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Hearing Date: October 6, 2022 at 11:00 A.M. (ET)

*Counsel to the Debtors
and Debtors in Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

PARETEUM CORPORATION, *et al.*,

Debtors.¹

Chapter 11

Case No.: 22-10615 (LGB)

(Jointly Administered)

Related Docket Nos. 296, 299, 300

**NOTICE OF FILING OF PLAN SUPPLEMENT TO THE
MODIFIED CHAPTER 11 PLAN OF LIQUIDATION FOR
PARETEUM CORPORATION AND CERTAIN OF ITS AFFILIATES**

PLEASE TAKE NOTICE that on August 22, 2022, the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") entered the *Order (I) Approving Certain Key Dates Relating to Confirmation of the Debtors' Plan, Including Scheduling a Combined Hearing to Consider Approval of Debtors' Disclosure Statement and Plan; (II) Approving the Form and Manner of Combined Hearing Notice; (III) Approving Debtors' Disclosure Statement on a Provisional Basis; (IV) Approving (A) Procedures for Solicitation, (B) Forms of Ballots, (C) Procedures for Tabulation of Votes, and (D) Procedures for Objections; And (V) Establishing A Bar Date for Filing Administrative Claims Arising From the Petition Date Through and Including August 31, 2022* [Docket No. 296] (the "Solicitation Order").

PLEASE TAKE FURTHER NOTICE that on August 22, 2022, the above-captioned debtors and debtors in possession (the "Debtors") filed solicitation versions of the *Modified Chapter 11 Plan of Liquidation for Pareteum Corporation and Certain of its Affiliates* [Docket No. 299] (the "Plan") and the *Modified Disclosure Statement for Chapter*

¹ The Debtors in the Chapter 11 Cases, along with the last four digits of each Debtor's federal tax identification number, if applicable, are: Pareteum Corporation (7538); Pareteum North America Corp. (f/k/a Elephant Talk North America Corp.) (9623); Devicescape Holdings, Inc. (2909); iPass, Inc. (4598); iPass IP LLC (2550); Pareteum Europe B.V.; Artidium Group Ltd. (f/k/a Artidium PLC); Pareteum Asia Pte. Ltd.; and Pareteum N.V. (f/k/a Artidium N.V.). The mailing address of the Debtors, solely for the purposes of notices and communications, is c/o Saccullo Business Consulting, LLC, 27 Crimson King Drive, Bear, DE 19701.



11 *Plan of Liquidation for Pareteum Corporation and Certain of its Affiliates* [Docket No. 300]
(the "Disclosure Statement")

PLEASE TAKE FURTHER NOTICE that the Plan and Disclosure Statement contemplate the submission of certain documents (or forms thereof) and schedules (collectively, the "Plan Supplement").

PLEASE TAKE FURTHER NOTICE that the Debtors hereby file the following documents included within the Plan Supplement:

Exhibit A: Liquidating Trust Agreement

Exhibit B: Liquidating Trustee Disclosure

Exhibit C: Schedule of Retained Causes of Action

Exhibit D: Schedule of Assumed and Assigned Executory Contracts and Unexpired Leases

PLEASE TAKE FURTHER NOTICE that the Plan Supplement is integral to and considered part of the Plan. If the Plan is confirmed, the documents contained in the Plan Supplement, as may be amended, modified or supplemented by the Debtors, 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, amend, modify, or supplement any document or schedule in the Plan Supplement; *provided that* if any document or schedule in the Plan Supplement is altered, amended, modified or supplemented in any material respect prior to the Combined Hearing (as defined below), the Debtors will file a redline of such document with the Bankruptcy Court.

PLEASE TAKE FURTHER NOTICE that a hearing to consider the approval of the Plan and Disclosure Statement (the "Combined Hearing") will be held on **October 6, 2022 at 11:00 a.m. (prevailing Eastern Time)** before the Honorable Lisa G. Beckerman, United States Bankruptcy Judge for the Southern District of New York, One Bowling Green, New York, New York 10004, via Zoom for Government. Those parties wishing to participate in the Combined Hearing must register their appearance by utilizing the Electronic Appearance portal located at the Bankruptcy Court's website: <https://ecf.nysb.uscourts.gov/cgi-bin/nysbAppearances.pl>. **Appearances must be entered no later than 4:00 p.m. (prevailing Eastern Time) one (1) business day prior to the Combined Hearing.**

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PLEASE TAKE FURTHER NOTICE that copies of the solicitation version of the Disclosure Statement and the Plan can be viewed and/or obtained free of charge (a) at the Debtors' case website maintained by at <http://www.kccllc.net/pareteum>; (b) upon request in writing at Pareteum Ballot Processing Center c/o Kurtzman Carson Consultants LLC, 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245; (c) by calling KCC at (888) 201-2205 or (310) 751-1839 (International), or (d) via email at pareteuminfo@kccllc.com.

DATED: September 16, 2022
New York, New York

PARETEUM CORPORATION, *ET AL.*
Debtors and Debtors in Possession
By their Counsel
TOGUT, SEGAL & SEGAL LLP,
By:

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EXHIBIT A

Liquidating Trust Agreement

LIQUIDATING TRUST AGREEMENT

THIS LIQUIDATING TRUST AGREEMENT (the “Agreement”) is entered into this [●] of [●] 2022, by and among Pareteum Corporation; Pareteum North America Corp. (f/k/a Elephant Talk North America Corp.); Devicescape Holdings, Inc.; iPass, Inc.; iPass IP LLC; Pareteum Europe B.V.; Artilium Group Ltd. (f/k/a Artilium PLC); Pareteum Asia Pte. Ltd.; and Pareteum N.V. (f/k/a Artilium N.V.) (collectively, the “Debtors”) in the chapter 11 bankruptcy cases jointly administered under Case No. 22-10615 (LGB) (the “Chapter 11 Cases”); the Official Committee of Unsecured Creditors of the Debtors (the “Committee”); and Saccullo Business Consulting, LLC (“SBC”), by and through Anthony M. Saccullo in his capacity as the Liquidating Trustee under the Plan (in such capacity, the “Liquidating Trustee”) (each a “Party” and collectively, the “Parties”).

W I T N E S S E T H:

WHEREAS, on May 15, 2022 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), thereby commencing the Chapter 11 Cases;

WHEREAS, the Debtors filed the *Modified Chapter 11 Plan of Liquidation for Pareteum Corporation and Certain of its Affiliates* [Docket No. [299]] (as may be amended, modified, or supplemented, the “Plan”) with the Bankruptcy Court;

WHEREAS, on [●], 2022, the Bankruptcy Court entered an order confirming the Plan [Docket No. [●]] (as may be amended, modified, or supplemented, the “Confirmation Order”). Copies of the Plan and Confirmation Order are attached hereto as **Exhibit A** and **Exhibit B**, respectively, and are incorporated herein by reference;

WHEREAS, the Plan and Confirmation Order together provide for, among other things, (a) the establishment of a liquidating trust (the “Liquidating Trust”) for the benefit of its Beneficiaries (as defined herein), (b) the appointment of the Liquidating Trustee as trustee and manager of the Liquidating Trust, selected by the Committee, and (c) that certain assets will be transferred to the Liquidating Trust and become Liquidating Trust Assets (as defined herein), effective as of the Effective Date (as defined in the Plan);

WHEREAS, the Liquidating Trustee has agreed to act as trustee under this Agreement for the purposes herein provided;

WHEREAS, the Liquidating Trust is or will be established for the sole purpose of administering Liquidating Trust Assets and implementing the Liquidating Trust Functions (as defined herein), in accordance with Treasury Regulations Section 301.7701-4(d), with no objective or authority to continue or engage in the conduct of a trade or business;

WHEREAS, the Liquidating Trust is intended to qualify as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d), subject to the Liquidating Trustee’s discretion to elect to treat the Liquidating Trust or any of the Liquidating Trust Assets (in whole or in part) as a Disputed Ownership Fund for U.S. federal income tax purposes in accordance with

Section 3.8, that is a “grantor trust” within the meaning of sections 671-677 of the Internal Revenue Code of 1986, as amended (“IRC”) for U.S. federal income tax purposes;

NOW, THEREFORE, for and in consideration of the promises and mutual covenants herein contained, pursuant to the Plan, the Parties do hereby covenant and agree as follows:

ARTICLE I

Definitions; Interpretive Rules.

1.1 Terms Defined in Plan. Any capitalized term used and not defined herein shall have the respective meaning ascribed to it in the Plan.

1.2 Interpretive Rules. For purposes of this Agreement, except as otherwise expressly provided herein or unless the context otherwise requires: (a) references to “Articles”, “Sections”, “Exhibits”, and other subdivisions, without reference to a particular document, are to be designated Articles, Sections, Exhibits, and other subdivisions of this Agreement; (b) the use of the term “including” means “including but not limited to”; and (c) the words “herein”, “hereof”, “hereunder”, and other words of similar import refer to this Agreement as a whole and not to any particular provision (unless otherwise specified). The enumeration and headings contained in this Agreement are for convenience of reference only and are not intended to have any substantive significance in interpreting this Agreement. The singular shall include the plural and the plural the singular, when the context so requires, and the feminine, the masculine, and the neuter genders shall be mutually inclusive.

ARTICLE II

Establishment of the Liquidating Trust, Appointment of the Liquidating Trustee

2.1 Establishment of the Liquidating Trust. Pursuant to the Plan, the Parties hereby establish the Liquidating Trust. On the Effective Date, the Liquidating Trust will become effective, in order to carry out the Liquidating Trust Functions (as defined herein). The Liquidating Trust is organized and established as a grantor trust for the benefit of the Beneficiaries and is intended to qualify as a liquidating trust within the meaning of Treasury Regulation Sections 301.7701-4(d), subject to the Liquidating Trustee’s discretion to elect to treat the Liquidating Trust or any of the Liquidating Trust Assets (in whole or in part) as a Disputed Ownership Fund for U.S. federal income tax purposes in accordance with Section 3.8. This Agreement and the Liquidating Trust created under the Plan and the Confirmation Order are hereby declared to be irrevocable and the Debtors (nor such other party as provided in the Plan) shall not have any right at any time to withdraw any of the property held hereunder or to revoke, annul, or cancel the Liquidating Trust created under the Plan in whole or in part, or to alter, amend, or modify this Agreement in any respect.

2.2 Appointment of Liquidating Trustee. SBC, by and through Anthony M. Saccullo, is hereby appointed as the Liquidating Trustee of the Liquidating Trust, and the Liquidating Trustee hereby accepts such appointment. On the Effective Date and automatically and without further action, the Liquidating Trustee will have full power and authority as the trustee of the Liquidating Trust

in accordance with the Plan, the Confirmation Order, and this Agreement to take any and all actions as he believes may be necessary, desirable, or appropriate with respect to the Liquidating Trust and the Liquidating Trust Assets, subject to the terms of the Plan, the Confirmation Order, and this Agreement.

