested in, or controlled by, the Debtors or their Estates in respect of the Liquidating Trust Assets, as set forth in the Plan and Confirmation Order. On the Effective Date, (i) the Liquidating Trust shall be substituted for the Debtors for all purposes with respect to Liquidating Trust Assets and administration of Claims and Interests; and (ii) the Debtors shall transfer and shall be deemed to transfer to the Liquidating Trust all of the Liquidating Trust Assets. The Liquidating Trustee shall have no duty to arrange for any of the transfers contemplated under this Liquidating Trust Agreement or by the Plan or to ensure their compliance with the terms of the Plan and the Confirmation Order, and shall be conclusively entitled to rely on the legality and validity of such transfers.

(b) The Debtors shall execute and deliver or cause to be executed and delivered to the Liquidating Trust all such documents, in recordable form where necessary or appropriate, and the Debtors shall take or cause to be taken such further or other action, as the Liquidating Trustee may deem appropriate, to vest or perfect in or confirm to the Liquidating Trust, or upon the order of the Liquidating Trustee, title to and possession of all of the Liquidating Trust Assets as of the Effective Date.

(c) To the extent any Liquidating Trust Assets cannot be transferred to the Liquidating Trust because of a restriction on transferability under applicable non-bankruptcy law that is not superseded or preempted by Section 1123 of the Bankruptcy Code or any other provision of the Bankruptcy Code, the Liquidating Trust shall be deemed to have been designated as the representative of the Debtors pursuant to Section 1123(b)(3)(B) of the Bankruptcy Code to enforce and pursue such Liquidating Trust Assets on behalf of the Debtors. The Liquidating Trust's interest shall be a lien upon and security interest in such Liquidating Trust Assets, held in trust, nevertheless, for the sole use and purposes set forth in this Liquidating Trust Agreement, and this Liquidating Trust Agreement shall be deemed a security agreement granting such interest thereon without need to file financing statements or mortgages. Notwithstanding the foregoing, all net proceeds of such Liquidating Trust Assets shall be transferred to the Liquidating Trust to be distributed to the Liquidating Trust Beneficiaries in accordance with the Plan and, solely with respect to holders of Allowed Class 4 General Unsecured Claims, only after satisfaction or reservation for expenses of the Liquidating Trust.

1.5 Title to the Liquidating Trust Assets. As set forth in Section 1.4 of this Liquidating Trust Agreement and the Plan, and without limiting the generality thereof, all of the Debtors' right, title, and interest in and to the Liquidating Trust Assets shall vest automatically in the Liquidating Trust on the Effective Date. Such assets, including those held or controlled by third parties, shall be deemed assets of the Liquidating Trust for all purposes and held in trust for the benefit of the Liquidating Trust Beneficiaries, free and clear of all liens, claims, encumbrances, interests, and contractually imposed restrictions of any kind, except as otherwise provided in the Plan. The Liquidating Trustee shall be authorized to obtain possession or control of, liquidate, and collect all such assets, and to administer them in accordance with this Liquidating Trust

Agreement, the Plan, and the Confirmation Order. Without limiting the foregoing, the Liquidating Trust, and the Liquidating Trustee on behalf of the Liquidating Trust, shall have the right to invoke section 542 of the Bankruptcy Code to pursue turnover of Liquidating Trust Assets. By executing this Liquidating Trust Agreement, the Liquidating Trustee, on behalf of the Liquidating Trust, accepts the Liquidating Trust Assets, to be held in trust for the Liquidating Trust Beneficiaries in accordance with the terms of this Liquidating Trust Agreement, the Plan, and the Confirmation Order. Upon such transfer, and except as otherwise provided herein, in the Plan, or the Confirmation Order, the Debtors shall retain no interest in or control over the Liquidating Trust Assets.

1.6 Acceptance by Liquidating Trustee. The Liquidating Trustee hereby accepts (a) the appointment to serve as Liquidating Trustee; (b) the transfer of the Liquidating Trust Assets on behalf of the Liquidating Trust; and (c) the trust imposed on the Liquidating Trustee by this Liquidating Trust Agreement, to the extent provided in the Plan. The Liquidating Trustee, on behalf of the Liquidating Trust, agrees to receive, hold, administer and distribute the Liquidating Trust Assets and the income derived therefrom on behalf of the Liquidating Trust pursuant to the terms of the Plan, the Confirmation Order, and this Liquidating Trust Agreement. The Liquidating Trustee acting on behalf of the Liquidating Trust expressly assumes the responsibility to reconcile and satisfy Claims and meet all other obligations of the Debtors' Estates in accordance with the Plan and the Confirmation Order. The Liquidating Trustee, acting on behalf of the Liquidating Trust, agrees to perform all acts necessary to ensure the transfer of the Liquidating Trust Assets to the Liquidating Trust.

1.7 Capacity of the Liquidating Trust. Notwithstanding any state or federal law to the contrary or anything herein, the Liquidating Trust itself shall have the capacity, in its own right and name, to act or refrain from acting, including the capacity to sue and be sued and to enter into contracts. The Liquidating Trust may alone be (but is not required to be) the named movant, respondent, party plaintiff or defendant, or the like in all adversary proceedings, contested matters, and other state or federal proceedings brought by or against it, and may settle and compromise all such matters in its own name. Subject to the terms of this Liquidating Trust Agreement, the Plan, and the Confirmation Order, the Liquidating Trust shall also be entitled to assert all of the Debtors' and the Estates' rights under section 558 of the Bankruptcy Code.

ARTICLE II

LIQUIDATING TRUSTEE – GENERALLY

2.1 Appointment. There shall at all times be a trustee who shall be responsible for the administration of the Liquidating Trust. The initial Liquidating Trustee shall be META Advisors LLC. Any successor Liquidating Trustee shall be appointed as herein provided.

2.2 Term of Service. The initial Liquidating Trustee, and each successor Liquidating Trustee, shall serve until the earlier to occur of (a) the termination of the Liquidating Trust in accordance with Article X of this Liquidating Trust Agreement, or pursuant to the Plan, or (b) such Liquidating Trustee's resignation, death, dissolution, removal, incapacity or liquidation.

2.3 Resignation, Death, Dissolution or Removal of Liquidating Trustee.

(a) The Liquidating Trustee may resign its position at any time by providing thirty (30) days' written notice (the "Resignation Notice") to the Bankruptcy Court. In the event of the resignation, death, dissolution, removal, incapacity or liquidation of the Liquidating Trustee, counsel to the Liquidating Trust shall file the Resignation Notice (in the event of a resignation) and a motion in the Bankruptcy Court to appoint a successor Liquidating Trustee (the "Successor Liquidating Trustee") as soon as reasonably practicable, and in the interim, shall have the authority to take any necessary action on behalf of the Liquidating Trust as deemed reasonably necessary to take for the benefit of the Liquidating Trust Beneficiaries. Such resignation may become effective on the earlier to occur of (i) the date that is thirty (30) days after such notice is filed with the Bankruptcy Court and (ii) the appointment of a permanent Successor Liquidating Trustee.

(b) The resignation, death, dissolution, removal, incapacity or liquidation of the Liquidating Trustee shall not operate to terminate the Liquidating Trust created by this Liquidating Trust Agreement or to revoke any existing agency created pursuant to the terms of the Liquidating Trust Agreement or invalidate any action therefore taken by the Liquidating Trustee.

(c) Any Successor Liquidating Trustee so appointed pursuant to this Section 2.3 shall consent in writing to accept the terms of this Liquidating Trust Agreement and agree that the provisions of this Liquidating Trust Agreement shall be binding upon and inure to the benefit of the Successor Liquidating Trustee. A Successor Liquidating Trustee shall have all the rights, privileges, powers, and duties of its predecessor under this Liquidating Trust Agreement, the Plan, and the Confirmation Order.

(d) Every Successor Liquidating Trustee selected pursuant to the terms hereof shall execute, acknowledge and deliver to counsel for the Liquidating Trust an instrument in writing accepting such appointment hereunder, and thereupon such Successor Liquidating Trustee, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of his, her or its predecessor.

2.4 Trust Continuance. The death, incapacity, dissolution, liquidation, resignation or removal (for cause) of the Liquidating Trustee shall not terminate the Liquidating Trust or revoke any existing agency (other than any agency of such Liquidating Trustee as Liquidating Trustee) created pursuant to this Liquidating Trust Agreement or invalidate any action theretofore taken by the Liquidating Trustee, and the Successor Liquidating Trustee agrees that the provisions of this Liquidating Trust Agreement shall be binding upon and inure to the benefit of the Successor Liquidating Trustee and all his, her or its heirs and legal and personal representatives, successors or assigns.

