

THIS DISCLOSURE STATEMENT IS SUBJECT TO THE APPROVAL OF THE BANKRUPTCY COURT AND IS NOT A SOLICITATION OF ACCEPTANCES OR REJECTIONS OF THE PLAN. ACCEPTANCES OR REJECTIONS OF THE PLAN MAY NOT BE SOLICITED UNTIL THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re: :
: Chapter 11
CD LIQUIDATION CO., LLC f/k/a :
CYNERGY DATA, LLC, et al.,¹ : Case No. 09-13038 (KG)
: :
Debtors. : Jointly Administered

**DISCLOSURE STATEMENT WITH RESPECT TO JOINT PLAN OF LIQUIDATION
OF CD LIQUIDATION CO., LLC, CYNERGY DATA HOLDINGS, INC. AND CD
LIQUIDATION CO. PLUS, LLC**

IMPORTANT DATES

- Date by which Ballots must be received: December 14, 2010 at 5:00 p.m. (prevailing Eastern Time) (Unless the Plan Proponents extend this date prior to the deadline.)
- Deadline by which objections to Confirmation of the Plan must be Filed and served: December 14, 2010 at 5:00 p.m. (prevailing Eastern Time)
- Hearing on Confirmation of the Plan: December 21, 2010 at 3:30 p.m. (prevailing Eastern Time)

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¹ By its Order dated November 18, 2009, the Bankruptcy Court ordered that the captions in these jointly administered bankruptcy cases be changed to reflect changes to the corporate names of Cynergy Data, LLC and Cynergy Prosperity Plus, LLC agreed to as part of the sale of substantially all of their assets during these chapter 11 cases.

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Dated: September 27, 2010

Wilmington, DE

I. EXECUTIVE SUMMARY

On September 1, 2009 (the “Petition Date”), Cynergy Data, LLC (“CD”), its parent, Cynergy Data Holdings, Inc. (“Holdings”) and its subsidiary, Cynergy Prosperity Plus, LLC (“Prosperity” and together with CD and Holdings, the “Debtors”), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as amended (the “Bankruptcy Code”) in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). On September 10, 2009, the United States Trustee appointed an official committee of unsecured creditors (the “Committee”). No trustee or examiner has been appointed.

On September 27, 2010, the Debtors and the Committee (the “Plan Proponents”) filed with the Bankruptcy Court the Joint Plan of Liquidation (the “Plan”), which sets forth the manner in which Claims against and Interests in the Debtors will be paid and/or otherwise liquidated. This disclosure statement (the “Disclosure Statement”) describes certain aspects of the Plan, the Debtors’ operations, significant events occurring during their Chapter 11 Cases, and related matters. This Executive Summary is intended solely as a summary of the distribution provisions of the Plan and certain matters related to the Debtors’ businesses and is qualified in its entirety by the more detailed discussions and information appearing elsewhere in this Disclosure Statement and the Plan. **FOR A COMPLETE UNDERSTANDING OF THE PLAN, YOU SHOULD READ THIS DISCLOSURE STATEMENT, THE PLAN, AND THE EXHIBITS THERETO IN THEIR ENTIRETY.** All capitalized terms not defined in this Disclosure Statement have the meanings ascribed to such terms in the Plan.

THE DEBTORS’ HAVE APPROVED THE PLAN AND RECOMMEND THAT THE HOLDERS OF CLAIMS AND INTERESTS ENTITLED TO VOTE ON THE PLAN VOTE TO ACCEPT THE PLAN. THE COMMITTEE HAS ALSO APPROVED THE PLAN AND STRONGLY URGES THAT ALL HOLDERS OF CLAIMS VOTE TO ACCEPT THE PLAN.

A. Summary of Treatment of Claims and Interests under the Plan

Under the Plan, Claims against and Interests in the Debtors are divided into Classes. The estimated aggregate amount of Claims in each Class and the amount and nature of distributions to holders of Claims or Interests in each Class are summarized in the table below. All creditors and interest holders should review the Disclosure Statement, the Plan and any accompanying ballots to determine the classification of their claims.