2.3 Vesting of Liquidating Trust Assets. On the Effective Date, pursuant to the Plan and the Confirmation Order and sections 1123, 1141, and 1146(a) of the Bankruptcy Code, the Debtors and their respective Estates, or such other party as provided in the Plan, will transfer, grant, assign, convey, set over, and deliver to the Liquidating Trust, for the benefit of the Beneficiaries, all of the Debtors' and Estates' right, title and interest in and to: (a) the Liquidating Trust Funding Amount; (b) all Retained Causes of Action; (c) all rights to tax refunds (including the Tax Refund); (d) all marketable and unsold hard assets of the Debtors, including, but not limited to, artwork and furniture, fixtures, and equipment; (e) all rights with respect to the insurance policies and proceeds of the insurance policies of the Debtors (including the D&O Policies), other than certain rights transferred to the Purchasers pursuant to the Purchase Agreement and the Global Settlement, and the right to recover therefrom, all of which shall be transferred or assigned to the Liquidating Trust on the Effective Date, free and clear of any liens or claims that might otherwise have existed in favor of any party; (f) 20% of the affirmative monetary net recoveries (if any) of each of the Circles Assigned Claims and the CVG Assigned Claims, subject to the terms of the Global Settlement; (g) the Excluded Assets (as defined in the Purchase Agreement); and (h) any other assets that may be transferred or otherwise provided, directly or indirectly, to the Liquidating Trust on or after the Effective Date by any Person, in each case free and clear of all liens, Claims, encumbrances or interests of any kind in such property (collectively, the "Liquidating Trust Assets"); *provided, however*, "Liquidating Trust Assets" shall not include any assets expressly assigned or transferred by the Debtors to a party other than the Liquidating Trust pursuant to the Purchase Agreement, the Global Settlement, the Plan, the Confirmation Order, or any order of the Bankruptcy Court (including, for the avoidance of doubt, the Purchased Assets, the Circles Assigned Claims, and the CVG Assigned Claims). Upon the Effective Date, the Liquidating Trust will be vested with all right, title, and Interest in the Liquidating Trust Assets, and such property will become the property of the Liquidating Trust free and clear of all Claims, liens, charges, other encumbrances, and interests, except as set forth in the Plan or the Confirmation Order. Nothing contained herein, in the Plan, the Confirmation Order, or in the Debtors' governance documents (including any bylaws or articles of incorporation) shall prevent the Debtors from assigning any assets, including rights, claims, and causes of action, to the Liquidating Trust.

2.4 Trust Name. The trust created hereby shall be known as the "**TEUM Liquidating Trust**", in which name the Liquidating Trustee may, among other things, carry out the Liquidating Trust Functions, conduct the business of the Liquidating Trust, retain the Trust Professionals (as defined herein), pay fees and costs incurred by the Trust Professionals, make and execute contracts on behalf of the Liquidating Trust, sue and be sued on behalf of the Liquidating Trust, wind up the affairs of the Debtors and the Liquidating Trust, and take such other actions as the Liquidating Trustee is authorized to take under the Plan and this Agreement.

2.5 Trust Substituted as Party-in-Lieu. The Liquidating Trust shall be deemed to be substituted as the party-in-lieu of each of the Debtors in all matters, including, but not limited to: (i) motions, contested matters, and adversary proceedings pending in the Bankruptcy Court; (ii) any and all tax or regulatory filings, including without limitation any state or federal returns or ERISA-related

filings, and legacy accounts of the Debtors at the state or federal level (for the purpose of closing, reporting, or making payments related to the Estate) related thereto; and (iii) all matters pending in any courts, tribunals, forums, or administrative proceedings outside of the Bankruptcy Court, in each case without the need or requirement for the Liquidating Trustee on behalf of the Liquidating Trust to file motions or substitutions of parties or counsel in each such matter. All references to “state” or “federal” shall be interpreted in this Agreement also to apply to any foreign jurisdiction with respect to any Debtor organized outside of the United States.

ARTICLE III

Liquidating Trust, Purpose, Administration

3.1 Purpose of the Liquidating Trust. The Liquidating Trust shall be established for the purpose of liquidating the Liquidating Trust Assets, prosecuting any Retained Causes of Action to maximize recoveries for the benefit of the Beneficiaries, making Distributions in accordance with the Plan to the Beneficiaries, and performing any Liquidating Trust Function. The Liquidating Trust is intended to qualify as a “grantor trust” for federal income tax purposes consistent with Internal Revenue Service Revenue Procedure 94-45, 1994-2 C.B. 684, and, to the extent permitted by applicable law, for state and local income tax purposes, with the Liquidating Trust’s Beneficiaries treated as grantors and owners of the trust, subject to the Liquidating Trustee’s discretion to elect to treat the Liquidating Trust or any of the Liquidating Trust Assets (in whole or in part) as a Disputed Ownership Fund for U.S. federal income tax purposes in accordance with Section 3.8.

3.2 Governance of the Liquidating Trust. Except as set forth in Section 3.3, the Liquidating Trust will be administered and controlled by the Liquidating Trustee, who shall, in an expeditious but orderly manner, carry out the Liquidating Trust Functions, liquidate and convert to Cash the Liquidating Trust Assets, make timely distributions, and not unduly prolong the duration of the Liquidating Trust.

3.3 Trust Advisory Committee. On the Effective Date, a trust advisory committee (the “Trust Advisory Committee”) shall be established and initially comprised of three members (each, a “Member” and collectively, the “Members”). The initial Members shall be (a) AT&T Mobility, represented by James Walter Grudus, (b) Gogo LLC (Intelsat Inflight LLC), represented by Stephen Chernow, and (c) TD Synnex, represented by Jay M. Snyder. To the extent not otherwise established, the Trust Advisory Committee will abide by, and perform its duties under this Agreement, including but not limited to, its fiduciary obligations to the Liquidating Trust, pursuant to the bylaws established by and governing the Committee. For the avoidance of doubt, the bylaws implemented by the Committee will govern the operation of the Trust Advisory Committee, immediately upon its formation, without further action by the Trust Advisory Committee, the Liquidating Trustee, or the Bankruptcy Court.

(a) Role. The Liquidating Trustee shall consult with the Trust Advisory Committee on significant issues regarding implementation of the Plan, the Liquidating Trust, and ongoing litigation involving the Debtors and/or the Liquidating Trust, including the Retained Causes of Action. The Trust Advisory Committee shall be responsible for overseeing the Liquidating

Trustee's administration of the Liquidating Trust Assets in compliance with the Plan, Confirmation Order, and this Agreement, and the exercise of all other Liquidating Trust Functions.

(b) Tenure. The initial Members shall each serve as a Member until the earlier of the following: (i) upon removal or resignation of such Member, at such time a successor shall have been appointed as set forth in this Section 3.3 or (ii) upon death of such Member. In the event that any Member's Allowed Claim or Cure Amount has been satisfied in full, such Member shall have the right to submit their resignation to the remaining Members and the Liquidating Trustee within ten (10) Business Days of receiving such satisfaction, and such resignation shall be effective immediately upon receipt without the need for the appointment of a successor.

(c) Successor Members. Upon the removal, resignation, or death of a Member of the Trust Advisory Committee, the remaining Members and the Liquidating Trustee shall elect a successor, with any impasse resolved by the Bankruptcy Court; *provided, however*, the Trust Advisory Committee may, by unanimous vote, decide not to elect a successor Member. To the extent that a successor Member is elected, the Liquidating Trustee shall file notice of such appointment with the Bankruptcy Court.

(d) Voting. To the extent that a vote is called for or required, each Member shall have one vote and the Trust Advisory Committee shall act by majority vote unless otherwise set forth in this Agreement. If a Member's or Member's employer's Claim or the Claim of an Affiliate thereof is the subject of a vote, such Member shall recuse themselves from any discussion regarding such matter and from the vote on the matter. In the event of a tie, the Liquidating Trustee shall cast the tie-breaking vote.

3.4 Purpose of this Agreement and Liquidating Trust Functions. The Parties hereby enter into this Agreement for the purposes of establishing the Liquidating Trust contemplated by the Plan and the Confirmation Order and authorizing the Liquidating Trustee to, among other things, implement and carry out the Liquidating Trust functions as follows: (a) retain, employ, terminate, replace, and pay Trust Professionals as necessary to carry out the purposes of the Liquidating Trust; (b) prepare and file tax returns with the assistance of Trust Professionals for the Debtors (as needed) and for the Liquidating Trust; (c) obtain and retain, as necessary, access to the books and records of the Debtors; (d) evaluate, file, litigate, settle, or otherwise pursue the claims of the Estates, including the Retained Causes of Action; (e) make interim and final distributions as provided under the Plan, the Confirmation Order, and this Agreement; (f) take all steps to execute all instruments and documents necessary to effectuate distributions to holders of Allowed Claims in accordance with the Plan including, without limitation, opening and maintaining bank accounts on behalf of or in the name of the Liquidating Trust and establishing of any reserves that the Liquidating Trustee deems, in consultation with the Trust Advisory Committee, necessary and/or appropriate; (g) seek to collect or enforce the Liquidating Trust's rights and remedies under the Liquidating Trust Assets; (h) manage, distribute, or liquidate the Liquidating Trust Assets; (i) wind-up the affairs of the Debtors (as needed) and the Liquidating Trust and dissolve such entity under applicable law and in accordance with the Plan; (j) object to, seek to subordinate, compromise, and/or settle any Claims against the Estates, including Disputed Claims; (k) take any action as shall be necessary to administer the Chapter 11 Cases (including, but not limited to, winding down the Debtors' legacy 401(k) retirement plan) and effect the closing of the Chapter 11 Cases; and (l) exercise such other powers and responsibilities as may be necessary and proper

to carry out the provisions of this Agreement, the Plan, and the Confirmation Order, but only to the extent consistent with this Agreement, the Plan, and the Confirmation Order (collectively, "Liquidating Trust Functions"). All Liquidating Trust Functions and related activities of the Liquidating Trustee shall be reasonably necessary to, and consistent with, the accomplishment of these purposes; all of such purposes benefit the Liquidating Trust. Except as set forth herein, nothing contained herein shall be deemed to limit the authority of the Liquidating Trustee.

3.5 Administration of the Liquidating Trust Assets. From and after the Effective Date, the Liquidating Trustee shall take all steps necessary to liquidate all Liquidating Trust Assets and distribute the proceeds in accordance with the Plan, Confirmation Order, and this Agreement, including prosecuting, litigating, settling or otherwise liquidating and reducing the Liquidating Trust Assets to money, or abandoning the Liquidating Trust Assets on such terms and for such consideration as the Liquidating Trustee deems to be reasonable and in the best interests of the Beneficiaries. The Liquidating Trustee, on behalf of the Liquidating Trust, shall have absolute discretion to pursue or not to pursue any Retained Causes of Action as it determines is in the best interests of the Beneficiaries and consistent with the purposes of the Liquidating Trust, and shall have no liability for the outcome of his or her decision, other than those decisions constituting gross negligence or willful misconduct (including fraud).

3.6 Authority of the Liquidating Trustee. The Liquidating Trustee will serve as a fiduciary to the Beneficiaries of the Liquidating Trust and will be empowered to implement the Liquidating Trust Functions, subject to Section 3.3.

3.7 Expenses of the Liquidating Trust. All liabilities, costs, and expenses of the Liquidating Trust, including compensation then due and payable to the Liquidating Trustee, his agents, representatives, the Trust Professionals (as defined herein) and employees and all costs, expenses, and liabilities incurred by the Liquidating Trustee in connection with the performance of its duties, shall be paid from any portion of the Liquidating Trust Assets reduced to Cash ("Liquidating Trust Cash"). The costs and expenses of the Liquidating Trust, Liquidating Trustee, including compensation then due and payable to the Liquidating Trustee, his agents, representatives, the Trust Professionals (as defined herein) and employees and all costs, expenses, and liabilities incurred by the Liquidating Trustee in connection with the performance of its duties will be paid, without need of Bankruptcy Court approval, subject to and in accordance with the terms set forth in Section 4.18.