ARTICLE III

DUTIES AND POWERS OF THE LIQUIDATING TRUST AND THE LIQUIDATING TRUSTEE

3.1 General Powers. The Liquidating Trust shall be deemed the Estates' representative in accordance with Section 1123 of the Bankruptcy Code and shall be authorized to perform those acts necessary and desirable to accomplish the purposes of the Liquidating Trust, the Plan and the Confirmation Order. The Liquidating Trust shall succeed to all rights, remedies, powers and defenses of the Debtors, the Committee, and the Estates necessary to protect, conserve, maximize the value of, distribute and liquidate all Liquidating Trust Assets as quickly as reasonably practicable and otherwise perform the duties set forth in this Liquidating Trust Agreement, the Plan, or Confirmation Order. Subject to the limitations set forth in this Liquidating Trust Agreement, the Plan and the Confirmation Order, and in addition to any powers and authority conferred by law or by any other Section or provision of this Liquidating Trust Agreement, the Plan and the Confirmation Order, the Liquidating Trustee may exercise all powers granted to the Liquidating Trust under this Liquidating Trust Agreement, the Plan and Confirmation Order. Without limiting, but subject to, the foregoing, the Liquidating Trust, acting through the Liquidating Trustee, shall be expressly authorized to:

(a) 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 of the Debtors with respect to the Liquidating Trust Assets with like effect as if authorized, exercised and taken by unanimous action of the officers, managers or directors of any of the Debtors, including, without limitation, the dissolution of any Debtor;

(b) implement Distributions to holders of Allowed Claims, other than the Undisputed Claims, as provided for or contemplated by the Plan and take other actions consistent with the Plan and the implementation thereof, including the creation and maintenance of appropriate reserves in accordance with the Plan and this Liquidating Trust Agreement, in the name of the Debtors or the Liquidating Trust, even in the event of the dissolution of one or more of the Debtors;

(c) subject to the applicable provisions of the Plan, to administer the winding-up of the affairs of the Debtors other than the Wind-Down Tasks;

(d) take all steps and execute all instruments and documents necessary to make Distributions to holders of Allowed Claims, other than as related to the Initial Distribution Amount as set forth in the Plan, and to perform the duties assigned to the Liquidating Trust under the Plan or this Liquidating Trust Agreement;

(e) comply with and effectuate the Plan and the obligations of the Liquidating Trustee and the Liquidating Trust thereunder;

(f) employ, retain or replace professionals, independent contractors, disbursing agents or other persons to represent and/or assist the Liquidating Trust with respect to

its responsibilities, pursuant to the Liquidating Trust Agreement and to compensate such professionals, independent contractors, disbursing agents and other persons for the performance of services on behalf of the Liquidating Trust, including its professionals, provided, however, that all fees and expenses of such professionals, independent contractors, disbursing agents and other persons shall be paid from the Liquidating Trust Assets;

(g) wind up the affairs of the Debtors and their subsidiaries, other than the Wind-Down Tasks, including, if and to the extent necessary, taking any steps to dissolve, cancel, liquidate, or take other similar action with respect to any Debtor, including by terminating the corporate or organizational existence of any such Debtor or subsidiary;

(h) take any actions necessary to (i) resolve all matters related to the Liquidating Trust Assets and (ii) transfer to and vest assets in the Liquidating Trust;

(i) establish and maintain one or more Cash reserves in its reasonable discretion to ensure sufficient funding to pay all current and future Liquidating Trust Expenses;

(j) make Distributions of the Cash in the Liquidating Trust and any proceeds thereof, in excess of any amounts necessary to reserve for or pay Liquidating Trust Expenses, in accordance with the terms of the Plan;

(k) pay obligations owed by the Debtors that are Allowed Claims (including, without limitation, any Allowed Administrative Expense Claims (including Fee Claims), Priority Tax Claims, Class 1 Miscellaneous Secured Claims, Class 2 Secured Lender Claims, and Class 3 Other Priority Claims);

(l) exclusively file, prosecute, settle or dispose of any and all objections to asserted Claims (or decline to do any of the foregoing);

(m) file, prosecute, settle or dispose of any and all Causes of Action or any other claims held by the Debtors as set forth in the Plan, all of which are Liquidating Trust Assets (or decline to do any of the foregoing). For the avoidance of doubt, nothing in this Article III shall be read or interpreted as limiting or precluding the Liquidating Trust from taking possession of, asserting, or prosecuting any and all rights, claims, and defenses of the Debtors, the Committee, or the Estates;

(n) establish, maintain and make payments from the Plan Payment Reserve;

(o) open and maintain bank accounts;

(p) take such actions as are necessary or appropriate to close any of the Debtors' Chapter 11 Cases;

(q) (i) take possession of any books, records, and files of the Debtors that relate to the operation and business of the Liquidating Trust, including the Causes of Action; (ii) provide for the retention and storage of such books, records, and files until such time as the Liquidating

Trust determines that the retention of same is no longer necessary or beneficial; and (iii) enforce the right to access documents, or to the extent necessary cause the Debtors (at the sole cost and expense of the Liquidating Trust) to access documents and provide them to the Liquidating Trustee, pursuant to section 5.7 of the Purchase Agreement;

(r) enter into any agreement or execute any document required by or consistent with the Plan and the Confirmation Order and perform all of the Liquidating Trust's obligations thereunder;

(s) be the duly appointed representative of the Debtors' Estates for, among other purposes, the pursuit of all Causes of Action;

(t) purchase such insurance coverage as the Liquidating Trustee, in its sole discretion, deems necessary and appropriate with respect to the liabilities and obligations of the Liquidating Trust and Liquidating Trustee;

(u) purchase such insurance coverage as the Liquidating Trustee, in its sole discretion, deems necessary and appropriate with respect to real and personal property which may be or become Liquidating Trust Assets;

(v) pay expenses and make disbursements necessary to preserve, liquidate and enhance the Liquidating Trust Assets;

(w) coordinate the turnover of property, if any, subject to rejected executory contracts or abandonment or liquidation of any Liquidating Trust Assets and dispose of, and deliver title to others of, or otherwise realize value of, all the remaining Liquidating Trust Assets;

(x) abandon or donate to a charitable organization that qualifies for non-profit status under IRC section 501(c)(3) any Liquidating Trust Assets that the Liquidating Trust determines to be too impractical to distribute to the Liquidating Trust Beneficiaries or of inconsequential value to the Liquidating Trust and the Liquidating Trust Beneficiaries;

(y) prepare or have prepared any required financial statements and U.S. Trustee post-confirmation quarterly reports, until such time as the Bankruptcy Court enters an order (i) dismissing the Chapter 11 Cases, (ii) converting the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, or (iii) approving a final decree closing the Chapter 11 Cases;

(z) file periodic reports with the Bankruptcy Court as required under the Plan;

(aa) execute and deliver all documents, and take all actions, necessary to consummate the Plan and implement this Liquidating Trust Agreement;

(bb) implement and/or enforce all provisions of the Plan;

(cc) assert and/or waive, as the Liquidating Trustee deems appropriate, any attorney-client privilege or similar privilege belonging to any of the Debtors immediately prior to the Effective Date of the Plan;

(dd) the extent the Liquidating Trust deems it necessary or appropriate, value the Liquidating Trust Assets based on the Liquidating Trustee's good faith determination, which valuation shall be used by all Parties and the Liquidating Trust Beneficiaries for all federal income tax purposes, and seeking resolution from the Bankruptcy Court of any dispute related to such valuation;

(ee) take all other actions consistent with the provisions of the Plan that the Liquidating Trustee deems reasonably necessary or desirable with respect to implementing the Plan, the Liquidating Trust and this Liquidating Trust Agreement; and

(ff) pay any and all any fees assessed against the Debtors' Estates pursuant to section 1930(a)(6) of title 28 of the United States Code.

3.2 Limitations on the Liquidating Trustee. Notwithstanding anything in this Liquidating Trust Agreement, the Plan, or the Confirmation Order to the contrary, the Liquidating Trustee shall not do or undertake any of the following in its capacity as such:

(a) Take any action in contravention of the Plan or the Confirmation Order;

(b) Take any action that would jeopardize treatment of the Liquidating Trust as a "Liquidating Trust" for federal income tax purposes;

(c) Receive transfers of any listed stocks or securities, any readily marketable assets or any operating assets of a going concern business other than to liquidate such assets;

(d) Receive or retain Cash in excess of a reasonable amount necessary to meet Claims, contingent liabilities (including Disputed Claims) and the expenses of the Liquidating Trust;

(e) Exercise any investment power other than the power to invest in demand and time deposits in banks or savings institutions, or temporary investments such as short-term certificates of deposit or Treasury bills;

(f) Enter into or engage in any trade or business (other than the management and disposition of the Liquidating Trust Assets), and no part of the Liquidating Trust Assets or the proceeds, revenue or income therefrom shall be used or disposed of by the Liquidating Trustee in furtherance of any trade or business; and

(g) Receive or retain any operating assets of a going business, a partnership interest in a partnership that holds operating assets or fifty percent (50%) or more of the stock of a corporation with operating assets.

3.3 Fees and Expenses of Liquidating Trustee. The Liquidating Trustee shall be entitled to receive compensation and shall be reimbursed for all reasonable and documented costs and expenses incurred in connection with the performance of its duties as Liquidating Trustee hereunder, in accordance with the terms established by the Debtors, the Committee and the Liquidating Trustee. Such fees and expenses of the Liquidating Trustee shall be expenses of the Liquidating Trust and shall be paid out of the Liquidating Trust Assets or its proceeds without prior approval of the Bankruptcy Court. To the extent the fee arrangement of any Successor Liquidating Trustee is different than the fee arrangement of the initial Liquidating Trustee, such fee arrangement shall be subject to approval by the Bankruptcy Court.