The estimated amounts of Claims shown in the table below are based upon the Debtors’ ongoing review of Claims and the Debtors’ books and records. These amounts may be revised substantially following the completion of a detailed analysis of all filed Claims. The amount of any Disputed Claim that ultimately is allowed by the Bankruptcy Court may be significantly more or less than the estimated amount of such claim.

In addition, the Debtors’ estimates for recoveries by holders of Allowed Claims are based on the Debtors’ current view of (i) the likely amount of Allowed Administrative

Claims incurred by the Debtors through confirmation of the Plan. There can be no guaranty that the Debtors' estimates of Allowed Administrative Claims are accurate.

Each amount designated in the table below as "Estimated Percentage Recovery" for each Class is the quotient of the estimated Cash or other assets to be distributed to holders of Allowed Claims in such Class, divided by the estimated aggregate amount of Allowed Claims in such Class. Each of the estimated Cash or other assets and the estimated aggregate amount of Allowed Claims has been made in ranges with both low and high estimates. In determining such amount, the Debtors have assumed that the Plan is consummated as described herein.

Accordingly, for these and other reasons, while the Debtors believe the information reflected below is based on a reasonable estimate of percentage recoveries, no representation can be or is being made with respect to whether the estimated percentage recoveries shown in the table below will actually be realized by the Holders of Allowed Claims in any particular Class.

The Debtors' estates are being substantively consolidated or merged. The Plan is a single plan for CD, Holdings and Prosperity. There will, therefore, be a single Estate in which they have a Claim. To confirm the Plan, the Holders of Allowed Claims in Class 1 must vote to accept the Plan and the Court must approve the substantive consolidation or merger of the Debtors' Estates.

This summary is qualified in its entirety by reference to the provisions of the Plan, a copy of which attached as Appendix A to this Disclosure Statement.

Summary of Anticipated Distributions under the Plan

Class	Description	Estimated Allowed Amounts	Estimated Recovery	Status
N/A	Administrative Claims *	\$750,000	100%	Unclassified, not entitled to vote on the Plan
N/A	Tax Priority Claims	\$0.00	100%	Unclassified, not entitled to vote on the Plan
Class 1	Allowed Secured ** Claims of Senior First Lien Lenders against CD, Holdings or Prosperity	\$34,399,804.29 plus additional unliquidated amounts	0-5%	Impaired, entitled to vote on the Plan

Class	Description	Estimated Allowed Amounts	Estimated Recovery	Status
Class 2	Allowed Secured Claims of Prosperity Lenders against CD, Holdings or Prosperity	\$8,227,568.40 plus additional unliquidated amounts	0-5%	Impaired, entitled to vote on the Plan
Class 3	Allowed Secured Claims of Junior First Lien Lenders against CD, Holdings or Prosperity	\$27,333,126.34 plus additional unliquidated amounts	0-5%	Impaired, entitled to vote on the Plan
Class 4	Allowed Secured Claims of Second Lien Lenders against CD, Holdings or Prosperity	\$53,880,112.94 plus additional unliquidated amounts	0-5%	Impaired, entitled to vote on the Plan
Class 5	Allowed Other Secured Claims Against CD, Holdings or Prosperity	\$0.00	0-5%	Impaired, entitled to vote on the Plan
Class 6	Priority Claims Other Than Tax Priority Claims	\$193,000	0-5%	Impaired, entitled to vote on the Plan
Class 7	Allowed General Unsecured Claims Against CD, Holdings or Prosperity	\$1,168,600.04	0-5%	Impaired, entitled to vote on the Plan
Class 8	Allowed Interests in CD, Holdings or Prosperity	\$0.00	0%	Impaired, not entitled to vote on the Plan

* The amount of administrative claims that are ultimately allowed is subject to a dispute between ComVest and the Debtors relating to post closing adjustments. If ComVest prevails on all of its claims administrative claims would be increased by more than \$2.5 million dollars.

** Based upon Debtors cash on hand and available assets it is not expected that there will be any recovery below Class 1 other than from possible litigation recoveries.

For additional information regarding the classification of Claims set forth in the chart above, all creditors and interest holders should review this Disclosure Statement, the Plan and any accompanying Ballots.