3.8 Tax Treatment of Liquidating Trust. For United States federal and applicable state income tax purposes, the transfer of the Liquidating Trust Assets to the Liquidating Trust pursuant to and in accordance with the Plan shall be treated as a taxable disposition of such assets directly to and for the benefit of the Beneficiaries. Pursuant to Section 11.6, valuations of any such Liquidating Trust Assets, and any other Liquidating Trust Assets actually or deemed transferred by the Liquidating Trust, shall be consistently applied among the Liquidating Trust, Debtors, and Beneficiaries for all federal income tax purposes. The Liquidating Trust is intended to qualify as a liquidating trust that is treated as a "grantor trust" for federal income tax purposes, and the Liquidating Trustee shall use its best efforts to operate and maintain the Liquidating Trust in compliance with all applicable guidelines regarding liquidating trusts issued by the Internal Revenue Service (including Revenue Procedure 94-45, 1994-2 C.B. 684); *provided, however*, that

the Liquidating Trustee may, in his sole discretion, (a) timely elect to treat any portion or all of the Liquidating Trust and/or any Liquidating Trust Assets (in either case, in whole or in part) as a “disputed ownership fund” (the “Disputed Ownership Fund”) within the meaning of Treasury Regulations Section 1.468B-9 for federal income tax purposes; or (b) elect to report as a separate trust or sub-trust or other entity. If an election is made to report the Liquidating Trust and/or any Liquidating Trust Assets (in either case, in whole or in part) as a Disputed Ownership Fund, the Liquidating Trust shall comply will all federal and state tax reporting and tax compliance requirements of the Disputed Ownership Fund, including by not limited to the filing (under a specially established tax identification number distinct from that established for the Liquidating Trust) of a separate federal tax return for the Disputed Ownership Fund and the payment of federal and/or state income tax due. Accordingly, other than the portion of the Liquidating Trust Assets comprising the Disputed Ownership Fund, each Beneficiary shall be treated for U.S. federal income tax purposes, (i) as a direct recipient of an allocable portion of the undivided interest in each of the assets transferred to the Liquidating Trust and then as having immediately contributed such assets to the Liquidating Trust, and (ii) thereafter, as a grantor and deemed owner of the Liquidating Trust and thus, the direct owner of an allocable portion of the undivided interests in each of the assets held by the Liquidating Trust. The Beneficiaries will be treated as the grantors and owners of the Liquidating Trust. All parties (including the Liquidating Trustee, the Debtors, and the Beneficiaries) shall report for United States federal, state, and local income tax purposes consistently with foregoing.

3.9 Incorporation of Plan. The Plan is hereby incorporated into this Agreement and made a part hereof by this reference.

3.10 Cooperation Between Liquidating Trustee and the Debtors. At such times and on such terms as reasonably convenient to the Liquidating Trust, the Wind Down Officer shall provide to the Liquidating Trust timely access to the Debtors’ books and records, and shall otherwise cooperate with the Liquidating Trust in fulfillment of the Liquidating Trust’s duties to fulfill the Liquidating Trust Functions, as described further in the Plan and in this Agreement.

ARTICLE IV

Duties, Rights and Powers of Liquidating Trustee

4.1 Status of the Liquidating Trustee. The Liquidating Trustee shall be the “representative of the estate” as that phrase is used in section 1123(b)(3)(B) of the Bankruptcy Code with respect to the rights and powers granted in this Agreement and in the Plan and Confirmation Order. Except as otherwise set forth in the Plan and Confirmation Order, the Liquidating Trust shall be the successor-in-interest to the Debtors with respect to all Liquidating Trust Assets, including the Retained Causes of Action. All actions, claims, rights or interests constituting Liquidating Trust Assets are preserved and retained and may be enforced by the Liquidating Trust on behalf of Beneficiaries both on behalf of the Liquidating Trust and as the representative of the Debtors and/or the Estates pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, as applicable. Except as otherwise provided in the Plan, the Liquidating Trust shall be a party-in-interest as to all matters over which the Bankruptcy Court has jurisdiction and shall be the only party to have standing to file, prosecute, settle, or compromise all Liquidating Trust Assets, including the Retained Causes of Action.

4.2 Duties of the Liquidating Trustee. Except as otherwise provided in the Plan or the Confirmation Order, the Liquidating Trustee shall have the exclusive right and duty to (a) administer and liquidate the Liquidating Trust Assets; (b) file, prosecute, litigate, compromise, settle, and abandon the Retained Causes of Action and other Liquidating Trust Assets; and (c) collect all income and make distributions as provided under this Agreement, the Plan, and Confirmation Order.

4.3 Standard of Care. The Liquidating Trustee shall exercise its rights and powers vested in it by this Agreement and use reasonable business judgment in the exercise of his duties. Subject to applicable law, the Liquidating Trustee shall not be liable to the Liquidating Trust or any Beneficiary for any act he may do or omit to do as a Liquidating Trustee while acting in good faith and in the exercise of his reasonable business judgment. The foregoing limitation on liability will apply equally to the agents, and/or employees of the Liquidating Trustee and Trust Professionals (as defined herein) acting on behalf of the Liquidating Trustee in the fulfillment of the Liquidating Trustee's duties hereunder. Nothing in this Agreement shall be deemed to prevent the Liquidating Trustee from taking, or failing to take, any action that, based upon the advice of counsel or other professionals, the Liquidating Trustee determines it is obligated to take (or fail to take) in the performance of any fiduciary or similar duty which the Liquidating Trustee owes to the Beneficiaries.

4.4 Bond. The Liquidating Trustee shall not be required to post a bond.

4.5 Liquidating Trustee's Rights and Powers. The Liquidating Trustee shall act on behalf of the Debtors and the Liquidating Trust and, to the extent and except as otherwise provided for under the Plan, shall be vested with all rights, powers, privileges, and benefits afforded to the Debtors' Estates and/or a "trustee" under sections 704 and 1106 of the Bankruptcy Code, including, without limitation, attorney-client and work product privilege, and he shall be vested with any such rights, powers, privileges, and benefits of the Debtors, the Wind Down Officer, and their Estates with respect to the Liquidating Trust Functions. The Liquidating Trustee shall have all the powers and authority set forth herein, in the Plan, and in the Confirmation Order necessary to effect the disposition, orderly liquidation, and/or distribution of all Liquidating Trust Assets and proceeds thereof. Nothing in this Agreement shall be deemed to prevent the Liquidating Trustee from taking, or failing to take, any action that, based upon the advice of counsel or other Trust Professionals, the Liquidating Trustee determines it is obligated to take (or fail to take) in the performance of any fiduciary or similar duty which the Liquidating Trustee owes to the Beneficiaries. As of the Effective Date, the rights and powers of the Liquidating Trustee shall include, subject to the limitations set forth in the Plan, Confirmation Order, and this Agreement, the right and power, without further Bankruptcy Court approval, to:

- (a) Investigate, file, prosecute, compromise, settle, or otherwise pursue the Retained Causes of Action or other legal rights vested in the Liquidating Trust;
- (b) Prosecute and settle objections to Disputed Claims in a manner consistent with the following:

- (i) Review, reconcile, object, settle, seek to subordinate, and/or resolve the Disputed Claims, whether or not any objections thereto have been commenced prior to the Effective Date;
 - (ii) Substitute in, or cause the Liquidating Trust to substitute in, as the real party in interest in any objections to or proceedings related to any Disputed Claims commenced by or against the Debtors prior to the Liquidating Trustee's appointment; and
 - (iii) Seek estimation of any Disputed Claims under section 502(c) of the Bankruptcy Code and establish disputed claim reserves with respect thereto consistent with the Plan and Confirmation Order;
- (c) Sell, liquidate, transfer, assign, distribute or otherwise reduce to Cash the Liquidating Trust Assets, or any part thereof, in accordance with the Plan and this Agreement;
- (d) Calculate and make distributions to Beneficiaries hereunder from the Liquidating Trust Assets in accordance with the terms of the Plan, Confirmation Order, and this Agreement;
- (e) Manage, maintain, administer, and invest any portion of the Liquidating Trust Assets reduced to Cash, which investment powers of the Liquidating Trustee are limited by Section 4.14;
- (f) Enforce, carry out, and comply with the terms of the Plan, Confirmation Order, and this Agreement;
- (g) Enforce, carry out and perform the Liquidating Trustee's duties and Liquidating Trust Functions under this Agreement and the Plan;
- (h) Negotiate, incur, and pay the expenses and obligations of the Liquidating Trust, including professional fees, in accordance with the terms of the Plan and this Agreement;
- (i) Retain and pay Trust Professionals and employ other individuals in connection with the administration of the Liquidating Trust or the liquidation of the Liquidating Trust Assets, and pay all reasonable and necessary costs of any litigation directly or indirectly involving the Liquidating Trust Assets;
- (j) Prepare and deliver written statements or notices, required by law or by the terms of this Agreement to be delivered to Beneficiaries, subject to the Liquidating Trustee's discretion to elect to treat the Liquidating Trust or any of the Liquidating Trust Assets (in whole or in part) as a Disputed Ownership Fund for U.S. federal income tax purposes in accordance with Section 3.8;
- (k) Establish, maintain, administer, and, as appropriate, destroy documents and records; *provided* that such destruction is in compliance with the Global Settlement and the Plan;
- (l) If at any time the Liquidating Trustee determines, in reliance upon its professionals as the Liquidating Trustee may determine, that the expense of administering the Liquidating Trust so as to make a final distribution to the Beneficiaries is likely to exceed the value of the assets remaining in the Liquidating Trust, the Liquidating Trustee may (i) reserve any amounts necessary to discharge its duties under this Agreement, the Plan, and Confirmation Order and (ii) donate a

balance to a charitable organization exempt from federal income tax under section 501(c)(3) of the IRC that is unrelated to the Liquidating Trust, the Trust Advisory Committee, and Liquidating Trustee;

(m) Hold legal title to any and all rights of the Beneficiaries in or arising from the Liquidating Trust or Liquidating Trust Assets;

(n) Execute and file any and all documents, regulatory filings, and transfer applications and take any and all other actions related to, or in connection with, the liquidation of the Liquidating Trust Assets, the exercise of the Liquidating Trustee's powers granted herein, and the enforcement of any and all instruments, contracts, agreements, claims, or causes of action relating to the Liquidating Trust or the Liquidating Trust Assets;

(o) Open and maintain bank accounts and deposit funds, draw checks, and make disbursements in accordance with this Agreement and the Plan;

(p) File, if necessary, any and all tax and information returns with respect to the Liquidating Trust treating the Liquidating Trust as a grantor trust pursuant to Treasury Regulations Section 1.671-4(a) and pay taxes properly payable by the Liquidating Trust, if any, and make distributions to Beneficiaries net of any such taxes, subject to the Liquidating Trustee's discretion to elect to treat the Liquidating Trust or any of the Liquidating Trust Assets (in whole or in part) as a Disputed Ownership Fund for U.S. federal income tax purposes in accordance with Section 3.8;

(q) In the event the Liquidating Trustee determines that any of the Beneficiaries of the Liquidating Trust may, will, or has become subject to adverse tax consequences, take such actions that in his reasonable discretion will, or are intended to, alleviate such adverse tax consequences, such as dividing the Liquidating Trust Assets into several trusts or other structures and/or paying certain Beneficiaries in a manner different than that originally contemplated hereunder (but not otherwise inconsistent with the provisions of this Agreement or the Plan); *provided, however*, the Liquidating Trustee shall be under no obligation to take any such actions described in this subparagraph (q);

(r) Withhold from the amount allocable, payable, or distributable to any Entity such amount as may be sufficient or required to pay any tax or other charge which the Liquidating Trust has determined, in his reasonable discretion, is required to be withheld therefrom under the income tax laws of the United States or of any state or political subdivision thereof, and to pay or deposit such withheld tax with the appropriate governmental authority. In the exercise of his discretion and judgment, the Liquidating Trustee may enter into agreements with taxing or other governmental authorities for the payment of such amounts as may be withheld in accordance with the provisions hereof;

(s) Seek any relief from or resolution of any disputes concerning the Debtors, the Liquidating Trust or the Liquidating Trust Assets by the Bankruptcy Court or any other court with proper jurisdiction;

(t) Seek to collect, or enforce the Liquidating Trust's rights and remedies under, the Liquidating Trust Assets;

- (u) Appear and participate in any proceeding before the Bankruptcy Court or any other court with proper jurisdiction with respect to any matter regarding or relating to this Agreement, the Plan, Confirmation Order, the Debtors, the Liquidating Trust, or the Liquidating Trust Assets; and
- (v) Otherwise take such other actions as the Liquidating Trustee shall deem reasonably necessary or desirable to administer the Liquidating Trust and to implement the Plan (including as set forth in Plan Section 5.4(g)), Confirmation Order, the terms of this Agreement, wind up the affairs of the Debtors and the Liquidating Trust, carry out the Liquidating Trust Functions and related obligations, and exercise its rights in accordance with and subject to the Plan and Confirmation Order, and shall perform all of the duties, responsibilities, and obligations as set forth in this Agreement.