3.4 Retention of Professionals. As set forth in Sections 5.02 and 7.05 of the Plan, the Liquidating Trust shall, without any further notice to any party or further action, order or approval of the Bankruptcy Court, be entitled to retain and engage such professionals and persons as may be necessary to carry out its duties under this Liquidating Trust Agreement, including, without limitation, claims, disbursing and transfer agents, legal counsel, accountants, experts, and other agents or advisors, as the Liquidating Trust deems appropriate. The Professionals or other persons retained by the Liquidating Trust shall be compensated and reimbursed for all reasonable and documented fees and expenses incurred in connection with the performance of services to the Liquidating Trust. Professionals may include, without limitation, counsel and financial advisors of the Debtors, the Committee, or Wind-Down Officer. Notwithstanding anything contained herein, the reasonable fees, costs, and expenses of the Liquidating Trustee (including any reasonable fees, costs, and expenses incurred by professionals to or advisors for the Liquidating Trustee) shall be: (i) paid solely from the Liquidating Trust Assets and any other proceeds of the Liquidating Trust Assets; and (ii) with respect to professionals to or advisors for the Liquidating Trustee, subject to review pursuant to the monthly fee procedures set forth in Complex Case Procedure J(2); provided that any dispute regarding an invoice that is not resolved by the parties shall be presented to the Court.

3.5 Liquidating Trust Action. Except as provided in the Plan or otherwise specified in this Liquidating Trust Agreement, the Liquidating Trust and Liquidating Trustee need not obtain an order or approval of the Bankruptcy Court in the exercise of any power, rights, or discretion conferred under the Plan or this Liquidating Trust Agreement, or account to the Bankruptcy Court. Notwithstanding the foregoing, the Liquidating Trust shall have the right to submit to the Bankruptcy Court any question or questions regarding which the Liquidating Trust may desire to have explicit approval of the Bankruptcy Court for the taking of any specific action proposed to be taken by the Liquidating Trust, including the administration or Distribution of any of the Liquidating Trust Assets. The Bankruptcy Court shall retain jurisdiction and power for such purposes and may approve or disapprove any such proposed action upon motion by the Liquidating Trust.

3.6 Appointment of Supplemental Liquidating Trustee. If the Liquidating Trustee has a conflict or any of the Liquidating Trust Assets are situated in any state or other jurisdiction in which the Liquidating Trustee is not qualified to act as trustee, the Liquidating Trustee shall nominate and appoint a Person duly qualified to act as trustee (the “Supplemental Trustee”) in such state or jurisdiction and require from each such Supplemental Trustee such security as may be designated by the Liquidating Trustee in its discretion. The Liquidating Trustee may confer

upon such Supplemental Trustee all of the rights, powers, privileges, and duties of the Liquidating Trustee hereunder, subject to the conditions and limitations of this Liquidating Trust Agreement, except as modified or limited by the laws of the applicable state or other jurisdiction (in which case, the laws of the state or other jurisdiction in which such Supplemental Trustee is acting shall prevail to the extent necessary). The Liquidating Trustee shall require such Supplemental Trustee to be answerable to the Liquidating Trustee and Liquidating Trust for all monies, assets, and other property that may be received in connection with the administration of all the Liquidating Trust Assets by the Supplemental Trustee. The Liquidating Trustee may remove such Supplemental Trustee, with or without cause, and appoint a successor Supplemental Trustee at any time by executing a written instrument declaring such Supplemental Trustee removed from office and specifying the effective date and time of removal.

3.7 Statutory Fees. After the Effective Date, the Liquidating Trustee shall pay any and all U.S. Trustee's Fee Claims when due and payable. The U.S. Trustee's Fee Claims shall be paid from the Plan Payment Reserve. The Debtors shall file with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the United States Trustee. Each Debtor shall remain obligated to pay quarterly fees to the Office of the United States Trustee until the earliest of that particular Debtor's case being closed, dismissed or converted to a case under Chapter 7 of the Bankruptcy Code; provided, however, that after the Effective Date, the Liquidating Trustee shall pay such fees from the Liquidating Trust Assets.

3.8 Liquidating Trustee Obligations to the Liquidating Trust and Beneficiaries. Notwithstanding anything in the Plan or this Liquidating Trust Agreement to the contrary, the Liquidating Trustee shall always act in the best interests of the Liquidating Trust Beneficiaries and in furtherance of the purpose of the Liquidating Trust as set forth in the Plan. The Liquidating Trustee shall have fiduciary duties to the Liquidating Trust Beneficiaries consistent with the fiduciary duties that a member of an official committee appointed pursuant to section 1102 of the Bankruptcy Code has to the creditor constituents represented by such committee and shall exercise his, her, or its responsibilities accordingly. Except for obligations expressly imposed on the Liquidating Trustee by this Liquidating Trust Agreement, to the extent that, at law or in equity, the Liquidating Trustee has duties (including fiduciary duties) to the Liquidating Trust Beneficiaries or to any other person that is a party to or is otherwise bound by this Liquidating Trust Agreement, such duties are hereby eliminated by this Liquidating Trust Agreement to the fullest extent permitted by applicable law; provided, however, that this Liquidating Trust Agreement does not eliminate the implied contractual covenant of good faith and fair dealing

ARTICLE IV

LIABILITY OF LIQUIDATING TRUST

4.1 Liquidating Trust Standard of Care; Exculpation. The Liquidating Trust and the Liquidating Trustee, and their agents and professionals, shall not be liable for actions taken or omitted in their respective capacities as, or on behalf of the Liquidating Trust, or the Liquidating Trustee, except those acts arising out of its or their gross negligence, actual fraud, or willful misconduct, each as determined by a Final Order from a court of competent jurisdiction. The Liquidating Trustee shall be entitled to rely, in good faith, on the advice of its professionals.

4.2 Indemnification. Except as otherwise set forth in the Plan or Confirmation Order, the Liquidating Trustee and its and the Liquidating Trust's respective accountants, agents, assigns, attorneys, bankers, consultants, directors, employees, executors, financial advisors, investment bankers, real estate brokers, transfer agents, managers, members, officers, partners, predecessors, principals, professional persons, representatives, affiliates, employer and successors (each, an "Indemnified Party") shall be indemnified for, and defended and not be liable for any loss, liability, damage, judgment, fine, penalty, claim, demand, settlement, cost, or expense (including the reasonable fees and expenses of their respective professionals) actually incurred in connection with actions taken or omitted in their respective capacities as, or on behalf of, the Liquidating Trustee or the Liquidating Trust, except those acts arising out of its or their own actual fraud, willful misconduct or gross negligence, each as determined by a Final Order from a court of competent jurisdiction. The Indemnified Parties shall be entitled to advancement, indemnification, and reimbursement for fees and expenses in defending any and all of its or their actions or inactions in its or their capacity as, or on behalf of, the Liquidating Trustee or the Liquidating Trust, except for any actions or inactions involving its or their own actual fraud, willful misconduct or gross negligence, each as determined by a Final Order from a court of competent jurisdiction. Any indemnification claim of the Indemnified Parties under this subsection shall be satisfied from the Liquidating Trust Assets, as provided in this Liquidating Trust Agreement.

4.3 No Liability for Acts of Successors/Predecessor Liquidating Trustees. Upon appointment of a Successor Liquidating Trustee, the predecessor Liquidating Trustee shall have no further liability or responsibility with respect thereto. A Successor Liquidating Trustee shall have no duty to examine or inquire into the acts or omissions of its immediate or remote predecessor and no Successor Liquidating Trustee shall be in any way liable for the acts or omissions of any predecessor Liquidating Trustee unless a Successor Liquidating Trustee expressly assumes such responsibility in writing.

4.4 Reliance by Liquidating Trustee on Documents, Mistake of Fact or Advice of Counsel. Except as otherwise provided in this Liquidating Trust Agreement, the Liquidating Trustee may rely, and shall be protected from liability for acting, upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order or other paper or document reasonably believed by the Liquidating Trustee to be genuine and to have been presented by an authorized party. Also, the Liquidating Trustee shall not be liable if the Liquidating Trustee acts based on a mistake of fact before having actual knowledge of an event. The Liquidating Trustee shall not be liable for any action taken or suffered by the Liquidating Trustee in reasonably relying upon the advice of counsel or other professionals engaged by the Liquidating Trustee in accordance with the Plan, the Confirmation Order, or this Liquidating Trust Agreement.

4.5 Insurance. The Liquidating Trust shall be authorized, but not required, to obtain any reasonably necessary insurance coverage, at the Liquidating Trust's sole expense, for itself and its respective agents, including coverage with respect to the liabilities, duties and obligations of the Liquidating Trustee, which insurance coverage may, at the sole option of the Liquidating Trustee, be extended for a reasonable period after the termination of this Liquidating Trust Agreement.

ARTICLE V

DUTIES OF THE LIQUIDATING TRUSTEE

5.1 General. The Liquidating Trust shall have all duties specified in this Liquidating Trust Agreement, the Plan and the Confirmation Order. Neither the Liquidating Trust nor Liquidating Trustee shall be liable except for the performance of such duties and obligations as are specifically set forth herein or in the Plan or Confirmation Order, and no implied covenants or obligations shall be read into this Agreement, the Plan or Confirmation Order against the Liquidating Trust or Liquidating Trustee.