DISCLAIMER

THIS DISCLOSURE STATEMENT AND ITS RELATED DOCUMENTS ARE THE ONLY DOCUMENTS AUTHORIZED BY THE BANKRUPTCY COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES ACCEPTING OR REJECTING THE PLAN. NO REPRESENTATIONS HAVE BEEN AUTHORIZED BY THE BANKRUPTCY COURT CONCERNING THE DEBTORS, THEIR BUSINESS OPERATIONS OR THE VALUE OF THEIR ASSETS, EXCEPT AS SPECIFICALLY SET FORTH IN THIS DISCLOSURE STATEMENT.

THIS DISCLOSURE STATEMENT HAS BEEN APPROVED BY THE BANKRUPTCY COURT AS CONTAINING ADEQUATE INFORMATION AS REQUIRED BY SECTION 1125 OF THE BANKRUPTCY CODE TO PERMIT AFFECTED CREDITORS TO MAKE AN INFORMED JUDGMENT IN EXERCISING THEIR RIGHT TO VOTE TO ACCEPT OR REJECT THE PLAN. THE BANKRUPTCY COURT, HOWEVER, HAS NOT CONDUCTED AN INDEPENDENT REVIEW OR INVESTIGATION OF THE FACTUAL AND FINANCIAL MATTERS DESCRIBED IN THIS DISCLOSURE STATEMENT NOR HAS IT APPROVED OR RULED UPON THE MERITS OF THE PLAN.

ALL CREDITORS AND INTEREST HOLDERS ARE ADVISED AND ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND THE PLAN IN THEIR ENTIRETY (INCLUDING ALL EXHIBITS) BEFORE TABULATION TO ACCEPT OR REJECT THE PLAN. PLAN SUMMARIES AND STATEMENTS MADE IN THIS DISCLOSURE STATEMENT, INCLUDING THE PRECEDING SUMMARY, ARE QUALIFIED IN THEIR ENTIRETY BY REFERENCE TO THE PLAN, OTHER EXHIBITS ANNEXED TO THE PLAN, AND THIS DISCLOSURE STATEMENT. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE ONLY AS OF THE DATE HEREOF, AND THERE CAN BE NO ASSURANCE THAT THE STATEMENTS CONTAINED HEREIN WILL BE CORRECT AT ANY TIME AFTER THE DATE HEREOF.

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND RULE 3016(c) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE AND NOT NECESSARILY IN ACCORDANCE WITH ANY FEDERAL OR STATE SECURITIES LAWS OR OTHER NON-BANKRUPTCY LAW. THIS DISCLOSURE STATEMENT WAS PREPARED TO PROVIDE HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS WITH "ADEQUATE INFORMATION" (AS DEFINED IN THE BANKRUPTCY CODE) SO THAT THEY CAN MAKE AN INFORMED JUDGMENT ABOUT THE PLAN. THIS DISCLOSURE STATEMENT HAS NEITHER BEEN APPROVED NOR DISAPPROVED BY

THE SECURITIES AND EXCHANGE COMMISSION (THE "SEC"), NOR HAS THE SEC PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN. PERSONS OR ENTITIES TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING SECURITIES OR CLAIMS OF ANY OF THE DEBTORS SHOULD EVALUATE THIS DISCLOSURE STATEMENT AND THE PLAN IN LIGHT OF THE PURPOSE FOR WHICH THEY WERE PREPARED.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT IS INCLUDED HEREIN FOR PURPOSES OF SOLICITING ACCEPTANCES AND REJECTIONS OF THE PLAN AND MAY NOT BE RELIED UPON FOR ANY PURPOSE OTHER THAN TO DETERMINE HOW TO VOTE ON THE PLAN. THIS DISCLOSURE STATEMENT SUMMARIZES CERTAIN PROVISIONS OF THE PLAN, STATUTORY PROVISIONS, DOCUMENTS RELATED TO THE PLAN, EXPECTED EVENTS IN THE DEBTORS' CHAPTER 11 CASES, AND FINANCIAL INFORMATION. ALTHOUGH THE DEBTORS BELIEVE THAT THE PLAN AND RELATED DOCUMENT SUMMARIES ARE FAIR AND ACCURATE, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS OR STATUTORY PROVISIONS. THE DESCRIPTIONS SET FORTH HEREIN OF THE ACTIONS, CONCLUSIONS, OR RECOMMENDATIONS OF THE DEBTORS OR ANY OTHER PARTY IN INTEREST HAVE BEEN SUBMITTED TO OR APPROVED BY SUCH PARTY, BUT NO SUCH PARTY MAKES ANY WARRANTY OR REPRESENTATION REGARDING SUCH DESCRIPTIONS, AND NEITHER WARRANTS NOR REPRESENTS THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT INACCURACY OR OMISSION.