The above-enumerated powers of the Liquidating Trustee shall be broadly interpreted, and in any applicable instance shall be interpreted as taking any action or causing the Liquidating Trust to take such action. Any actions authorized on behalf of the Liquidating Trustee may be taken by the Liquidating Trust at the direction of the Liquidating Trustee.

4.6 Limitation on Liquidating Trustee's Authority. Notwithstanding anything in this Agreement to the contrary, the Liquidating Trustee shall not take any action that will cause the Liquidating Trust to fail to qualify as a "liquidating trust" for United States federal income tax purposes, subject to the Liquidating Trustee's discretion to elect to treat the Liquidating Trust or any of the Liquidating Trust Assets (in whole or in part) as a Disputed Ownership Fund for U.S. federal income tax purposes in accordance with Section 3.8.

4.7 Limitations on the Liquidating Trustee's Liabilities. The Liquidating Trustee and the Liquidating Trustee's respective representatives and professionals, including accountants, financial advisors, legal advisors, shall not be responsible and shall not have any liability whatsoever to any person for any loss or liability the Debtors, the Estates, or the Liquidating Trust may sustain or incur, except as otherwise provided in Section 4.12.

4.8 Selection of Agents. Subject to approval by the Trust Advisory Committee, the Liquidating Trustee may retain, employ, replace, or terminate, and determine compensation for, any professionals, including accountants, financial advisors, legal advisors, brokers, consultants, claims agents, custodians, investment advisors, asset services, auditors, and other agents, as the Liquidating Trustee deems necessary, which, for the avoidance of doubt, also includes any additional SBC personnel beyond Mr. Saccullo (as provided for in Section 4.9) (collectively, the "Trust Professionals") to assist in carrying out his duties, including any professional retained by the Debtors or the Committee during the Chapter 11 Cases, with the reasonable fees and expenses of such Trust Professionals to be paid as provided in this Agreement. The Liquidating Trust's retention of a professional retained by the Debtors or Committee during the Chapter 11 Cases shall not be deemed a conflict of interest or, to the extent such conflict of interest exists, such conflict is hereby waived by the Debtors, Committee, Wind Down Officer, and Liquidating Trust, as applicable. Subject to the Plan and this Agreement, the compensation, fees, and expenses of such persons or firms shall be paid without Bankruptcy Court approval as set forth in Section 3.7. The Liquidating Trustee shall not be liable for any loss to the Liquidating Debtors, the Estates, or the Liquidating Trust, or any person interested therein, including Beneficiaries, by reason of any mistake or default of any such agent or consultant or Trust Professional. The

Liquidating Trustee shall not be liable for any act taken or omitted to be taken, or suggested to be done, in accordance with advice or opinions rendered by any Trust Professionals, regardless of whether such advice or opinions were in writing.

4.9 Engagement of Additional SBC Personnel. It currently is contemplated that the performance of the Liquidating Trustee's duties, the wind down of the Debtors and their Estates, and the administration of the Liquidating Trust will require additional personnel of SBC (as is currently the retention and staffing arrangement in place with regard to these Estates through the retention of SBC as Wind Down Officer). The Committee consents to the continued use of additional personnel subject to the compensation structure set forth herein.

4.10 Signature. As of the Effective Date, the Liquidating Trustee shall have the signature power and authority on behalf of the Debtors (as needed) and the Liquidating Trust to (a) open and close accounts with any banking, financial or investment institution; (b) make deposits and withdrawals of cash and other property into or from any such account; (c) make or endorse checks with respect to any such account; (d) file any regulatory agreement or governmental form as may be required; and (e) effectuate purchases and sales of securities and give security purchase and sale orders to brokers or any other third parties, and the exercise of such power and authority shall be deemed to be authorized by and to represent the decision of the Liquidating Trustee then entitled to make such decision.

4.11 Maintenance of Register. The Liquidating Trustee shall at all times maintain or cause to be maintained a register of the names, addresses, and amount of the Beneficiaries.

4.12 Liability of Liquidating Trustee.

(a) Liability; Indemnification. The Liquidating Trustee, the Trust Professionals, and the Liquidating Trustee's agents and representatives shall not in any way be liable for any acts or omissions to act except by reason of their bad faith, gross negligence, willful misconduct, reckless disregard of duty, self-dealing, fraud, or a criminal act in the performance of their duties under the Plan, Confirmation Order, or this Agreement, in each case as determined by a final non-appealable court order from a court of competent jurisdiction. The Liquidating Trust and the Estates shall indemnify the Liquidating Trustee, the Trust Professionals, and the Liquidating Trustee's agents and representatives and hold them harmless from and against any and all liabilities, expenses, claims, damages and losses incurred by them as a result of actions taken or omissions to act by them in such capacity or otherwise related to this Agreement or the Liquidating Trust. The Liquidating Trust and Estates shall indemnify and hold harmless any Entity who was, or is, a party, or is threatened to be made a party, to any pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such Entity is or was the Liquidating Trustee, a Trust Professional, and the Liquidating Trustee's agent or representative, against all costs, expenses, judgments, fines and amounts paid in settlement actually and reasonably incurred by such Entity in connection with such action, suit or proceeding, or the defense or settlement of any claim, issue or matter therein, to the fullest extent permitted by applicable law, except in the case of the Liquidating Trustee, if such costs and expenses, judgments, fines or amounts paid in settlement are found in a final, non-appealable judgment by a court of competent jurisdiction to have resulted from the Liquidating Trustee's bad faith, gross negligence, reckless disregard of duty, criminal acts, willful misconduct, self-dealing, or fraud.

Costs or expenses incurred by any Entity entitled to the benefit of the provisions of this Section 4.12 in defending any such action, suit or proceeding may be paid by the Liquidating Trust or the Estates in advance of the institution or final disposition of such action, suit or proceeding, if authorized by the Liquidating Trustee, subject to providing an undertaking to repay all such advanced amounts if it is subsequently determined that such Entity is not entitled to indemnification under this Section 4.12. Any dispute regarding such indemnification of the Liquidating Trustee shall be resolved only by the Bankruptcy Court, which shall retain jurisdiction over matters relating to the indemnification provided under this Section 4.12. The Liquidating Trustee may in its discretion purchase and maintain insurance on behalf of any Entity who is or was a beneficiary of this provision. Promptly after receipt by an indemnified party or parties (the "Indemnified Party") of notice of any claim, or notice of commencement of any action, suit, or proceeding by an Entity other than the Liquidating Trustee, in respect of which the Indemnified Party may seek indemnification from the Liquidating Trust and the Estates pursuant to this Section 4.12, the Indemnified Party, if not the Liquidating Trustee, shall notify the Liquidating Trustee of such claim, action, suit or proceeding and shall thereafter promptly convey all further communications and information in respect thereof to the Liquidating Trustee. If the Indemnified Party is the Liquidating Trustee, the Liquidating Trustee shall notify the Bankruptcy Court of such claim, action, suit, or proceeding and shall thereafter promptly convey all further communications and information in respect thereof to the Bankruptcy Court. The Liquidating Trustee shall, if it so elects, have sole control at the expense of the Liquidating Trust or Estates over the contest, settlement, adjustment, or compromise of any claim, action, suit, or proceeding in respect of which this Section 4.12 requires that the Liquidating Trust and Estates indemnify the Indemnified Party. If the Liquidating Trustee is the Indemnified Party, he shall obtain the written approval of Bankruptcy Court before settling, adjusting, or compromising any claim, action suit, or proceeding in respect of which this Section 4.12 requires that the Liquidating Trust and Estates indemnify the Indemnified Party. The Indemnified Party shall cooperate with the reasonable requests of the Liquidating Trustee in connection with such contest, settlement, adjustment, or compromises; *provided* that (a) the Indemnified Party (if not the Liquidating Trustee) may, if it so elects, employ counsel at its own expense to assist in (but not control) the handling of such claim, action, suit, or proceeding, (b) the Liquidating Trustee shall obtain the prior written approval of the Indemnified Party before entering into any settlement, adjustment, or compromise of such claim, action, suit, or proceeding, or ceasing to defend against such claim, action, suit, or proceeding, if pursuant thereto, or as a result thereof, injunction or other relief would be imposed upon the Indemnified Party, and (c) the Indemnified Party shall obtain the prior written approval of the Liquidating Trustee, or, if the Liquidating Trustee is the Indemnified Party, the prior written approval of the Bankruptcy Court, before entering into any settlement, adjustment or compromise of such claim, action, suit, or proceeding, or ceasing to defend against such claim, action, suit, or proceeding, and no such settlement, adjustment, or compromise shall be binding on the Liquidating Trust or the Estates without such approval. Any payment to an Indemnified Party arising pursuant to this Section 4.12 shall be paid from any portion of the Liquidating Trust Assets reduced to Cash.

(b) No Liability for Acts of Predecessor. No successor Liquidating Trustee shall be in any way responsible for the acts or omissions of any Liquidating Trustee in office prior to the date on which such person becomes a Liquidating Trustee, nor shall he be obligated to inquire into the validity or propriety of any such act or omission, unless such successor Liquidating Trustee expressly assumes such responsibility. Any successor Liquidating Trustee shall be entitled to accept as conclusive any final accounting and statement of the Liquidating Trust Assets furnished

to such successor Liquidating Trustee by such predecessor Liquidating Trustee and shall further be responsible only for those Liquidating Trust Assets included in such statement.

(c) No Implied Obligations. The Liquidating Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, in the Plan and Confirmation Order, and no other or further covenants or obligations shall be implied into this Agreement. The Liquidating Trustee shall not be responsible in any manner whatsoever for the correctness of any recitals, statements, representations, or warranties herein or in any documents or instrument evidencing or otherwise constituting a part of the Liquidating Trust Assets. The Liquidating Trustee makes no representations as to the value of the Liquidating Trust Assets or any part thereof, nor as to the validity, execution, enforceability, legality, or sufficiency of this Agreement; and the Liquidating Trustee shall incur no liability or responsibility with respect to any such matters.

(d) Reliance by Liquidating Trustee on Documents or Advice of Counsel or Other Entities. Except as otherwise provided herein, the Liquidating Trustee may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, and other paper or document reasonably believed to be genuine and to have been signed or presented by the proper party or parties, and shall have no liability or responsibility with respect to the form, execution, or validity thereof. None of the provisions hereof shall require the Liquidating Trustee to expend or risk his own funds or otherwise incur financial liability or expense in the performance of any duties hereunder.

(e) Exculpation. No Holder of a Claim or Interest or any other party in interest will have, or otherwise pursue, any claim or cause of action against the Liquidating Trustee, the Liquidating Trust, the Trust Professionals, or the Liquidating Trustee's agents and representatives, for making payments and Distributions in accordance with this Agreement or for fulfilling any functions incidental to implementing the provisions of the Plan or the Liquidating Trust Agreement, except for any acts or omissions to act that are the result of bad faith, willful misconduct, reckless disregard of duty, criminal conduct, gross negligence, fraud, or self-dealing, in each case as determined by a final non-appealable court order from a court of competent jurisdiction.

(f) No Personal Obligation for Debtors' Liabilities. Beneficiaries or other persons dealing with the Liquidating Trustee in his capacity as Liquidating Trustee within the scope of this Agreement shall look solely to the Liquidating Trust Assets to satisfy any liability incurred by the Liquidating Trustee to such person in carrying out the terms of this Agreement, and the Liquidating Trustee shall have no personal or individual obligation to satisfy any such liability.