5.2 Register of Liquidating Trust Beneficiaries. The Liquidating Trust shall maintain at all times a register of the names, addresses and amounts of Allowed Claims of the Liquidating Trust Beneficiaries. The Liquidating Trustee shall be entitled, but not required, to conclusively rely on the official claims register maintained in the Chapter 11 Cases (the “Register”). The Liquidating Trustee shall not be liable for relying on the accuracy of the Register.

5.3 Books and Records. The Liquidating Trustee shall maintain, in respect of the Liquidating Trust and the Liquidating Trust Beneficiaries, books and records relating to the Liquidating Trust Assets and income realized therefrom and the payment of expenses of and claims against or assumed by the Liquidating Trust in accordance with generally accepted accounting principles and for such period of time as may be necessary to enable the Liquidating Trust to make full and proper reports in respect thereof. Except as expressly provided in this Liquidating Trust Agreement, the Plan, or the Confirmation Order, nothing in this Liquidating Trust Agreement is intended to require the Liquidating Trust to file any accounting or seek approval of any court with respect to the administration of the Liquidating Trust, or as a condition for making any payment or distribution out of the Liquidating Trust Assets, nor shall any Liquidating Trust Beneficiary be entitled to any accounting, consistent with Section 6.10 of this Liquidating Trust Agreement.

5.4 Fees and Expenses of Liquidating Trust. From and after the Effective Date, Liquidating Trust Expenses, including, without limitation, reasonable fees and expenses of professionals and other persons retained by the Liquidating Trust, shall be paid from the Liquidating Trust Assets in the ordinary course of business in accordance with the Plan and this Liquidating Trust Agreement.

ARTICLE VI

LIQUIDATING TRUST BENEFICIARIES

6.1 Interest Beneficial Only. The ownership of a beneficial interest in the Liquidating Trust shall not entitle any Liquidating Trust Beneficiary to any title in or to the Liquidating Trust Assets or to any right to call for a partition or division of the Liquidating Trust Assets or to require an accounting, except as specifically provided by this Liquidating Trust Agreement.

6.2 Evidence of Beneficial Interest. Ownership of a beneficial interest in the Liquidating Trust Assets shall not be evidenced by any certificate, security or receipt or in any

other form or manner whatsoever, except as maintained on the books and records of the Liquidating Trust by the Liquidating Trustee or its appointee.

6.3 Registration of Beneficial Interest. The Liquidating Trustee shall cause the Register to be kept at its office or at such other place or places as may be designated by the Liquidating Trustee from time to time (and for the avoidance of doubt, such Register may be maintained electronically and will be reflective of the then-current register of Holders of Allowed Claims against the Debtors, as updated by the Liquidating Trustee and/or the claims agent for the Liquidating Trust). The Register shall reflect the ownership of the beneficial interests of the Liquidating Trust Beneficiaries.

6.4 Absolute Owners. The Liquidating Trustee may deem and treat the Liquidating Trust Beneficiary reflected as the owner of a beneficial interest on the Register as the absolute owner thereof for the purposes of receiving distributions and payments on account thereof for federal, state and local income tax purposes and for all other purposes whatsoever.

6.5 Effect of Death, Dissolution, Incapacity or Bankruptcy of Liquidating Trust Beneficiary. The death, dissolution, incapacity or bankruptcy of a Liquidating Trust Beneficiary during the term of the Liquidating Trust shall not operate to terminate the Liquidating Trust during the term of the Liquidating Trust nor shall it entitle the representative or creditors of the deceased, dissolved, incapacitated or bankrupt Liquidating Trust Beneficiary to an accounting or to take any action in any court or elsewhere for the distribution of the Liquidating Trust Assets or for a partition thereof nor shall it otherwise affect the rights and obligations of the Liquidating Trust Beneficiary under this Liquidating Trust Agreement or in the Liquidating Trust.

6.6 Limitation on Transferability. The beneficial interests herein shall be non-transferable and non-assignable during the term of this Liquidating Trust Agreement except by operation of law. An assignment by operation of law shall not be effective until appropriate notification and proof thereof is submitted to the Liquidating Trust, and the Liquidating Trust shall not pay all amounts to or for the benefit of the assigning Liquidating Trust Beneficiary until receipt of proper notification and proof of assignment by operation of law. The Liquidating Trustee may rely upon such proof without the requirement of any further investigation.

6.7 Standing. Except as expressly provided in this Liquidating Trust Agreement, the Plan or the Confirmation Order, a Liquidating Trust Beneficiary does not have standing to direct the Liquidating Trust or the Liquidating Trustee to do or not to do any act or to institute any action or proceeding at law or in equity against any party (other than against the Liquidating Trustee to the extent provided in this Liquidating Trust Agreement or the Plan) upon or with respect to the Liquidating Trust Assets. The Liquidating Trust and the Liquidating Trustee shall have standing to object to Claims against the Debtors' estates, to assert and prosecute the Causes of Action, to be heard on any other matters that may affect or relate to the Liquidating Trust Assets and, as applicable, shall stand in the shoes of the Debtors with respect thereto.

6.8 Addresses of Claim Holders. The Liquidating Trustee may deliver a notice to Claim Holders and such notice may include a form for each Claim Holder (as determined to be necessary by the Liquidating Trust, as applicable, including, without limitation, IRS Form W-8

and/or Form W-9) to complete in order to be properly registered as a Liquidating Trust Beneficiary (for Holders of Class 4 General Unsecured Claims) and be eligible for distributions from the Liquidating Trust (for all Claim Holders). Such form may request the Holder's federal taxpayer identification number or social security number if the Liquidating Trust determines that such information is necessary to fulfill the Liquidating Trust's tax reporting and withholding obligations. A Holder may, after the Effective Date, select an alternative mailing address from the one set forth on such form or in its Proof of Claim by notifying the Liquidating Trust or its designee in writing of such alternative distribution address. Absent receipt of such notice, neither the Liquidating Trust nor the Liquidating Trustee shall be obligated to recognize any such change of address for any purpose hereunder. Such notification shall be effective only upon receipt by the Liquidating Trust or its designee. The Liquidating Trust, in its reasonable discretion, may suspend distributions to any Claim Holder that has not provided its federal taxpayer identification number or social security number, as the case may be, after a request is made pursuant to this Section 6.8. If tax information is not provided within ninety (90) days after the Liquidating Trust's first request, the applicable Holder's underlying claim will be disallowed and expunged for all purposes of this Liquidating Trust Agreement, such Holder will be deemed to have forfeited all rights to present and future distributions from the Liquidating Trust. Such forfeited distributions shall be deemed to revert to the Liquidating Trust for all purposes, including, without limitation, for distributions to other Holders of Allowed Claims, notwithstanding any federal, state or provincial escheat, abandoned property, or unclaimed property law to the contrary.

6.9 Exemption from Registration. The rights of the Liquidating Trust Beneficiaries arising under this Liquidating Trust Agreement may be deemed "securities" under applicable law. However, such rights have not been defined as "securities" under the Plan because (a) the Parties hereto intend that such rights shall not be securities and (b) if the rights under this Liquidating Trust Agreement in favor of the Liquidating Trust Beneficiaries are deemed to be "securities," the exemption from registration under Section 1145 of the Bankruptcy Code is intended to be applicable to such securities. No Party to this Liquidating Trust Agreement shall make a contrary or different contention.

6.10 No Right to Accounting. Neither the Liquidating Trust Beneficiaries nor their successors, assigns, creditors, nor any other Person shall have any right to an accounting by the Liquidating Trust or Liquidating Trustee, and neither the Liquidating Trust nor the Liquidating Trustee shall be obligated to provide any accounting to any Person. Nothing in this Liquidating Trust Agreement is intended to require the Liquidating Trustee at any time or for any purpose to file any accounting or seek approval of any court with respect to the administration of the Liquidating Trust or as a condition for making any advance, payment, or distribution out of proceeds of Liquidating Trust Assets.

ARTICLE VII

PROCEDURES FOR RESOLVING AND TREATING DISPUTED CLAIMS

7.1 Objection Deadline. The Liquidating Trust shall have the exclusive right, except as otherwise set forth in the Plan, to object to the allowance of any Claim by no later than the Claims Objection Deadline. As soon as practicable, but in no event later than one hundred and

twenty (120) days after the Effective Date, Objections to Claims shall be filed with the Bankruptcy Court and served upon holders of each of the Claims to which Objections are made, provided, however, that such deadline may be extended upon motion of the Liquidating Trust or the Debtors, as set forth in the Plan, and entry of an order of the Bankruptcy Court. In addition, the Liquidating Trust may, at any time, request that the Bankruptcy Court estimate, to the extent set forth in the Plan, any Claim pursuant to Section 502(c) of the Bankruptcy Code regardless of whether any party previously objected to or sought estimation of such Claim.