NO PERSON MAY GIVE ANY INFORMATION OR MAKE ANY REPRESENTATIONS, OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DISCLOSURE STATEMENT, REGARDING THE PLAN OR THE SOLICITATION OF ACCEPTANCES AND REJECTIONS OF THE PLAN.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING THE INFORMATION REGARDING THE HISTORY, BUSINESS AND OPERATIONS OF THE DEBTORS AND THE HISTORICAL FINANCIAL INFORMATION REGARDING THE DEBTORS IS INCLUDED FOR PURPOSES OF SOLICITING ACCEPTANCES AND REJECTIONS OF THE PLAN BUT, AS TO CONTESTED MATTERS, ADVERSARY PROCEEDINGS, AND OTHER ACTIONS OR THREATENED ACTIONS, THIS DISCLOSURE STATEMENT SHALL NOT CONSTITUTE OR BE CONSTRUED AS AN ADMISSION OF ANY FACT OR LIABILITY, STIPULATION, OR WAIVER, OR BE DEEMED CONCLUSIVE ADVICE ON THE TAX OR OTHER LEGAL EFFECTS OF THE LIQUIDATION AS TO HOLDERS OF ALLOWED CLAIMS OR ALLOWED INTERESTS, BUT RATHER AS A STATEMENT MADE IN SETTLEMENT NEGOTIATIONS. YOU SHOULD CONSULT YOUR PERSONAL COUNSEL OR TAX ADVISOR ON ANY QUESTIONS OR CONCERNS RESPECTING TAX, SECURITIES, OR OTHER LEGAL CONSEQUENCES OF THE PLAN.

THIS DISCLOSURE STATEMENT SHALL NOT BE ADMISSIBLE IN ANY NON-BANKRUPTCY PROCEEDING INVOLVING THE DEBTORS OR ANY OTHER

PARTY. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, ALL INFORMATION CONTAINED HEREIN HAS BEEN PROVIDED BY THE DEBTORS.

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APPENDICES

Appendix A Joint Plan of Liquidation

Appendix B Order Approving the Disclosure Statement

II. INTRODUCTION

On September 1, 2009 (the “Petition Date”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Since the Petition Date, the Debtors i) sold to Cynergy Data Holdings, LLC (the “Purchaser”) substantially all of their operating business assets for \$81 Million in a sale that closed on October 26, 2009 (the “§363 Sale”), ii) have distributed the cash proceeds of that §363 Sale either a) into an escrow account (the “Cure Escrow Account”) to satisfy the allowed claims of executory contract counterparties who, in connection with the transfer of their contracts with the Debtors to the Purchaser, have the right to have all defaults under those contracts cured by the Debtors, or b) to satisfy loans made to the Debtors either during or prior to the Petition Date, iii) have engaged in an effort to sell any assets that were excluded from the §363 Sale, iv) have engaged in an effort to resolve any remaining disputes between them and any of their creditors, and v) now seek to distribute their remaining assets to a Liquidation Trust that will continue to liquidate the remaining assets, pursue litigation recoveries where appropriate, and resolve remaining disputes, all pursuant to the Plan. The Debtors hereby transmit this Disclosure Statement to holders of Claims against and Interests in the Debtors, pursuant to section 1125 of the Bankruptcy Code, for use in connection with (i) the solicitation of acceptances and rejections of the Plan filed with the Bankruptcy Court on September 27, 2010, and (ii) the hearing to consider confirmation of the Plan (the “Confirmation Hearing”) scheduled for December 21, 2010, at 3:30 p.m. (prevailing Eastern Time). A copy of the Plan is annexed to this Disclosure Statement as Appendix A.