4.13 Establishment of Trust Accounts. The Liquidating Trustee shall establish or cause to be established and maintained any accounts needed in connection with carrying out the purposes of the Liquidating Trust (the "Trust Account"). Such accounts shall be maintained only at FDIC insured financial institutions and shall bear a designation clearly indicating that the funds deposited therein are held for the benefit of the Liquidating Trust.

4.14 Investment of Cash. Cash in the bank accounts maintained by the Liquidating Trust and any other amounts contemplated by this Agreement shall be maintained in United States dollars or shall be invested by the Liquidating Trustee in (a) direct obligations of, or obligations

guaranteed by, the United States of America, including Government Money Market Funds, (b) obligations of any agency or corporation that is or may hereafter be created by or pursuant to an act of Congress of the United States of America as an agency or instrumentality thereof, or (c) such other obligations or instruments as may from time to time be permitted under section 345 of the Bankruptcy Code; *provided* that the Liquidating Trustee may, to the extent necessary to implement the provisions of the Plan and this Agreement, deposit moneys in demand deposits, time accounts or checking accounts at any banking institution or trust company having combined capital stock and surplus in excess of \$100,000,000 based upon its most recently available audited financial statements, regardless of whether such investments and deposits are insured or as otherwise provided in Section 4.13. Such investments shall mature in such amounts and at such times as the Liquidating Trustee, in his discretion, shall deem appropriate to provide funds when needed to transfer funds in accordance with the Plan and Confirmation Order, make payments to the Trust Accounts or make Distributions in accordance with this Agreement and the Plan and Confirmation Order. The Liquidating Trust may not retain cash or cash equivalents in excess of a reasonable amount as determined by the Liquidating Trustee in consultation with the Trust Advisory Committee to meet claims and contingent liabilities or to maintain the value of the Liquidating Trust Assets in liquidation or maintain or fund an adequate and sufficient reserve. Notwithstanding anything to the contrary herein, the scope of any such investment shall be limited to include only those investments that a liquidating trust, within the meaning of Treasury Regulations Section 301.7701-4(d), may be permitted to hold, pursuant to Section 3.09 of Internal Revenue Service Revenue Procedure 94-45 or the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise. For the avoidance of doubt, the Liquidating Trustee shall have no duty or obligation to invest any of the Liquidating Trust Assets, and failure to invest any such assets shall not constitute a breach of duty on behalf of the Liquidating Trust or the Liquidating Trustee.

4.15 Tax Returns.

(a) From and after the Effective Date, to the extent required, the Liquidating Trustee shall be responsible for the preparation and filing of any and all federal and state tax returns or other filings as required by law to be filed on behalf of the Liquidating Trust. Such returns shall be consistent with the treatment of the Liquidating Trust as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d) that is a grantor trust pursuant to Treasury Regulations Section 1.671-4(a) (other than with respect to the Disputed Ownership Fund, which shall be consistent with the treatment of a “disputed ownership fund” within the meaning of Treasury Regulations Section 1.468B-9), and to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes.

(b) Allocations of Liquidating Trust taxable income among the Beneficiaries of the Liquidating Trust (including any taxable income in respect of a reserve established for disputed claims, other than taxable income allocable to the Disputed Ownership Fund) shall be determined by reference to the manner in which an amount of Cash representing such taxable income would be distributed (were such Cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the Liquidating Trust had distributed all its assets (valued at their tax book value, and other than assets allocable to the Disputed Ownership Fund) to the holders of the Liquidating Trust interests, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Liquidating Trust. Similarly, taxable loss of the

Liquidating Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a hypothetical liquidating distribution of the remaining Liquidating Trust Assets. The tax book value of the Liquidating Trust Assets for purposes of this Section 4.15(b) shall equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed by the IRC, the applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

4.16 Compensation for Liquidating Trustee. Beginning on the Effective Date, subject to the Plan, the Confirmation Order, and this Agreement, the Liquidating Trustee shall be employed and compensated on a monthly basis at \$10,000 per month for any applicable month, or partial month, without proration. In addition, the Liquidating Trustee will receive a commission of five percent (5%) on all gross proceeds brought into the Liquidating Trust from any source on or after the Effective Date, excluding (i) the Circles Payment; (ii) the CVG Payment; (iii) the Wind Down Trust Amount; and (iv) all of the Debtors' Cash on hand as of the Effective Date following payments required to be made on the Effective Date pursuant to the Plan. For clarity, to the extent that SBC personnel retained as Trust Professionals pursuant to Section 4.9 provide any services directly related to supporting the investigation and prosecution of Retained Causes of Action, the commission set forth above will be the sole compensation for those SBC services. For the avoidance of doubt, SBC personnel other than Mr. Saccullo will be retained to assist in the wind down of the Estates, and the administration of the Liquidating Trust, for which services SBC shall be entitled to compensation at the then extant billable rate for each additional SBC personnel (which arrangement is substantially similar to the current engagement of SBC as Wind Down Officer in these Chapter 11 Cases). The Liquidating Trustee also shall be entitled to reimbursement for all reasonable and actual out-of-pocket expenses, to be paid monthly pursuant to Section 4.17, Section 4.18, and related provisions of this Agreement. Any successor to the Liquidating Trustee also shall be entitled to reasonable compensation and reimbursement of reasonable out-of-pocket expenses in connection with the performance of its duties; *provided, however*, that such compensation may be different from the terms provided herein, and in any event, shall be approved by order of the Bankruptcy Court prior to the retention of any subsequent Liquidating Trustee.

4.17 Reimbursements. The Liquidating Trustee, any agents or consultants employed pursuant to this Agreement, and Trust Professionals shall be reimbursed for all reasonable out-of-pocket expenses incurred in the performance of their duties hereunder in addition to any compensation received pursuant to Section 4.18 and related provisions of this Agreement from any portion of the Liquidating Trust Assets reduced to Cash.

4.18 Payment and Reimbursement of the Liquidating Trustee's and Trust Professionals' Fees and Expenses.

(a) All reasonable fees and expenses incurred in connection with the duties and actions of the Liquidating Trustee, including, but not limited to, fees and expenses of any Trust Professionals retained under this Agreement and fees and expenses to pay insurance, taxes and other expenses arising in the ordinary course of business in maintaining, liquidating, disposing of, and distributing the Liquidating Trust Assets, and compensation to the Liquidating Trustee shall be paid from any portion of the Liquidating Trust Assets reduced to Cash.

(b) The Liquidating Trustee may pay or reimburse all compensation, fees, and expenses of the Liquidating Trustee and Trust Professionals authorized under this Agreement without need for approval by the Bankruptcy Court or any other party.

ARTICLE V

Beneficiaries

5.1 Identification of Beneficiaries. The Liquidating Trust is created for the benefit of each holder of a General Unsecured Claim to the extent such General Unsecured Claim is determined to be an Allowed Claim under the Plan (the “Beneficiaries”). The Beneficiaries shall each have an undivided beneficial interest in the assets of the Liquidating Trust (“Beneficial Interest”). All distributions to Beneficiaries shall be made in accordance with the terms of the Plan, Confirmation Order, and this Agreement.

5.2 Rights of Beneficiaries. Each Beneficiary shall be entitled to participate in the rights due to a Beneficiary hereunder. Each Beneficiary shall take and hold its Beneficial Interest subject to all in the terms and provisions of this Agreement and the Plan. The Beneficial Interests shall not be certificated. No Beneficiary shall have legal title to any part of the Liquidating Trust Assets. The interest of a Beneficiary is in all respects personal property, and upon the death, insolvency or incapacity of an individual Beneficiary, such Beneficiary’s Beneficial Interest shall pass to the legal representative of such Beneficiary. A Beneficiary shall have no title to, or any right to possess, manage or control, the Liquidating Trust Assets, or any portion thereof or interest therein, except as expressly provided herein. No surviving spouse, heir, or devisee of any deceased Beneficiary shall have any right of dower, homestead or inheritance, or of partition, or any other right, statutory or otherwise, in the Liquidating Trust Assets, but the whole title to all the Liquidating Trust Assets shall be vested in the Liquidating Trustee and the sole interest of the Beneficiaries shall be the rights and benefits provided to such persons under this Agreement and the Plan.

5.3 Transferability. Interests in the Liquidating Trust shall not be transferred or assigned by a holder of an interest in the Liquidating Trust except by will, intestate succession or operation of law; *provided, however*, that a holder of such interests may abandon such interests back to the Liquidating Trust at its sole discretion.

ARTICLE VI

Distributions

6.1 Distributions under the Plan. Distributions of proceeds of the Liquidating Trust Assets to holders of Allowed General Unsecured Claims shall be made as follows:

(a) Except as otherwise provided by the Plan and Confirmation Order, or this Agreement, the Liquidating Trust is required to distribute at least annually to the Beneficiaries its net income plus all net proceeds from the liquidation of the Liquidating Trust Assets, except that the Liquidating Trust may retain an amount of net proceeds or net income, as determined by the Liquidating Trustee as reasonably necessary to maintain the value of its assets or to meet claims and contingent

liabilities (including disputed claims), within the meaning of Internal Revenue Service Revenue Procedure 94-45.

(b) The Liquidating Trust will make Distributions from the Liquidating Trust Assets to Holders of Allowed General Unsecured Claims that are Beneficiaries of the Liquidating Trust, in accordance with each such Beneficiary's *pro rata* share of net Cash derived from the Liquidating Trust Assets being made available for Distribution.

(c) Distributions to be made by the Liquidating Trust may be made by any Person(s) designated or retained by the Liquidating Trustee to serve as the Disbursing Agent(s), without the need for any further order of the Bankruptcy Court.

(d) The Liquidating Trustee shall be authorized, in his discretion, to delay Distributions to Holders of Liquidating Trust Interests or otherwise determine reasonable distribution dates for such Holders, including, without limitation, based upon the status and progress of the liquidation of Liquidating Trust Assets, the total number of and/or asserted claim amounts of Disputed Claims (whether Disputed by the Debtors, Wind Down Officer, or the Liquidating Trustee), and any other relevant factors.

6.2 No Duty to Investigate Claims or Distribution. The Wind Down Officer shall provide the Liquidating Trustee with a complete list of all General Unsecured Claims, including Allowed General Unsecured Claims and Disputed General Unsecured Claims, on or before the date this Agreement becomes effective and will notify the Liquidating Trustee of any additional Claims that become Allowed General Unsecured Claims within five Business Days of their Allowance. The Liquidating Trustee may rely on such information provided by the Debtors and the Wind Down Officer in connection with making Distributions hereunder and shall have no duty or obligation whatsoever to (a) investigate or make any independent determination of the identity of Holders of Allowed General Unsecured Claims entitled to Distributions or (b) to attempt to locate the Holder of any Allowed Claim entitled to unclaimed distributions other than to review the Debtors' books and records, or proofs of claim filed against the Debtors.

6.3 Distributions on Account of Disputed Claims. Except as otherwise provided in a Final Order or as agreed by the relevant parties, Distributions on account of Disputed Claims (whether Disputed by the Debtors, the Wind Down Officer, or the Liquidating Trustee) that become Allowed General Unsecured Claims after the Effective Date will be made by the Liquidating Trust at such periodic intervals as the Liquidating Trustee, in consultation with the Trust Advisory Committee, determines to be reasonably prudent.

6.4 No Distributions Pending Allowance. Notwithstanding anything in the Plan or the Confirmation Order to the contrary, no distribution will be made with respect to any Disputed Claim (whether Disputed by the Debtors, the Wind Down Officer, or the Liquidating Trustee) until such Claim becomes an Allowed Claim.