7.2 Prosecution of Disputed Claims. The Liquidating Trust is exclusively authorized and empowered, but not required, to resolve consensually any disputes regarding the allowance, classification or amount of any Claim, except as otherwise set forth in the Plan, without further order of or approval from the Bankruptcy Court. All objections that are filed and prosecuted as provided herein shall be litigated to Final Order or compromised and settled in accordance with Sections 7.4 and 7.5 of this Liquidating Trust Agreement and the Plan.

7.3 Disputed Claim Reserve. In determining the amount of distributions to be made under the Plan to holders of Allowed Claims, the appropriate distribution required by the Plan shall be made according to estimates and subject to the provisions of the Plan. The Liquidating Trust may, in its sole discretion, establish a reserve (“Disputed Claim Reserve”) for each Disputed Claim in an amount that reasonably approximates the distribution that would otherwise be made to such holder of a Claim assuming such Claim were to be Allowed in the amount set forth on the holder of a Claim’s proof of Claim or as estimated pursuant to agreement with the holder of a Claim or order of the Bankruptcy Court. The Liquidating Trust shall fund the Disputed Claim Reserve from the Liquidating Trust Assets or proceeds thereof.

7.4 Claims Settlement Authority. Notwithstanding any requirement that may be imposed pursuant to Bankruptcy Rule 9019, from and after the Effective Date, the Liquidating Trust, acting in a manner consistent with the Plan, may settle consistent with its fiduciary duties all Claims and all claims that any of the Debtors, the Estates or the Liquidating Trust, as appropriate, have or may have asserted against other parties or any Claims that have been or will be asserted against the Debtors, their Estates or the Liquidating Trust, prior to objection without supervision or approval of the Bankruptcy Court, free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, the local rules of the Bankruptcy Court, and the guidelines and requirements of the United States Trustee, consistent with and pursuant to the terms of the Plan or the Confirmation Order.

7.5 Prosecution and/or Settlement of Causes of Action. The Liquidating Trust shall have the exclusive right to assert and prosecute (or decline to pursue) in accordance with its reasonable business judgment the Causes of Action. The Liquidating Trust shall have the authority to settle and comprise, in its sole discretion and without approval of the Bankruptcy Court, any and all Causes of Action.

7.6 Plan Payment Reserve. After receiving the Liquidating Trust Assets, the Liquidating Trustee shall establish the Plan Payment Reserve to pay amounts under the Plan, including, without limitation, payments on account of Claims (other than Undisputed Claims) that constitute Administrative Claims (except for professional fees paid from the Retained Professional

Fee Reserve), Priority Tax Claims, Class 1 Miscellaneous Secured Claims, Class 2 Secured Lender Claims, and Class 3 Other Priority Claims. The Plan Payment Reserve may be reduced by the amount reserved for a particular Claim only upon: (i) payment of such Claim in full pursuant to the Plan; (ii) disallowance of such claim in whole or in part by agreement of such claimant or order of the Court; (iii) consent of the Wind-Down Officer; or (iv) Order of the Bankruptcy Court; provided however, that the Plan Payment Reserve and any reductions thereto shall be reported to the Wind-Down Officer and, if the Wind-Down Officer determines that such amount is not sufficient, he may seek appropriate relief from the Bankruptcy Court.

ARTICLE VIII

DISTRIBUTIONS

8.1 Distributions to Liquidating Trust Beneficiaries from Liquidating Trust Assets. All Distributions to be made by the Liquidating Trust to any Liquidating Trust Beneficiary shall be made in accordance with the Plan, the Confirmation Order and this Liquidating Trust Agreement and from the Liquidating Trust Assets (or from the income and proceeds realized from the Liquidating Trust Assets) and, solely with respect to distributions to Holders of Allowed Class 4 General Unsecured Claims, only to the extent that the Liquidating Trust has sufficient Liquidating Trust Assets (or income and proceeds realized from the Liquidating Trust Assets) to make such payments, after reserving for or satisfying Liquidating Trust Expenses, in accordance with and to the extent provided for in the Plan, the Confirmation Order and this Liquidating Trust Agreement. Any distribution made by the Liquidating Trust in good faith shall be binding and conclusive on all interested parties.

8.2 Release of Reserved Funds. Before any Distribution can be made to Class 4 General Unsecured Creditors, the Liquidating Trust shall, in its reasonable discretion, establish, supplement, and maintain a reserve in an amount sufficient to meet any and all Liquidating Trust fees and expenses, including but not limited to attorneys' fees and expenses and the fees and expenses of other professionals. Further, in its reasonable discretion, the Liquidating Trustee may withhold any distribution pending the Liquidating Trust's determination of whether to object to a Claim. Any such withheld distribution shall become part of the Liquidating Trust's Disputed Claims Reserve, if established, or otherwise remain in the Liquidating Trust, and shall be distributed to the appropriate Liquidating Trust Beneficiary no later than the first distribution after a decision is made not to object to the pertinent General Unsecured Claim or the Claim becomes Allowed. The Liquidating Trustee need not maintain the Liquidating Trust's reserves in segregated bank accounts and may pool funds in the reserves with each other and other funds of the Liquidating Trust; provided, however, that the Liquidating Trust shall treat all such reserved funds as being held in a segregated manner in its books and records. Any unused amount of the Initial Distribution Amount and the Retained Property shall be released to the Liquidating Trust, as set forth in the Plan.

8.3 Distributions; Withholding. After the Initial Distribution, the Liquidating Trust shall make Distributions from the Liquidating Trust Assets at least annually but not prior to the Distribution Date to the Liquidating Trust Beneficiaries from all net Cash income and all other net Cash proceeds received by the Liquidating Trust from the sale or liquidation of Liquidating Trust

Assets; provided, however, that the Liquidating Trust may, to the extent consistent with Revenue Procedure 82-58, 1982-2 C.B. 847, as amplified by Revenue Procedure 94-45, 1994-2 C.B. 684, retain such amounts (a) as are reasonably necessary to meet contingent liabilities and to maintain the value of the Liquidating Trust Assets during the term of the Liquidating Trust, (b) to pay reasonable administrative expenses of the Liquidating Trust including, without limitation, the compensation and the reimbursement of reasonable, actual and necessary costs and fees (including attorneys' fees) and expenses of the Liquidating Trustee and any retained professionals in connection with the performance of its duties in connection with this Liquidating Trust Agreement, and (c) to satisfy all other liabilities incurred or assumed by the Liquidating Trust (or to which the Liquidating Trust Assets are otherwise subject) in accordance with the Plan, the Confirmation Order and this Liquidating Trust Agreement, and retention of such amounts may preclude a Distribution. All Distributions shall be made as provided, and subject to any withholding or reserve, in this Liquidating Trust Agreement, the Plan or the Confirmation Order. Additionally, the Liquidating Trust may withhold from amounts distributable to any Liquidating Trust Beneficiary any and all amounts, determined in the Liquidating Trustee's reasonable sole direction, to be required by any law, regulation, rule, ruling, directive or other governmental requirement, including withholding the entirety of a Distribution until the Liquidating Trust receives the necessary tax information from a Liquidating Trust Beneficiary. The Liquidating Trust shall make continuing efforts to dispose of the Liquidating Trust Assets, make timely Distributions and not unduly prolong the duration of the Liquidating Trust. The Liquidating Trust may engage disbursing agents and other Persons to assist in making Distributions.

8.4 No Distribution Pending Allowance. Notwithstanding anything to the contrary in the Plan, the Confirmation Order or this Liquidating Trust Agreement, no payment or Distribution shall be made with respect to any Claim to the extent it is a Disputed Claim unless and until such Disputed Claim becomes an Allowed Claim; provided that payment or Distribution may be made on an Allowed portion of a Claim pending adjudication of the Disputed portion of such Claim.

8.5 Distributions After Allowance. Distributions to each holder of a Disputed Claim or Interest, to the extent that such Claim or Interest ultimately becomes an Allowed Claim or Interest, shall be made in accordance with the provisions of the Plan governing the Class of Claims or Interests to which such holder of a Claim or Interest belongs.

8.6 Disputed Identity of Holder. If any dispute arises as to the identity of a holder of an Allowed Claim or Interest who is to receive any Distribution hereunder, the Liquidating Trust may, in lieu of making such Distribution to such person, make such Distribution into an escrow account until the disposition thereof shall be determined by Bankruptcy Court order or by written agreement among the interested parties to such dispute.

8.7 No Recourse to Liquidating Trust, Liquidating Trustee. Notwithstanding that the allowed amount of any particular Disputed Claim is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is allowed in an amount for which there is insufficient Cash to provide a recovery equal to that received by other holders of Allowed Claims in the relevant Class, no Claim holder shall have recourse to the Liquidating Trust, Liquidating Trustee or any of its professionals, or its successors or assigns, or the holder of any

other Claim, or any of their respective property. However, nothing in the Plan shall modify any right of a holder of a Claim under Section 502(j) of the Bankruptcy Code. Thus, the Court's entry of an estimation order may limit the Distribution to be made on individual Disputed Claims, regardless of the amount finally allowed on account of such Disputed Claims.