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

FOR A DESCRIPTION OF THE PLAN AND VARIOUS RISK AND OTHER FACTORS PERTAINING TO THE PLAN AS IT RELATES TO CLAIMS AGAINST AND INTERESTS IN THE DEBTORS, PLEASE SEE ARTICLES V, VII AND VIII OF THIS DISCLOSURE STATEMENT.

THIS DISCLOSURE STATEMENT CONTAINS SUMMARIES OF CERTAIN PROVISIONS OF THE PLAN, CERTAIN DOCUMENTS RELATED TO THE PLAN, CERTAIN EVENTS IN THE CHAPTER 11 CASES, CERTAIN FINANCIAL INFORMATION AND CERTAIN CLAIMS AGAINST THE DEBTORS. ALTHOUGH THE DEBTORS BELIEVE THAT SUCH SUMMARIES ARE FAIR AND ACCURATE, SUCH SUMMARIES ARE QUALIFIED TO THE EXTENT THAT THEY DO NOT SET FORTH THE ENTIRE TEXT OF SUCH DOCUMENTS. FACTUAL INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT HAS BEEN PROVIDED BY THE DEBTORS’ MANAGEMENT, EXCEPT WHERE OTHERWISE SPECIFICALLY NOTED. THE DEBTORS DO NOT WARRANT OR REPRESENT THAT THE INFORMATION CONTAINED HEREIN, INCLUDING THE FINANCIAL INFORMATION, IS WITHOUT ANY MATERIAL INACCURACY OR OMISSION.

FOR THE CONVENIENCE OF HOLDERS OF CLAIMS AND INTERESTS, THIS DISCLOSURE STATEMENT SUMMARIZES THE TERMS OF THE PLAN, BUT THE PLAN ITSELF QUALIFIES ALL SUMMARIES. IF ANY INCONSISTENCY EXISTS BETWEEN THE PLAN AND THE DISCLOSURE STATEMENT, THE TERMS OF THE PLAN ARE CONTROLLING.

A. Definitions

Unless otherwise defined, capitalized terms used in this Disclosure Statement shall have the meanings ascribed to them in the Plan. All references in this Disclosure Statement to monetary figures refer to United States Currency.

B. Notice To Holders Of Claims

This Disclosure Statement is being transmitted to certain holders of Claims against the Debtors that are entitled under the Bankruptcy Code to vote on the Plan as well as to other parties in interest pursuant to prior orders entered by the Bankruptcy Court. The purpose of this Disclosure Statement is to provide adequate information to enable you, as the holder of a Claim against the Debtors, to make a reasonably informed decision with respect to the Plan prior to exercising your right to vote to accept or reject the Plan.

On November [], 2010, the Bankruptcy Court entered an order approving this Disclosure Statement (the “Disclosure Statement Order,” a copy of which is attached as Appendix B to this Disclosure Statement) as containing information of a kind and in sufficient and adequate detail to enable the holders of Claims against the Debtors to make an informed judgment with respect to acceptance or rejection of the Plan. THE BANKRUPTCY COURT’S APPROVAL OF THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE EITHER A GUARANTY OF THE ACCURACY OR COMPLETENESS OF THE INFORMATION CONTAINED HEREIN OR AN ENDORSEMENT OF THE PLAN BY THE BANKRUPTCY COURT.

WHEN AND IF CONFIRMED BY THE BANKRUPTCY COURT, THE PLAN WILL BIND ALL HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS WHETHER OR NOT THEY ARE ENTITLED TO VOTE OR DID VOTE ON THE PLAN AND WHETHER OR NOT THEY RECEIVE OR RETAIN ANY DISTRIBUTIONS OR PROPERTY UNDER THE PLAN. THUS, ALL HOLDERS OF CLAIMS AGAINST THE DEBTORS ARE ENCOURAGED TO READ THIS DISCLOSURE STATEMENT AND ITS APPENDICES CAREFULLY AND IN THEIR ENTIRETY BEFORE DECIDING TO VOTE EITHER TO ACCEPT OR TO REJECT THE PLAN. This Disclosure Statement contains important information about the Plan and considerations pertinent to acceptance or rejection of the Plan, and developments concerning the Chapter 11 Cases.