6.5 Disputed Claims Reserves. On and after the Effective Date, the Liquidating Trust may, at the sole discretion of the Liquidating Trustee, maintain Disputed Claims reserves with respect to any Disputed Claim, which may be in the form of a Disputed Ownership Fund, funded with Cash in an amount equal to what the Liquidating Trustee, in consultation with the Trust Advisory

Committee, estimates to be reasonably necessary to satisfy the distributions that could be required to be made under the Plan (the “Disputed Claims Reserve”).

6.6 Settling Disputed Claims. Subject to Section 4.6, the Liquidating Trustee is authorized to settle, or withdraw any objections to Disputed Claims following the Effective Date without need for approval of the Bankruptcy Court.

6.7 Delivery of Distributions. Subject to Bankruptcy Rule 9010, and except as set forth in the Plan or the Confirmation Order, all Distributions from the Liquidating Trust Assets to Holders of Allowed Claims shall be made to the Holder of each Allowed Claim at the address of such Holder as listed on the Schedules as of the Distribution Record Date, unless the Liquidating Trustee has been notified in writing of a change of address, including, without limitation, by the timely filing of a proof of claim by such holder that provides an address for such Holder different from the address reflected on the Schedules. In the event that any Distribution to any Holder is returned as undeliverable, the Liquidating Trustee shall have no obligation to determine the correct current address of such Holder and no Distribution to such Holder shall be made unless and until the Liquidating Trustee is notified in writing of the then-current address of such Holder, at which time such Distribution shall be made to such Holder without interest; *provided, however*, such Distribution shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of 60 days from the date the such Distribution is made. After such date, all unclaimed property or interests in property shall revert (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary) to the Liquidating Trust automatically and without need for a further order by the Bankruptcy Court for distribution in accordance with the Plan and the Confirmation Order, and the Claim of any such Holder to such property or interest in property shall be released, settled, compromised, and forever barred.

6.8 Manner of Payment Under Plan. At the option of the Disbursing Agent (as may be directed by the Liquidating Trustee), any Cash payment to be made under the Plan may be made by a check, ACH, or wire transfer.

6.9 No Distribution in Excess of Amount of Allowed Claim. Notwithstanding anything to the contrary in the Plan, no Holder of an Allowed Claim shall receive, on account of such Allowed Claim, Distributions in excess of the Allowed amount of such Claim.

6.10 Allocation of Distributions Between Principal and Interest. Except as otherwise provided in the Plan and subject to the Plan, to the extent that any Allowed Claim entitled to a Distribution under the Plan is comprised of indebtedness and accrued but unpaid interest thereon, such Distribution shall be allocated first to the principal amount (as determined for federal income tax purposes) of the Claim and then to accrued but unpaid interest.

6.11 Setoffs and Recoupments. The Liquidating Trustee may, but shall not be required to, set off against any Claims of any nature whatsoever that the Debtors may have against the Holder of a Claim; *provided* that neither the failure to do so nor the allowance of any Claim under the Plan shall constitute a waiver or release of any Claim the Debtors may have against the Holder of such Claim.

6.12 Minimum Distributions. No payment of Cash of less than fifty dollars (\$50) shall be made by the Liquidating Trustee to any Holder of an Allowed Claim unless a request therefor is made in writing to the Liquidating Trustee. If no request is made as provided in the preceding sentence within 60 days of the later of: (a) the Effective Date of the Plan and (b) the first Distribution Date such Claim is Allowed, all such distributions shall be distributed to other Holders of Allowed Claims in accordance with the Plan or as otherwise ordered by the Bankruptcy Court.

6.13 U.S. Trustee Fees and Reports. After the Effective Date, the Liquidating Trustee shall pay as an expense of the Liquidating Trust all fees incurred under 28 U.S.C. § 1930(a)(6) by reason of the Liquidating Trust's disbursements as required under the Plan and Confirmation Order until the Chapter 11 Cases are closed. After the Effective Date, the Liquidating Trust shall prepare and serve on the Office of the U.S. Trustee such quarterly disbursement reports for the Liquidating Trust as required by the U.S. Trustee for as long as the Chapter 11 Cases remain open.

6.14 Insurance. Subject to the Plan and the Confirmation Order, the Liquidating Trustee shall be permitted to use Liquidating Trust Assets, in the Liquidating Trustee's reasonable business judgment, to purchase and maintain customary insurance coverage (including, without limitation, purchasing any errors and omissions insurance), if available, for the protection of the Persons or Entities serving as Liquidating Trustee or administrator of the Liquidating Trust on and after the Effective Date.

6.15 Withholding and Reporting Requirements.

(a) In connection with the Plan and all instruments issued in connection therewith and distributed thereon, the Liquidating Trustee shall comply with all withholding and reporting requirements imposed by any federal, state, or local taxing authority, and all Distributions under the Plan shall be subject to any such withholding and reporting requirements. In the case of a non-Cash Distribution that is subject to withholding, the Liquidating Trustee may withhold an appropriate portion of such distributed property and sell such withheld property to generate the Cash necessary to pay over the withholding tax. Any amounts withheld pursuant to the preceding sentence shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan.

(b) Notwithstanding the above, each Holder of an Allowed Claim that is to receive a Distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed on such Holder by any governmental unit, including income, withholding, and other tax obligations, on account of such Distribution. The Liquidating Trustee has the right, but not the obligation, to not make a Distribution until such Holder has made arrangements satisfactory to any issuing or disbursing party for payment of any such tax obligations. For tax purposes, the Liquidating Trust shall treat any Holder of a wage-related claim as "single with no deductions," irrespective of any prior or current designation on the books and records of the Debtors.

(c) The Wind Down Officer shall provide the Liquidating Trustee with any IRS Form W-8, Form W-9, or other tax information required from Holders pursuant to the Plan that is received by the Debtors or Wind Down Officer. Separately, the Liquidating Trustee shall be entitled to request such information from Beneficiaries and take any and all other actions necessary to comply with

applicable withholding and recording requirements. If such request for the appropriate form is made by the Liquidating Trustee and the Beneficiary fails to comply before the date that is 60 days after the request is made, the amount of such Distribution payable from the Liquidating Trust Assets shall irrevocably revert to the Liquidating Trust and be deemed unclaimed property under section 347(b) of the Bankruptcy Code and any Holder of such Claim in respect of such Distribution shall be forever barred from asserting such Claim against the Liquidating Trust or Liquidating Trust Assets.

6.16 Unclaimed Distributions. All Distributions to holders of Allowed Claims under the Plan that is an Unclaimed Distribution for a period of six months after such Distribution shall be deemed unclaimed property under Bankruptcy Code section 347(b), and such Unclaimed Distribution shall revert to and vest in the Liquidating Trust, free and clear of any restrictions thereon. Upon vesting, the Claim or Liquidating Trust Interest of any Holder or successor to such Holder with respect to such property shall be cancelled and forever barred, notwithstanding federal or state escheat, abandonment, or unclaimed property laws to the contrary.

6.17 Timing of Distributions. In the event that any payment, Distribution or act under the Plan or this Agreement is required to be made or performed on a date that is not a Business Day, then the making of such payment or distribution or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date. Any requirement under the Plan or Confirmation Order that the Liquidating Trust or Disbursing Agent make a payment or Distribution on a date shall mean that such party is required to commence the process of making a payment or Distribution on such date.

6.18 Legal Proceedings. If any Retained Causes of Action are asserted and if such claims or any other legal proceedings are initiated or prosecuted against any creditor or interest holder pursuant to the Plan, Confirmation Order, or this Agreement, or asserted as an objection to any Disputed Claim, then notwithstanding anything to the contrary contained in the Plan or Confirmation Order, until such proceeding or contested matter is finally resolved and all payments to the Debtors' Estates required by such resolution have been made, such creditor shall only receive distributions under the Plan or Confirmation Order (a) if the Liquidating Trustee, in his reasonable judgment and in consultation with the Trust Advisory Committee, determines any such distributions to be appropriate under the circumstances and (b) to the extent that the distributions to which such creditor is otherwise entitled exceed the maximum liability of such creditor to the Debtors' Estates asserted in such proceedings.

6.19 Abandonment. Notwithstanding anything to the contrary in the Plan or the Confirmation Order, if in the Liquidating Trustee's reasonable judgment, any Liquidating Trust Assets cannot be sold or distributed in a commercially reasonable manner or the Liquidating Trustee believes in good faith that such property has inconsequential value to the Liquidating Trust or its Beneficiaries or determines to be too impractical to distribute to Beneficiaries, the Liquidating Trustee shall have the right to cause the Liquidating Trust to abandon or otherwise dispose of such property, including by donation of such property to a charity.

ARTICLE VII

Removal or Resignation of the Liquidating Trustee

7.1 Removal of the Liquidating Trustee. The Liquidating Trustee appointed pursuant to the Plan, Confirmation Order, and this Agreement may be removed for “cause” upon (a) majority vote of the Trust Advisory Committee or (b) order of the Bankruptcy Court after notice and opportunity for a hearing. For purposes of this Agreement, the term “cause” shall mean (x) the Liquidating Trustee’s gross negligence, criminal acts, bad faith, self-dealing, reckless disregard of duty, fraud, willful misconduct, or willful failure to perform his duties under the Plan, the Confirmation Order, and this Agreement, in each case as finally determined by a court order from a court of competent jurisdiction or (y) the Liquidating Trustee’s misappropriation or embezzlement of any Liquidating Trust Assets or the proceeds thereof as finally determined by a court order from a court of competent jurisdiction. If a Liquidating Trustee is removed for “cause”, such Liquidating Trustee shall not be entitled to any accrued but unpaid fees, reimbursements or other compensation under this Agreement or otherwise. The Liquidating Trustee may also be removed for reasons other than “cause” upon (a) unanimous vote of the Trust Advisory Committee or (b) order of the Bankruptcy Court after notice and opportunity for a hearing. If the Liquidating Trustee is removed by the Trust Advisory Committee or Bankruptcy Court other than for “cause”, or is unwilling or unable to serve by virtue of his inability to perform his duties under this Agreement due to death, illness, or other physical or mental disability, subject to a final accounting, the Liquidating Trustee shall be entitled to all accrued and unpaid fees, reimbursement, and other compensation, to the extent incurred or arising or relating to events occurring before such removal, and to any out-of-pocket expenses reasonably incurred in connection with the transfer of all powers and duties and all rights to any successor Liquidating Trustee.

7.2 Resignation of the Liquidating Trustee. The Liquidating Trustee may resign as Liquidating Trustee at any time by giving 30 calendar days’ prior written notice thereof to the Trust Advisory Committee, the Bankruptcy Court, all Beneficiaries, and any post-Confirmation service list (the “Notice”); *provided, however*, that such resignation shall only become effective upon (a) the appointment of a successor Liquidating Trustee, who shall be identified and recommended by the resigning Liquidating Trustee in the Notice after consultation with the Trust Advisory Committee on such recommendation and stating whether the Trust Advisory Committee is supportive of such nomination, which Notice shall also include an affidavit of disinterestedness and an engagement letter setting forth proposed terms of engagement of the successor Liquidating Trustee that are consistent with this Agreement, the Plan, and Confirmation Order, or (b) entry of order of the Bankruptcy Court authorizing such resignation. Beneficiaries of the Liquidating Trust, as well as the United States Trustee for Region 2, shall have standing to object to the proposed successor Liquidating Trustee within the notice period, and Beneficiaries shall also have standing to propose alternative recommendations for successor Liquidating Trustee within the notice period; *provided* that such alternative recommendations shall satisfy the requirements set forth herein and comply in all respects with this Agreement, the Plan, and the Confirmation Order. If the Liquidating Trustee resigns from his position hereunder, subject to a final accounting, he shall be entitled to all accrued unpaid fees, reimbursement, and other compensation to the extent incurred or arising or relating to events occurring before such resignation, and any fees and out-of-pocket expenses reasonably incurred in connection with the transfer of all powers and duties to the successor Liquidating Trustee.