8.8 Non-Cash Property; Abandonment. Any non-Cash property of the Liquidating Trust may be sold, transferred, or abandoned by the Liquidating Trustee. The net proceeds of such sales shall be held in the Liquidating Trust pending distribution or until used to fund the Liquidating Trust's obligations hereunder. If, in the Liquidating Trustee's judgment, any Liquidating Trust Asset cannot be sold, settled, reduced to Cash or distributed in a commercially reasonable manner, the Liquidating Trustee shall have the right to abandon, withdraw, or otherwise dispose of such property consistent with applicable law, including by donation of such property to a charity designated by the Liquidating Trustee.

8.9 Time Bar to Cash Payments. Checks issued by the Liquidating Trust in respect of Allowed Claims shall be null and void if not negotiated within sixty (60) days after the date of issuance thereof. Requests for reissuance of any check shall be made to the Liquidating Trust by the holder of the Allowed Claim to whom such check originally was issued within such sixty (60) day period. Thereafter, the amount represented by such voided check shall irrevocably revert to the Liquidating Trust for all purposes, including, but not limited to, distribution to other holders of Allowed Claims. Any Claim in respect of such voided check shall be discharged and forever barred notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary.

8.10 Unclaimed and Undeliverable Distributions. If any Distribution to a Holder of an Allowed Claim is returned to the Liquidating Trust as undeliverable and/or otherwise remains unclaimed (including, but not limited to, as a result of a voided Distribution check in accordance with Section 8.09 of this Agreement and Section 5.07 of the Plan) after a period of sixty (60) days from first issuance, no further Distributions to such Holder shall be made unless and until the Holder notifies the Liquidating Trust of such Holder's then-current address and taxpayer identification number. After the date that is sixty (60) days from the date of first issuance, absent such notification to the Liquidating Trust such Distribution shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and all title to and beneficial interest in such undeliverable Distribution shall revert to and/or remain in the Liquidating Trust for all purposes (including, but not limited to, for distribution to other Holders of Allowed Claims), automatically and without any need for further order by the Bankruptcy Court, notwithstanding any federal, provincial or state escheat, abandoned or unclaimed property laws to the contrary. If a Holder timely provides the Trustee the necessary information within the 60-day period set forth above, all missed Distributions shall be made to the Holder as soon as is practicable, without interest.

8.11 Withholding Taxes and Expenses of Distribution. Any federal, state or local withholding taxes or other amounts required to be withheld under applicable law, as determined by the Liquidating Trust or the Liquidating Trustee in their sole discretion, shall be deducted from distributions hereunder. All persons holding Claims shall be required to provide the Liquidating Trust with any information necessary to effect the withholding of such taxes and the Liquidating Trust may withhold all distributions pending receipt of such information. In addition, all

distributions under the Plan shall be net of the actual and reasonable costs of making such distributions. For the avoidance of doubt, all fees and costs of the Liquidating Trust must be satisfied or reserved before any Holder of a Class 4 General Unsecured Claim may receive a distribution. The Liquidating Trustee may sell or otherwise dispose of Liquidating Trust Assets (excluding the Plan Payment Reserve) in order to pay such fees and costs.

8.12 Method of Cash Distributions. Any Cash payment to be made by the Liquidating Trust pursuant to the Plan will be in U.S. dollars and may be made, at the sole discretion of the Liquidating Trustee, by draft, check, wire transfer, or as otherwise required or provided in any relevant agreement or applicable law.

8.13 Timing of Distributions. Any payment or other Distribution required to be made under the Plan on a day other than a Business Day shall be due on the next succeeding Business Day but shall be deemed to have been made on the required date. Any payment of Cash to be made pursuant to the Plan, subject to the terms hereof, shall be deemed made, if by electronic wire transfer, when the applicable electronic wire transfer is initiated by the sending bank or, if by check drawn on a domestic bank, when the earliest occurs of depositing in the mail for the entitled in a recipient, receipt by the entitled recipient, or delivery to a third party delivery service for delivery to the entitled recipient.

8.14 No Distribution in Excess of Allowed Amount of Claim. Notwithstanding anything to the contrary herein, no Holder of an Allowed Claim shall receive on account of such Claim any Distribution (of a value set forth herein or in the Plan or Disclosure Statement) in excess of the allowed amount of such Claim.

8.15 Objections to Claims/Setoff Rights. The Liquidating Trust may, but shall not be required to, setoff against or recoup from any Holder of an Allowed Claim (including any Liquidating Trust Beneficiary) on which payments or other Distributions are to be made hereunder, claims or defenses of any nature that the Liquidating Trust, the Debtors or the Estates may have against such Person, including with respect to any claim objection asserted or which could be asserted pursuant to Section 502 of the Bankruptcy Code. However, neither the failure to do so, nor the allowance of any Claim or Interest under the Plan or otherwise, shall constitute a waiver or release of any such claim, right of setoff or right of recoupment against the holder of such Allowed Claim.

8.16 Conflicting Claims.

(a) If any conflicting claims or demands are made or asserted with respect to the beneficial interest of a Liquidating Trust Beneficiary under this Liquidating Trust Agreement, or if there is any disagreement between the assignees, transferees, heirs, representatives, or legatees succeeding to all or a part of such an interest resulting in adverse claims or demands being made in connection with such interest, then, in any of such events, the Liquidating Trust shall be entitled, in its sole discretion, to refuse to comply with any such conflicting claims or demands.

(b) The Liquidating Trust, at its sole election, may elect to cause the Liquidating Trust to make no payment or Distribution with respect to any Liquidating Trust

Beneficiary's interest in the Liquidating Trust subject to the conflicting claims or demand, or any part thereof, and to refer such conflicting claims or demands to the Bankruptcy Court, which shall have exclusive jurisdiction over resolution of such conflicting claims or demands. Neither the Liquidating Trust nor the Liquidating Trustee shall be or become liable to any of such parties for their refusal to comply with any such conflicting claims or demands, nor shall the Liquidating Trust or Liquidating Trustee be liable for interest on any funds which may be so withheld.

(c) The Liquidating Trust and the Liquidating Trustee shall be entitled to refuse to act until either (i) the rights of the adverse claimants have been adjudicated by a final order of the Bankruptcy Court or (ii) all differences have been resolved by a valid written agreement among all such parties to the satisfaction of the Liquidating Trustee, which agreement shall include a complete release of the Liquidating Trust and Liquidating Trustee. Until the Liquidating Trustee receives written notice that one of the conditions of the preceding sentence is met, the Liquidating Trustee may deem and treat as the absolute owner under this Liquidating Trust Agreement the interest of such Liquidating Trust Beneficiary identified as the owner of that interest in the books and records maintained by the Liquidating Trust. The Liquidating Trustee may deem and treat such Liquidating Trust Beneficiary as the absolute owner for purposes of receiving distributions and any payments on account thereof for federal and state income tax purposes, and for all other purposes whatsoever.

8.17 De Minimis Distributions. The Liquidating Trust shall have no obligation to make a distribution that is less than One Hundred Dollars (\$100) in Cash. If a final distribution to any holder of an Allowed Claim is less than \$100, such amount shall become and constitute unclaimed property and be treated in accordance with Section 8.9 of this Liquidating Trust Agreement.

8.18 Postponement. The Liquidating Trust may postpone any Distribution (or, in the case of a final Distribution, cancel such Distribution, consistent with Sections 8.8 and 10.2 of this Liquidating Trust Agreement) if the Liquidating Trustee determines that the amount of such Distribution would be too small to justify administrative costs associated with making it. The Liquidating Trustee shall make continuing efforts to dispose of the Liquidating Trust Assets, make timely distributions, and not unduly prolong the duration of the Liquidating Trust.

ARTICLE IX

TAXES

9.1 Income Tax Status. Consistent with Revenue Procedure 94-45, 1994-2 C.B. 684, the Liquidating Trust shall be treated as a Liquidating Trust pursuant to Treasury Regulation Section 301.7701-4(d) and as a grantor trust pursuant to Sections 671-677 of the Internal Revenue Code of 1986, as amended (the "Tax Code"). As such, the Liquidating Trust Beneficiaries will be treated as both the grantors and the deemed owners of the Liquidating Trust. Any items of income, deduction, credit and loss of the Liquidating Trust shall be allocated for federal income tax purposes to the Liquidating Trust Beneficiaries.

9.2 Tax Returns. The Liquidating Trust shall file such tax returns as may be required by federal, state or local taxing authorities. The Liquidating Trust shall file with the IRS annual

tax returns on Form 1041 or comply with other applicable tax return filing options, in accordance with Tax Code Section 6012 and Treasury Regulation Sections 1.671-4(a) and 1.671-4(b). In addition, the Liquidating Trust shall file in a timely manner such other tax returns as are required by applicable law and pay any taxes shown as due thereon.

(a) Without limiting the generality of the foregoing, the Liquidating Trust may, in its sole discretion, determine the best way to report for tax purposes with respect to any Disputed Claims Reserve, including (i) filing a tax election to treat any and all assets set aside for the Disputed Claims Reserve as a Disputed Ownership Fund (“DOF”) within the meaning of Treasury Income Tax Regulation Section 1.468B-9 for federal income tax purposes rather than to tax such reserve as a part of the Liquidating Trust; or (ii) electing to report as a separate trust or sub-trust or other entity. If an election is made to report any Disputed Claims Reserve assets as a DOF, the Liquidating Trust shall comply with all federal and state tax reporting and tax compliance requirements of the DOF, including but not limited to the filing of a separate federal tax return for the DOF and the payment of federal and/or state income tax due.