THIS DISCLOSURE STATEMENT AND THE ATTACHMENTS HERETO ARE THE ONLY DOCUMENTS AUTHORIZED BY THE BANKRUPTCY COURT TO BE USED IN CONNECTION WITH THE SOLICITATION OF VOTES ON THE PLAN. No solicitation of votes may be made except after distribution of this Disclosure Statement, and no

person has been authorized to distribute any information concerning the Debtors other than the information contained herein.

C. Solicitation Package

Accompanying this Disclosure Statement are copies of (i) the Plan, (ii) the notice of, among other things, (a) the time for submitting the ballot forms to accept or reject the Plan distributed with this Disclosure Statement to holders of Impaired Claims entitled to vote under Article II of the Plan in connection with the solicitation of acceptances of the Plan (the “Ballots”), (b) the date, time and place of the hearing to consider the confirmation of the Plan and related matters, and (c) the time for filing objections to the confirmation of the Plan (the “Confirmation Hearing Notice”), (iii) the Disclosure Statement Order, which, among other things, approves the Disclosure Statement and establishes certain procedures with respect to the solicitation and tabulation of votes to accept or to reject the Plan; and, (iv) if you are the holder of a Claim(s) entitled to vote on the Plan, one or more Ballots (and return envelopes) that you may use in Tabulation to accept or to reject the Plan. If you did not receive a Ballot in your package and believe that you should have, please contact Kurtzman Carson Consultants LLC (“KCC” or the “Tabulation Agent”) at the address or telephone number set forth in Article X.

D. Holders Of Claims and Interests Entitled To Vote

Pursuant to the provisions of the Bankruptcy Code, only holders of allowed claims or equity interests in classes of claims or equity interests that are impaired and that are in a class that will receive a distribution under the plan are entitled to vote to accept or reject a proposed chapter 11 plan. Classes of claims or equity interests in which the holders of claims or equity interests are unimpaired under a chapter 11 plan are deemed to have accepted the plan and are not entitled to vote to accept or reject the plan. Classes of claims or interests which receive no distribution on account of their claims or interests are deemed to have rejected the plan and are not entitled to vote to accept or reject the plan.

The Bankruptcy Code defines “acceptance” of a plan by a class of claims as acceptance by creditors in that class that hold at least two-thirds in dollar amount and more than one-half in number of the claims that cast ballots for acceptance or rejection of the plan. Acceptance of a plan by a class of interests requires acceptance by at least two-thirds of the number of shares in such class that cast ballots for acceptance or rejection of the plan.

E. Tabulation Procedures, Ballots, And Tabulation Deadline

After carefully reviewing the Plan, this Disclosure Statement, and the detailed instructions accompanying your Ballot, please indicate your acceptance or rejection of the Plan by Tabulation in favor of or against the Plan on the enclosed Ballot. Please complete and sign your original Ballot (copies will not be accepted) and return it in the envelope provided.

ALL HOLDERS OF CLAIMS SHOULD REFER TO ARTICLE IX.A OF THIS DISCLOSURE STATEMENT “TABULATION REQUIREMENTS” FOR DETAILED INFORMATION REGARDING TABULATION PROCEDURES.

F. Confirmation Hearing And Deadline For Objections To Confirmation

Pursuant to section 1128 of the Bankruptcy Code and Bankruptcy Rule 3017(c), the Bankruptcy Court has scheduled a hearing on confirmation of the Plan (the "Confirmation Hearing") to commence on December 21, 2010, at 3:30 p.m. (prevailing Eastern Time), or as soon thereafter as counsel may be heard, before Honorable Kevin Gross, United States Bankruptcy Judge, at the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 6th Floor, Wilmington, Delaware 19801. The Bankruptcy Court has directed that objections, if any, to confirmation of the Plan must be filed with the clerk of the Bankruptcy Court and served so that they are RECEIVED on or before December 14, 2010, at 5:00 p.m. (prevailing Eastern Time) by:

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The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice except for the announcement of the adjournment date made at the Confirmation Hearing or at any subsequent adjourned Confirmation Hearing.