7.3 Successor to the Liquidating Trustee. In the event of the removal or death of the Liquidating Trustee, the Trust Advisory Committee may designate a disinterested person to serve as the successor Liquidating Trustee. Within three Business Days of such designation by the Trust Advisory Committee, the successor Liquidating Trustee shall execute and file (a) an affidavit of disinterestedness; and (b) an engagement letter setting forth proposed terms of engagement that are consistent with this Agreement, the Plan, and Confirmation Order. Thereupon, the successor Liquidating Trustee, without any further act, will become fully vested with all of the rights, powers, duties, and obligations of his or her predecessor.

ARTICLE VIII

Effect of the Agreement on Third Parties

8.1 There is no obligation on the part of any person dealing with the Debtors' Estates, the Debtors, the Liquidating Trustee, or the Trust Professionals, to see to the application of the money or other consideration paid or delivered to the Liquidating Trustee, or any agent of the Liquidating Trustee, or to inquire into the validity, expediency, or propriety of any such transaction, or the authority of the Liquidating Trustee, or any agent of the Liquidating Trustee, to enter into or consummate the same, except upon such terms as the Liquidating Trustee may deem advisable.

ARTICLE IX

Waiver

9.1 No failure or delay of any Party to exercise any right or remedy pursuant to this Agreement shall affect such right or remedy or constitute a waiver by such Party of any right or remedy pursuant thereto. Resort to one form of remedy shall not constitute a waiver of alternative remedies.

ARTICLE X

Termination of the Agreement and Amendment

10.1 Termination of the Agreement. This Agreement (other than Section 4.12, Section 4.18, and related provisions) shall terminate, the Trust Advisory Committee shall be relieved of their duties, responsibilities, and powers, and the Liquidating Trust shall dissolve and terminate and be of no further force or effect upon the earlier to occur of (a) the final distribution of all monies and other Liquidating Trust Assets in accordance with the terms of this Agreement, the Plan and Confirmation Order and (b) entry of a Final Order of the Bankruptcy Court terminating and dissolving the Liquidating Trust as provided under the terms of this Agreement and the Plan. The Liquidating Trust will terminate no later than the fifth anniversary of the Effective Date; *provided, however*, that, on or prior to such termination, the Bankruptcy Court, upon motion by the Liquidating Trustee may within six months of the beginning of the extended term, extend the term of the Liquidating Trust for a fixed period if it is necessary to facilitate or complete the liquidation and distribution of the Liquidating Trust Assets; *provided further* that the aggregate of all such extensions shall not exceed three years, unless the Liquidating Trustee receives a favorable ruling from the Internal Revenue Service that any further extension would not adversely affect the status

of the Liquidating Trust as a grantor trust for federal income tax purposes. The Liquidating Trustee will not unduly prolong the duration of the Liquidating Trust and will at all times endeavor to resolve, settle or otherwise dispose of all Disputed Claims and the Liquidating Trust Assets, to effect distributions to Beneficiaries in accordance with the terms hereof, the Plan and Confirmation Order and to terminate the Liquidating Trust as soon as practicable in a prompt and timely fashion.

10.2 Winding Up and Discharge of the Liquidating Trustee. For the purposes of winding up the affairs of the Liquidating Trust at the conclusion of his term, the Liquidating Trustee shall continue to act as Liquidating Trustee until his duties under this Liquidating Trust Agreement have been fully discharged or his role as Liquidating Trustee is otherwise terminated under this Agreement and the Plan. Upon a motion by the Liquidating Trustee, the Bankruptcy Court may enter an order relieving the Liquidating Trustee, and the Liquidating Trustee's agents and employees of any further duties, discharging the Liquidating Trustee.

10.3 Powers Upon Termination of Liquidating Trust. Upon termination of the Liquidating Trust, and solely for the purpose of liquidating and winding up the affair of the Liquidating Trust, the Liquidating Trustee shall continue to act as such until his duties have been fully performed.

10.4 Amendment of the Agreement. Except as otherwise set forth herein, any provisions of this Agreement may be amended, modified, terminated, revoked, or altered only pursuant to an Order of the Bankruptcy Court. Notwithstanding this Section 10.4, any amendments to this Agreement shall not be inconsistent with the purpose and intention of the Liquidating Trust to liquidate in an expeditious but orderly manner the Liquidating Trust Assets in accordance with Treasury Regulations Section 301.7701-4(d) and this Agreement. Notwithstanding the foregoing, this Agreement may be amended by the Parties hereto to correct any obvious error or technical defect without further approval of the Bankruptcy Court.

ARTICLE XI

Miscellaneous

11.1 Intention of Parties to Establish the Liquidating Trust. This Agreement is not intended to create, and shall not be interpreted as creating, an association, partnership, or joint venture of any kind. It is intended as a trust to be governed and construed in all respects as a trust.

11.2 Filing Documents. A copy of this Agreement and all amendments thereof shall be maintained in an office or residence of the Liquidating Trustee and shall be available for inspection upon reasonable written request seeking such inspection.

11.3 Books and Records.

(a) At such times and on such terms as reasonably convenient to the Liquidating Trust and the Debtors, the Debtors and the Wind Down Officer shall provide to the Liquidating Trust timely access to all of the books and records of the Debtors in the Debtors' possession.

(b) The Debtors and Wind Down Officer shall instruct any third parties or professionals possessing such books and records (including computer generated or computer maintained books,

records and data, legal and accounting files maintained by any professional of the Debtors and other of the Debtors' books and records maintained by or in the possession of third parties), to permit access to such books and records as may be reasonably requested by the Liquidating Trustee; *provided* that the Liquidating Trustee shall only request such books and records or access thereto to the extent reasonably necessary to the Liquidating Trustee's performance of his duties hereunder, and *provided further* that the out-of-pocket expenses of complying with any such request shall be borne by the party upon whom the request is made, absent agreement to the contrary.

(c) The Liquidating Trust will maintain reasonably good and sufficient books and records in respect to matters related to the Liquidating Trust Functions. The Liquidating Trustee may without Bankruptcy Court approval, destroy any documents that each believes are no longer required to effectuate the terms and conditions of the Plan; *provided* that such destruction is in compliance with the Global Settlement and the Plan. Upon the entry of a final decree closing the Chapter 11 Cases, unless otherwise ordered by the Bankruptcy Court, the Liquidating Trustee may destroy or otherwise dispose of all records maintained by them; *provided* that such destruction is in compliance with the Global Settlement and the Plan.

11.4 Tax Identification Numbers. The Liquidating Trustee may require any Beneficiary to furnish to the Liquidating Trustee, (i) its employer or taxpayer identification number as assigned by the Internal Revenue Service, and (ii) such other information, records or documents necessary to satisfy the Liquidating Trustee's tax reporting obligations (including certificates of non-foreign status). The Liquidating Trustee may condition the payment of any Distribution to any Beneficiary upon receipt of such identification number and requested documents.

11.5 Privilege. Subject to the terms of the Plan and the Confirmation Order and solely with respect to the Liquidating Trust Functions, the Debtors' privileges, including but not limited to corporate privileges, confidential information, work product protections, attorney-client privileges, and other privileges or immunities inuring to the benefit of the Debtors or attaching to documents or communications of the Debtors shall be transferred to the Liquidating Trust. The Liquidating Trustee is authorized to assert or waive any such privilege or doctrine, as necessary or appropriate for the administration of the Liquidating Trust.

11.6 Valuation of the Liquidating Trust Assets. After the Effective Date, but in no event later than the due date for timely filing of the Liquidating Trust's first federal income tax return (taking into account applicable tax filing extensions), the Liquidating Trustee shall (a) determine the fair market value of the Liquidating Trust Assets as of the Effective Date, based on the Liquidating Trustee's good faith determination (in conjunction with guidance provided by Trust Professionals, if any); and (b) establish appropriate means to apprise the Beneficiaries of such valuation; *provided, however*, that no such valuation will be required if the Liquidating Trustee elects to treat the Liquidating Trust and/or the Liquidating Trust Assets (in either case, in whole or in part) as a Disputed Ownership Fund. The valuation, if established pursuant to the terms of this Section 11.6, shall be used consistently by all Parties (including, without limitation, the Debtors, the Liquidating Trust, the Liquidating Trustee, and the Beneficiaries) for all federal income tax purposes.

11.7 Governing Law. THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO ITS

CONFLICT OF LAW PROVISIONS, AND THE OBLIGATIONS, RIGHTS AND REMEDIES OF THE PARTIES HEREUNDER SHALL BE DETERMINED IN ACCORDANCE WITH SUCH LAWS.

11.8 Severability. If any one or more of the provisions herein, or the application thereof in any circumstances, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision in every other respect, and of the remaining provisions, shall not be in any way impaired or affected. In such event, there shall be added as part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable. The effective date of the added provision shall be the date upon which the prior provision was held to be invalid, illegal or unenforceable.

11.9 Entire Agreement. This Agreement, the Plan, and the Confirmation Order constitute the entire agreement of the Parties and there are no representations, warranties, covenants, or obligations except as set forth herein or therein. This Agreement, 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. In the event of any inconsistency between this Agreement, the Plan, and the Confirmation Order, the Confirmation Order shall govern; *provided, however*, that the Liquidating Trustee may amend, modify and/or correct the terms hereof to supersede the Plan and/or the Confirmation Order, with the approval of the Bankruptcy Court. Except as otherwise specifically provided herein, nothing in this Agreement is intended or shall be construed to confer upon or to give any person other than the Parties hereto and their respective heirs, administrators, executors, successors, and assigns any rights or remedies under or by reason of this Agreement.

11.10 Jurisdiction; Venue. Each Party hereto irrevocably agrees that any suit, action or proceeding with respect to this Agreement shall be brought exclusively in the United States Bankruptcy Court for the Southern District of New York, and by execution and delivery of this Agreement, each Party (a) irrevocably submits to each such jurisdiction and venue, (b) waives, to the fullest extent permitted by law, any objection that it may have to the laying of the venue of any such suit, action or proceeding brought in such court has been brought in an inconvenient forum, and (c) agrees that final judgment in any such suit, action or proceeding brought in such a court shall be conclusive and binding upon it and may be enforced in any court to the jurisdiction of which such Party is subject by a suit upon such judgment; *provided* that service of process is effected as otherwise permitted by law.

11.11 Notices. Unless otherwise expressly specified or permitted by the terms hereof, any notice, request, submission, instruction or other document to be given hereunder by a Party shall be in writing and shall be deemed to have been given, (a) when received if given in person, (b) upon delivery, if delivered by a nationally known commercial courier service providing next day delivery service (such as Federal Express), or (c) upon delivery, or refusal of delivery, if deposited in the U.S. mail, certified or registered mail, return receipt requested, postage prepaid:

If to the Liquidating Trustee, addressed as follows:

Saccullo Business Consulting, LLC

27 Crimson King Drive
Bear, Delaware 19701
Attn: Anthony M. Saccullo
Email: ams@sacculloconsulting.com
With a copy to: dspych@sacculloconsulting.com

With a copy to his counsel:

[•]

or to such other individual or address as a Party hereto may designate for itself by notice given as herein provided.

11.12 WAIVER OF JURY TRIAL. EACH PARTY TO THIS AGREEMENT HEREBY IRREVOCABLY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED THEREBY.

11.13 Further Assurances. Each Party hereto (and his respective successors and assigns) shall, upon the Liquidating Trustee's reasonable request, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such further instruments, and do or cause to be done, such further acts, as may be necessary to carry out the purposes of this Agreement and to vest in the Liquidating Trustee the powers and duties contemplated hereunder.

11.14 Exculpatory Provisions and Survival Thereof. Whether or not expressly therein so provided, any and all exculpatory provisions, immunities and indemnities, payment provisions, and any limitations and negations of liability contained in this Agreement, in each case inuring to the benefit of the Liquidating Trustee, shall survive (a) the termination or revocation of this Agreement, and (b) as to any person who has served as Liquidating Trustee, the resignation or removal of such person as Liquidating Trustee.