(b) The Liquidating Trust shall send to each Liquidating Trust Beneficiary, in accordance with the tax laws, a separate statement stating a Liquidating Trust Beneficiary’s interest in the Trust and its share of the Trust’s income, gain, loss, deduction or credit, and to instruct all such Liquidating Trust Beneficiaries to report such items on their federal tax returns.

9.3 Withholding of Taxes Related to Liquidating Trust Operations. To the extent that the operation of the Liquidating Trust or the liquidation of the Liquidating Trust Assets creates a tax liability of the Liquidating Trust in excess of applicable net operating losses, the Liquidating Trust shall promptly pay such tax liability, if any, and any such payment shall be considered a cost and expense of the operation of the Liquidating Trust payable from the Liquidating Trust Assets. The Liquidating Trust may reserve a sum, the amount of which shall be determined by the Liquidating Trustee in its sole discretion, sufficient to pay the accrued or potential tax liability arising out of the operations of the Liquidating Trust or the operation of the Liquidating Trust Assets. In the exercise of its sole discretion, the Liquidating Trustee may enter into agreements with taxing authorities or other governmental units for the payment of such amounts as may be withheld.

9.4 Valuations. The Liquidating Trust and the Liquidating Trust Beneficiaries shall utilize consistent valuations of the Liquidating Trust Assets and such valuations shall be used for all federal income tax purposes.

9.5 Survival. For the avoidance of doubt, the foregoing provisions of this Article IX shall survive the termination of a Liquidating Trust Beneficiary’s beneficial interests in the Liquidating Trust pursuant to Article X hereof.

ARTICLE X

TERMINATION OF TRUST

10.1 Maximum. The term of the Liquidating Trust shall end no later than the fifth (5th) anniversary of the Effective Date (the “Initial Trust Term”) if not otherwise terminated sooner by the Distribution of all of the Liquidating Trust Assets to the Liquidating Trust Beneficiaries in accordance with the Plan and this Liquidating Trust Agreement; provided, however, that the Liquidating Trust may seek to extend its term if necessary to facilitate or complete the liquidation of the Liquidating Trust Assets or the distributions required to be made to the Liquidating Trust Beneficiaries hereunder for an additional term (the “Supplemental Liquidating Trust Term”) by filing a notice of the Liquidating Trustee’s intent to extend the term of the Liquidating Trust with the Bankruptcy Court and obtaining the approval of the Bankruptcy Court within six (6) months prior to the beginning of the extended term; provided further, however, that the aggregate of the Initial Trust Term and any Supplemental Liquidating Trust Term shall not exceed ten (10) years unless the Liquidating Trust receives a favorable ruling from the IRS or an opinion of counsel satisfactory to the Liquidating Trustee that any further extension would not adversely affect the status of the Liquidating Trust as a Liquidating Trust within the meaning of Treas. Reg. §301.7701-4(d) for federal income tax purposes. Notwithstanding anything to the contrary in this Liquidating Trust Agreement, in no event shall the Liquidating Trustee unduly prolong the duration of the Liquidating Trust, and the Liquidating Trustee shall at all times endeavor to prosecute, direct, settle or compromise expeditiously the Causes of Action and Claims objections, so as to distribute the Liquidating Trust Assets to the Liquidating Trust Beneficiaries and terminate the Liquidating Trust as soon as practicable in accordance with this Liquidating Trust Agreement.

10.2 Events Upon End of Term Termination. Upon the termination of the Liquidating Trust, the Liquidating Trustee shall distribute the remaining Liquidating Trust Assets, if any, to the Liquidating Trust Beneficiaries, in accordance with the Plan, the Confirmation Order and this Liquidating Trust Agreement. In connection with the termination of the Liquidating Trust, notwithstanding other provisions hereof, any remaining Liquidating Trust Assets that are of inconsequential value or otherwise insufficient to support the cost of a Distribution may be transferred by the Liquidating Trustee to a non-profit charitable organization qualifying under Section 501(c)(3) of the Tax Code and selected by the Liquidating Trust, in consultation with counsel to the Liquidating Trust, in its sole discretion.

10.3 Winding Up and Discharge of the Liquidating Trustee. For the purposes of winding up the affairs of the Liquidating Trust at its termination, the Liquidating Trustee shall continue to act on behalf the Liquidating Trust until its duties have been fully discharged. After doing so, the Liquidating Trustee, its agents and employees shall have no further duties or obligations hereunder, except as required by this Liquidating Trust Agreement, the Plan, the Disclosure Statement or applicable law concerning the termination of a trust. Upon a motion by the Liquidating Trustee, the Bankruptcy Court may enter an order relieving the Liquidating Trustee, its agents and employees of any further duties, discharging the Liquidating Trustee and releasing its bond, if any.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1 Amendments.

(a) This Liquidating Trust Agreement may only be modified, supplemented or amended by the Liquidating Trust or the Liquidating Trustee in a written, acknowledged instrument: (i) to cure any ambiguity, omission, defect or inconsistency in this Liquidating Trust Agreement; provided that such amendments, supplements or waivers shall not contravene or otherwise be inconsistent with the terms of the Plan, and the Confirmation Order, adversely affect the distributions to be made or other rights under this Liquidating Trust Agreement to any of the Liquidating Trust Beneficiaries, or adversely affect the U.S. federal income tax status of the Liquidating Trust as a “Liquidating Trust”; (ii) to comply with any requirements in connection with the U.S. federal income tax status of the Liquidating Trust as a “Liquidating Trust”; (iii) to comply with any requirements in connection with maintaining that the Liquidating Trust is not subject to registration or reporting requirements of the Exchange Act or the Investment Company Act; and (iv) to evidence and provide for the acceptance of appointment hereunder by a successor trustee in accordance with the terms of this Liquidating Trust Agreement.

(b) Any substantive provision of this Liquidating Trust Agreement may be amended or waived by the Liquidating Trustee, with approval of the Bankruptcy Court upon notice by the Liquidating Trustee and an opportunity for a hearing; provided, however, that no change may be made to this Liquidating Trust Agreement that contravenes or is otherwise inconsistent with the terms of the Plan or the Confirmation Order.

11.2 Waiver. No failure by the Liquidating Trust or the Liquidating Trustee to exercise or delay in exercising any right, power or privilege hereunder shall operate as a waiver, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any further exercise thereof, or of any other right, power or privilege.

11.3 Cumulative Rights and Remedies. The rights and remedies provided in this Liquidating Trust Agreement are cumulative and are not exclusive of any rights under law or in equity.

11.4 No Bond Required. Notwithstanding any state law to the contrary, the Liquidating Trustee (including any Successor Liquidating Trustee) shall be exempt from giving any bond or other security in any jurisdiction.

11.5 Transfer of Books and Records; Preservation of Privileges and Immunities.

(a) On the Effective Date or as soon thereafter as is reasonably practicable, the Liquidating Trust shall: (i) take possession of any books, records, and files of the Debtors that relate to the operation and business of the Liquidating Trust, including the Causes of Action; (ii) provide for the retention and storage of such books, records, and files until such time as the Liquidating Trust determines that the retention of same is no longer necessary or beneficial; and

(iii) shall have the right to access documents, or to the extent necessary cause the Debtors (at the sole cost and expense of the Liquidating Trust) to access documents and provide them to the Liquidating Trustee, pursuant to section 5.7 of the Purchase Agreement.

(b) All such documents or communications (whether written or oral, and including confidential information) subject to subparagraph (a) above shall vest, including all rights and privileges held by the Debtors, including the attorney-client and work product privileges, related thereto, in the Liquidating Trust and its representatives, and the Debtors and the Liquidating Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges. After the Effective Date, no person other than the Liquidating Trustee on behalf of the Liquidating Trust shall have the right to assert or waive any such privilege of the Debtors or to make any admission or statement against interest respecting the Debtors in accordance with subparagraph (a).

11.6 D&O Insurance Policy. To the extent any transfer of any insurance policy provided for in this Liquidating Trust Agreement or in the Plan would terminate the Debtors' directors and officers insurance policy in place on the Effective Date then such transfer shall be void and shall not occur.

11.7 Irrevocability. This Liquidating Trust Agreement and the Liquidating Trust created hereunder shall be irrevocable and may not be amended except as expressly provided in Section 11.1 of this Liquidating Trust Agreement.

11.8 Tax Identification Numbers. The Liquidating Trust may require any Liquidating Trust Beneficiary to furnish to the Liquidating Trustee its social security number or employer or taxpayer identification number as assigned by the IRS and the Liquidating Trust may condition any distribution to any Liquidating Trust Beneficiary upon the receipt of such identification number. Any failure to timely provide a taxpayer identification number is governed by Section 6.8 hereof

11.9 Relationship to the Plan. The principal purpose of this Liquidating Trust Agreement is to aid in the implementation of the Plan and, therefore, this Liquidating Trust Agreement incorporates and is subject to the provisions of the Plan and the Confirmation Order. In the event that any provision of this Liquidating Trust Agreement is found to be inconsistent with a provision of the Plan or the Confirmation Order, the provisions of the Plan or the Confirmation Order, as applicable, shall control.