IN THE PLAN PROPONENTS' VIEW, THE TREATMENT OF HOLDERS OF CLAIMS IN THE IMPAIRED CLASSES ELIGIBLE TO VOTE CONTEMPLATES A GREATER POTENTIAL RECOVERY FOR SUCH HOLDERS THAN WOULD BE AVAILABLE IN A CHAPTER 7 LIQUIDATION. ACCORDINGLY, THE PLAN PROPONENTS' BELIEVE THAT THE PLAN IS IN THE BEST INTERESTS OF HOLDERS OF CLAIMS IN SUCH CLASSES, AND RECOMMENDS THAT ALL HOLDERS OF CLAIMS IN THE IMPAIRED CLASSES ENTITLED TO DO SO, VOTE TO ACCEPT THE PLAN.

III. GENERAL INFORMATION

A. The Debtors and Their Business

CD was formed on October 4, 2007, as a Delaware limited liability company and is the successor by merger to C.P.S. Group, Inc., a New York corporation founded in 1994. It provided payment processing and related merchant services. For the twelve months ending May 2009, CD was responsible for processing approximately \$10.5 billion in credit card processing volume. The processing volume was delivered by approximately 80,000 merchants representing nearly 118,000 points of sale. CD generated its relationships with merchants either through its direct sales force or through independent sales organizations ("ISOs"). The primary agreement that set forth the terms and conditions that guide the relationship between CD and each of its merchants was a Merchant Processing Agreement (collectively the "Merchant Processing Agreements"), which is a tri-party agreement between CD, the merchant and CD's BIN Sponsor.

In transacting business, the purchaser of a product or service provides the merchant with a credit or debit card, which is swiped at a terminal into an electronic system or

key entered in the case of telephone or e-commerce transactions. The data supporting the proposed charge is then sent to the credit or debit card issuer through a front-end payment network, which in turn forwards the data through the applicable VISA, MasterCard, American Express or Discover Card network. The credit of the owner of the card is then verified by the issuing company and the charge authorized. With the assistance of a sponsoring bank (in the case of CD, Harris Bank, N.A. and Wells Fargo Bank, N.A.), the merchant receives payment from the credit card issuer through a back-end processor. The sponsor bank then pays commissions, fees and other charges to CD for each merchant charge. CD (unless it has a direct relationship with the merchant) pays a portion of the commission it earns to the ISO that arranged for the merchant to engage CD's services. The ISO, in turn, may forward a portion of the commissions it receives from CD to others who may have assisted it in locating, signing, and servicing the merchant ("Downlines").

All cash that came into CD on account of merchant processing services entered first through Harris N.A ("Harris"). There were three sources of cash receipts for CD: revenue from processing (the "Processing Revenue"), reserves (the "Reserves"), and merchant financing ("Merchant Financing"). These were all part of an account settlement process (the "Daily Recap") between Harris and CD.

Processing Revenue was CD's share of a credit card transaction. When a transaction occurs and is approved, the bank that issued the credit card is directed to send the transaction funds to the acquiring bank. For CD merchants, the acquiring bank was Harris. Harris then directs funds, net of CD's revenue, for approved transactions to the appropriate merchants. CD's revenue was then deposited by Harris into the Harris Corporate Checking account (the "Harris Checking Account"). Out of this revenue, fees such as interchange and dues and assessments were automatically paid by Harris to the appropriate associations.

Cynergy Data had two types of merchants, those that settled their accounts on a daily basis (the "Daily Settlement Merchants") and those that settled their accounts on a monthly basis (the "Monthly Settlement Merchants"). While interchange fees were paid by CD on a daily basis for transactions, only about thirty percent (30%) of CD's merchants were Daily Settlement Merchants. Therefore, the majority of CD's processing revenue was received on a monthly basis.