11.15 Conflicts. In the event of any inconsistency between the Plan, the Confirmation Order, and this Agreement, the terms and provisions of the Confirmation Order shall govern.

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

11.17 Successors and Assigns. All covenants and agreements contained herein shall, as applicable, be binding upon, and inure to the benefit of the Trust Advisory Committee, the Liquidating Trustee and its successors, the Estates and the Debtors and its successors, including the Wind Down Officer, all as herein provided.

11.18 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.

11.19 Separate Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. A portable document file (PDF) signature of any party shall be considered to have the same binding legal effect as an original signature.

[Signature page(s) follow(s).]

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

LIQUIDATING TRUSTEE:

By: _____
Name: Anthony M. Saccullo
Title: Liquidating Trustee

DEBTORS AND DEBTORS IN POSSESSION:

By: _____
Name: Anthony M. Saccullo
Title: Authorized Signatory

COMMITTEE:

By: _____
Name:
Title:

WIND DOWN OFFICER:

By: _____
Name: Anthony M. Saccullo
Title: Wind Down Officer

EXHIBIT B

Liquidating Trustee Disclosure

Liquidating Trustee Disclosure

In accordance with Section 1.86 of the *Modified Chapter 11 Plan of Liquidation for Pareteum Corporation and Certain of its Affiliates* (as may be amended, modified, or supplemented, the "Plan"),¹ this disclosure identifies the Liquidating Trustee and his credentials, and discloses any and all relevant affiliations, connections, or actual or potential conflicts of interest related to his appointment.

Identity and Credentials

The Liquidating Trustee to be appointed as of the Effective Date on the terms and conditions of the Plan is Saccullo Business Consulting, LLC ("SBC") by and through Anthony M. Saccullo.

Mr. Saccullo is currently the Debtors' Wind-Down Officer.² He has served as a practicing restructuring attorney in Delaware state and federal courts for more than two decades in various capacities to debtors, creditors, and liquidating trusts. SBC and Mr. Saccullo either have represented parties in appointments or have been appointed directly in roles such as plan administrator, liquidation agent, restructuring agent, trustee, or wind down officer in other cases of similar size and complexity to these Chapter 11 Cases.

Affiliations, Connections, or Actual or Potential Conflicts of Interests

Mr. Saccullo and SBC have no connections or relationships with the Debtors (beyond the appointment as Wind-Down Officer referred to above), the Office of the United States Trustee, or any creditors in this case and have no interest adverse to the Estate related to the matters to which the Liquidating Trustee is appointed. Neither Mr. Saccullo nor, to the best of his knowledge, any additional SBC personnel who may work on this matter, are related to any United States Bankruptcy Judge in the Southern District of New York or any employee of Judge Beckerman's chambers. Consequently, the Liquidating Trustee is disinterested as that term is defined in 11 U.S.C. § 101(14). Further details on SBC and Mr. Saccullo's connections search are set forth in the *Declaration of Anthony M. Saccullo in Support of Debtors' Motion for an Order Authorizing the Retention of Saccullo Business Consulting, LLC to Provide Anthony M. Saccullo as Wind-Down Officer and Additional Personnel Nunc Pro Tunc to July 5, 2022, and Granting Related Relief* [Docket No. 203-2].

Mr. Saccullo has reviewed the Liquidating Trust Agreement and agrees to abide by the terms of the Plan, the proposed Confirmation Order (when filed), and the Liquidating Trust Agreement.

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

² See *Order Authorizing the Retention of Saccullo Business Consulting, LLC to Provide Anthony M. Saccullo as Wind-Down Officer and Additional Personnel Nunc Pro Tunc to July 5, 2022, and Granting Related Relief* [Docket No. 235].

EXHIBIT C

Schedule of Retained Causes of Action

Schedule of Retained Causes of Action¹

This schedule represents a non-exhaustive list of the Retained Causes of Action in connection with the Plan (subject to the terms thereof). The Debtors expressly reserve the right to alter, modify, amend, remove, augment, or supplement this Schedule of Retained Causes of Action at any time in accordance with the Plan. If the Plan is not confirmed, no limitation will be created on claims and/or Causes of Action of the Debtor.

As defined in Section 1.112 of the Plan, "Retained Causes of Action" means all claims and Causes of Action that are not Circles Assigned Claims or CVG Assigned Claims.

As defined in Section 1.22 of the Plan, Circles Assigned Claims means all claims as defined and set forth in the Global Settlement and includes any and all claims and Causes of Action of any Debtor against (i) each corporate affiliate of the Debtors; (ii) the Independent Directors; (iii) Management; (iv) the Circles Transferred Employees; or (v) vendors or third-party providers of the Debtors (as of the Sale Closing) related to the MVNE Business, including such claims and Causes of Action arising under chapter 5 of the Bankruptcy Code, including, but not limited to, sections 510, 541, 544, 545, 547, 548, 549, 550, 553, or 558, or similar state laws, including any derivative claims asserted or assertable against any of the foregoing in *In re Pareteum Corporation Stockholder Derivative Litigation*, No. 1:20-cv-06264 (S.D.N.Y.) and *William Miller, derivatively on behalf of Pareteum Corp. v. Victor Bozzo*, No. 651381/2020 (N.Y. Sup. Ct., NY Cty.) (as consolidated).

As defined in Section 1.37 of the Plan, CVG Assigned Claims means all claims defined and set forth in the Global Settlement and includes all claims and Causes of Action of any Debtor against (i) each corporate affiliate of the Debtors, (ii) the CVG Transferred Employees (other than Management), and (iii) vendors and third-party providers of the Debtors (as of the Sale Closing) arising under chapter 5 of the Bankruptcy Code, including, but not limited to, sections 510, 541, 544, 545, 547, 548, 549, 550, 553, or 558, or similar state laws, related to the CVG Purchased Assets (as defined in the Purchase Agreement).

Retained Causes of Action shall include, but are not limited to:

- (i) Any Causes of Action now known or unknown that are not included as a Circles Assigned Claim or CVG Assigned Claim and/or not otherwise sold by the Debtors to Circles and CVG under the Purchase Agreement;
- (ii) Claims against Robert H. Turner, including but not limited to (a) breaches of fiduciary duty and negligence and (b) other claims resulting from Mr. Turner conduct in connection with the Debtors' perpetration improper recognition of revenue announced in October 2019 and (i) acting in his own

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the *Modified Chapter 11 Plan of Liquidation for Pareteum Corporation and Certain of its Affiliates*, filed on August 22, 2022 [Docket No. 299] (as may be amended, modified, and/or supplemented from time to time, the "Plan").

self-interest, refusing to tender his resignation from the Board of Directors of the Debtors after being terminated as an officer of the Debtors, (ii) taking advantage of faulty books and records of the Debtors, which were maintained under his control, and consequently making his removal from the Board of Directors virtually impossible, and (iii) abandoning any and all duties as a director to oversee the management of the Debtors despite his refusal to tender his resignation from the Board of Directors following his termination as an officer;

- (iii) The right to seek a determination by the Bankruptcy Court of any tax, fine, or penalty relating to a tax or any addition to a tax, under section 505 of the Bankruptcy Code;
- (iv) Any claim or right to recover or avoid transfers or to avoid liens under chapter 5 of the Bankruptcy Code or applicable state law or otherwise, including, but not limited to, sections 502, 506, 510, 522, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code, and the proceeds thereof, or otherwise to exercise the avoidance powers provided under the Bankruptcy Code, including any of the Debtors' or the Estates' claim, counterclaim, setoff, or offset rights, regardless of whether or not such action has been commenced prior to the Effective Date; and
- (v) Any interest, claim, or right to recover that the Debtors may have relating to the securities class action captioned as In re Pareteum Securities Litigation, Case No. 1:19-cv-09767 (AKH) (GWG) (the "Securities Litigation") asserts claims on behalf of purchasers and/or acquirers of Pareteum securities between December 14, 2017 and October 21, 2019, inclusive, against Pareteum, Robert H. Turner, Edward O'Donnell, Victor Bozzo, Denis McCarthy, Dawson James Securities Inc., and Squar Milner, for violations of Sections 10(b) and 20(a) the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder (17 C.F.R. §240.10b-5) and/or violations of Section 11, 12, and/or 15 of the Securities Act of 1933, as well as (i) Douglas Loskot v. Pareteum Corp. et al., 20-CIV-02279 (Cal. Super. Ct., San Mateo Cty.); (ii) Sabby Volatility Warrant Master Fund, Ltd. v. Pareteum Corp., et al., No. 19-cv-10460-AKH (S.D.N.Y.); (iii) In re Pareteum Corporation Stockholder Derivative Litigation, No. 1:20-cv-06264 (S.D.N.Y.); and (iv) In re Pareteum Shareholder Derivative Litigation 651381/2020 (N.Y. Sup. Ct., NY Cty.).

Pursuant to the Liquidation Trust Agreement, the Liquidation Trustee is authorized to evaluate, file, litigate, settle, or otherwise pursue the claims of the Estates, including without limitation, the Retained Causes of Action without further approval of the Bankruptcy Court or any other body.

No entity may rely on the absence of a specific reference in the Plan, the Plan Supplement (including this Schedule of Retained Causes of Action), the Disclosure Statement, or the Liquidation Trust Agreement to any Retained Causes of Action against it as any indication that the Liquidation Trustee will not, or may not, pursue any and all available Retained Causes of Action against it. The Liquidation Trustee

expressly reserves all rights to prosecute any and all and all Retained Causes of Action against any Entity.

Unless any Retained Causes of Action against an Entity is expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Bankruptcy Court order, the Debtor and, upon transfer of the Retained Causes of Action to the Liquidation Trust in accordance with the Plan, the Liquidation Trustee expressly reserves all Retained Causes of Action for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches shall apply to such Retained Causes of Action upon, after, or as consequence of, confirmation or consummation of the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Cause of Action constituting Liquidating Trust Assets that any Debtor may hold against any Entity shall vest in the Liquidation Trustee, except as otherwise provided for in the Plan.

Notwithstanding any of the foregoing, the Debtors reserve all rights to raise any defenses, including, but not limited to, those related to setoff or other offsets in connection with filed proofs of claim under applicable law, including, but not limited to, section 502(d) of the Bankruptcy Code until such time that the Debtor transfers such rights to the Liquidation Trustee pursuant to the Plan.

EXHIBIT D

Schedule of Assumed and Assigned Executory Contracts and Unexpired Leases

Schedule of Assumed and Assigned Executory Contracts and Unexpired Leases

Pursuant to Article VIII of the Plan,¹ the following Executory Contracts are to be assumed and assigned pursuant to the Plan:²

1. Those contracts set forth in Exhibit B to the *Notice of Designation By Channel Ventures Group, LLC of Executory Contracts for Assumption and Assignment* filed on August 8, 2022 [Docket No. 273].
2. Those contracts to be identified by Circles in an exhibit to a *Notice of Designation of Executory Contracts for Assumption and Assignment* to be filed by Circles.
3. Section 5.8 of the Plan provides the following as to insurance policies:
 - a. Nothing contained in the Plan shall diminish or impair the enforceability of any insurance policy, including the D&O Policies, that may cover claims against the Debtors or any additional insureds, including the directors and officers thereof.

¹ Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the *Modified Chapter 11 Plan of Liquidation for Pareteum Corporation and Certain of its Affiliates*, filed on August 22, 2022 [Docket No. 299] (as may be amended, modified, or supplemented from time to time, the "Plan").

² The Debtors expressly reserve the right to alter, modify, amend, remove, augment, or supplement this Schedule of Assumed and Assigned Executory Contracts and Unexpired Leases at any time in accordance with the Plan.