11.10 Governing Law. This Liquidating Trust Agreement is made in the State of Georgia, and Liquidating Trust and this Liquidating Trust Agreement, and the rights and obligations of the Liquidating Trust and the Liquidating Trustee are to be governed by and construed and administered according to the laws of the State of Georgia, provided, however, that, except as expressly provided in this Liquidating Trust Agreement, there shall not be applicable to the Liquidating Trust, the Liquidating Trustee or this Liquidating Trust Agreement, any provisions of the laws (statutory or common) of the State of Georgia pertaining to trusts which relate to or regulate, in a manner inconsistent with the terms hereof (a) the filing with any court or governmental body or agency of trustee accounts or schedules of trustee fees and charges, (b)

affirmative requirements to post bonds for trustees, officers, agents, or employees of a trust, (c) the necessity for obtaining court or other governmental approval concerning the acquisition, holding or disposition of real or personal property, (d) fees or other sums payable to trustees, officers, agents, or employees of a trust, (e) the allocation of receipts and expenditures to income and principal, (f) restrictions or limitations on the permissible nature, amount or concentration of trust investments or requirements relating to the titling, storage or other manner of holding or investing trust assets, or (g) the establishment of fiduciary or other standards or responsibilities or limitations on the acts or powers of trustees, which are inconsistent with the limitations or liabilities or authorities and powers of the Liquidating Trustee set forth or referenced in this Liquidating Trust Agreement. Each party hereto, including any Successor Liquidating Trustee, hereby irrevocably consents to the exclusive jurisdiction of the Bankruptcy Court or, if the Bankruptcy Court refuses such jurisdiction, to the non-exclusive jurisdiction of the courts of the State of Georgia and having proper subject matter jurisdiction, or the United States District Court for the Northern District of Georgia, for all purposes in connection with any action or proceeding that arises out of or relates to this Liquidating Trust Agreement (the “Proceedings”) and hereby agrees that service of summons, complaint or other process in connection with any Proceedings may be made pursuant to the notice provisions of this Liquidating Trust Agreement, and that service so made shall be as effective as if personally made in the State of Georgia. Nothing herein shall affect the right of either party hereto to serve legal process in any manner permitted by law.

11.12 Retention of Jurisdiction. Notwithstanding any other provision of this Liquidating Trust Agreement, and to the fullest extent permitted by law, the Bankruptcy Court shall retain jurisdiction over the Liquidating Trust after the Effective Date, including, without limitation, jurisdiction as set forth in the Plan and the Confirmation Order and to resolve any and all controversies, suits and issues that may arise in connection with the Liquidating Trust, including, without limitation, this Liquidating Trust Agreement, or any entity’s obligations incurred in connection herewith, including without limitation, any action against the Liquidating Trust, the Liquidating Trustee or any professional retained by the Liquidating Trustee or the Liquidating Trust, in each case in its capacity as such. Each party to this Liquidating Trust Agreement hereby irrevocably consents to the exclusive jurisdiction of the Bankruptcy Court in any action to enforce, interpret or construe any provision of this Liquidating Trust Agreement or of any other agreement or document delivered in connection with this Liquidating Trust Agreement, and also hereby irrevocably waives any defense of improper venue, forum non conveniens or lack of personal jurisdiction to any such action brought in the Bankruptcy Court. Each party further irrevocably agrees that (a) any action to enforce, interpret or construe any provision of this Liquidating Trust Agreement will be brought only in the Bankruptcy Court and (b) all determinations, decisions, rulings and holdings of the Bankruptcy Court shall be final and non-appealable and not subject to reargument or reconsideration. Each party hereby irrevocably consents to the service by certified or registered mail, return receipt requested, to be sent to its address set forth in Section 11.14 of this Liquidating Trust Agreement or to such other address as he, she or it may designate from time to time by notice given in the manner provided above, of any process in any action to enforce, interpret or construe any provision of this Liquidating Trust Agreement. **ANY AND ALL RIGHT TO TRIAL BY JURY IS HEREBY WAIVED AND THERE SHALL BE NO RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THE LIQUIDATING TRUST AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

11.12 Severability. In the event that any provision of this Liquidating Trust Agreement or the application thereof to any person or circumstance shall be determined by the Bankruptcy Court or another court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Liquidating Trust Agreement, or the application of such provision to persons or circumstance, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Liquidating Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

11.13 Limitation of Benefits. Except as otherwise specifically provided in this Liquidating Trust Agreement, the Plan or the Confirmation Order, nothing herein is intended or shall be construed to confer upon or to give any person other than the Parties hereto and the Liquidating Trust Beneficiaries any rights or remedies under or by reason of this Liquidating Trust Agreement.

11.14 Notices. All notices, requests, demands, consents and other communication hereunder shall be in writing and shall be deemed to have been given (a) at the time of actual delivery thereof, if personally delivered or sent by electronic mail, (b) if given by certified, registered, or United States mail, five (5) business days after being deposited in the United States mail, postage prepaid and properly addressed, or (c) if given by overnight courier, the next business day after being sent, charges prepaid and properly addressed:

If to the Debtors:

OTB Holding LLC
3424 Peachtree Road NE, Suite 1500
Atlanta, GA 30324
Attention: Jonathan Tibus
Email: jtibus@alvarezandmarsal.com

with a copy to:

King & Spalding LLP
1180 Peachtree Street
Atlanta, Georgia 30309
Attention: Jeffrey R. Dutson
Email: jdutson@kslaw.com

If to the Liquidating Trustee:

META Advisors LLC
Attn: James S. Carr, Kristin S. Elliott and Dana P. Kane
3 World Trade Center
175 Greenwich Street, 67th Floor
New York, NY 10007
with a copy to:

Eversheds Sutherland (US) LLP
999 Peachtree Street NE
Atlanta, Georgia 30309
Attention: Todd C. Meyers
Email: toddmeyers@eversheds-sutherland.com

Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given to a Liquidating Trust Beneficiary, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the person or entity for whom such notice is intended, or via electronic mail, to the name and address (i) set forth in the underlying Proof of Claim, if filed, (ii) set forth on the Debtors' Schedules, if no Proof of Claim is filed, or (iii) pursuant to a written change of address filed with the Bankruptcy Court and delivered in accordance with the provisions of this Liquidating Trust Agreement.

The Parties may designate in writing from time to time other and additional places to which notices may be sent.

11.15 Further Assurances. From and after the Effective Date, the Parties hereto covenant and agree to execute and deliver all such documents and notices and to take all such further actions as may reasonably be required from time to time to carry out the intent and purposes of this Liquidating Trust Agreement, and to consummate the transactions contemplated hereby.

11.16 Integration. This Liquidating Trust Agreement, the Plan and the Confirmation Order constitute the entire agreement with, by and among the Parties thereto, and there are no representations, warranties, covenants or obligations except as set forth herein, in the Plan and in the Confirmation Order. Except as provided in this Liquidating Trust Agreement, the Plan or the Confirmation Order, this Liquidating Trust Agreement, together with the Plan and the Confirmation Order, supersede all prior and contemporaneous agreements, understandings, negotiations and discussions, written or oral, of the Parties hereto, relating to any transaction contemplated hereunder. Except as otherwise provided in this Liquidating Trust Agreement, the Plan or the Confirmation Order, nothing herein is intended or shall be construed to confer upon or give any person other than the Parties hereto and the Liquidating Trust Beneficiaries any rights or remedies under or by reason of this Liquidating Trust Agreement.

11.17 Successor or Assigns. The terms of this Liquidating Trust Agreement shall be binding upon, and shall inure to the benefit of the Parties hereto and their respective successors and assigns.

11.18 Interpretation. The enumeration and Section hearings contained in this Liquidating Trust Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Liquidating Trust Agreement or of any term or provision hereof. Unless context otherwise requires, whenever used in this Liquidating Trust Agreement the singular shall include the plural and the plural shall include the singular, and words importing the masculine gender shall include the feminine and the neuter, if appropriate, and vice versa, and words importing persons shall include partnerships, associations and corporations. The words herein,

hereby, and hereunder and words with similar import, refer to this Liquidating Trust Agreement as a whole and not to any particular Section or subsection hereof unless the context requires otherwise.

11.19 Counterparts. This Liquidating Trust Agreement may be signed by the Parties hereto in counterparts, which, when taken together, shall constitute one and the same document.

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

(Signatures on next page)

DEBTORS:

OTB Holding LLC
OTB Acquisition LLC
OTB Acquisition of New Jersey LLC
OTB Acquisition of Howard County LLC
Mt. Laurel Restaurant Operations LLC
OTB Acquisition of Kansas LLC
OTB Acquisition of Baltimore County, LLC

By: _____
Name: Jonathan Tibus
Title: Chief Restructuring Officer

(Signatures continued on next page)

LIQUIDATING TRUSTEE:

META Advisors LLC, solely in its capacity as
Liquidating Trustee

By: _____

Name: James S. Carr

Title: Managing Director and Founding Principal

3 World Trade Center
175 Greenwich Street, 67th Floor
New York, NY 10007