In June of 2009, CD's working capital was strained by having to "finance" the interchange costs for certain of the Monthly Settlement Merchants. As a result, Harris provided to CD an interchange financing program to cover any shortfall. The program is set up to fund the difference between CD's daily processing revenue and daily interchange costs (the "Interchange Costs"). Then, out of the monthly revenue, CD repaid to Harris the amount financed, with interest on such amount pursuant to agreement. Because daily Interchange Costs always exceed the amount of daily revenue coming in, CD only received cash from processing revenue at the time of the monthly settlement (the "Monthly Settlement"), which occurred on or about the fifth business day of each month, for the prior month's processing activity. Aside from automatically deducting the amounts due under the interchange financing from the Monthly Settlement, certain CD processing vendors were paid automatically by Harris out of CD's Monthly Settlement.

When a chargeback or reject occurred, the reverse process happened. CD kept its revenue from the initial transaction, but it also refunded the net transaction cost to the issuing bank automatically from the Harris Checking Account (the “Chargebacks and Rejects”). It was then incumbent upon CD to obtain reimbursement or pay the funds from the respective merchant(s). CD gets hundreds of such Chargebacks and Rejects daily and there was usually a significant lag in addressing them. Debit card revenue also flows through the Daily Recap and the Harris Checking Account. Debit card funds are sent to the merchant from this account and then CD obtained reimbursement from the issuing bank network.

CD had several types of reserve accounts including: the Questionable Merchant (“QM”) reserves, the Executive Partner (“EP”) reserves and the merchant rolling reserves (“MR”). CD’s risk management system evaluated transaction details. If certain parameters were exceeded, the risk management system would direct Harris to divert merchant transaction funds into the Harris QM account. If the transactions were deemed valid, the funds were issued from the Harris Checking Account. The Harris Checking Account subsequently was replenished through a transfer of funds from the QM account. If the transactions were deemed fraudulent, the funds remained in the QM account and were available to set-off future losses related to that merchant. The EP reserves and MR reserves were for “riskier” merchants (merchants with a higher likelihood of, among other things, chargebacks and returns) and were meant to offset potential future losses due to transactions with those merchants. These reserves come through the Daily Recap with the Processing Revenue, and into the Harris Checking Account. EP reserve accounts were set up at Comerica Bank and were for the benefit of specific ISO’s characterized as executive partners.

The MR reserves were not segregated and remained commingled with CD’s operating funds, which were manually transferred from Harris to Comerica Bank (“Comerica”) on an as-required basis. When a merchant ended its processing relationship with CD, or negotiated a lower reserve balance, the MR reserves were released from CD’s checking account at Comerica or from Harris.

CD also offered its merchants a cash advance program through its wholly owned, subsidiary, Prosperity. Prosperity loaned funds to CD merchants (the “Merchant-Financed Companies”) and Prosperity recouped these funds through CD’s access to the merchants’ daily revenue and paid the third-party financed companies daily (on a four day lag). These funds ultimately were disbursed from CD’s operating account at Comerica.

As of the Petition Date, in connection with its cash management system, CD had certain outstanding prepetition obligations relating to the QM reserve, the EP reserve, the MR reserve, Interchange Costs, Chargebacks and Rejects, ISO Commissions (defined below), obligations to Harris, obligations to ISOs, obligations to Merchants and obligations to the Merchant Financing Companies (collectively the “Operating Obligations”). In order to maintain regular relationships with its Merchants and ISOs that formed the basis of CD’s business and the value to be realized in the chapter 11 cases, CD needed, in connection with maintaining its cash management system, continue to satisfy, postpetition, the Operating Obligations. Any interference with the regular processing of such obligations would have severely harmed the value of CD’s assets and jeopardize its ability to realize that value for its creditors.

For example, the ISOs form a critical link in the Debtors' business operation. The ISOs are independent sales organizations that provide Merchants to the Debtors. The ISOs can grow the Debtors' business by delivering additional Merchants to the Debtors. The ISOs also have direct and strong relationships with the Merchants who use the Debtors' services, and can use that relationship to encourage Merchants to terminate their relationship with the Debtors.

When CD received its monthly revenue on or about the fifth day of each month, a portion was payable to the ISOs ("ISO Commissions"). The ISO Commissions represented a share of the commissions earned by CD on every Merchant sale. The ISOs were wholly dependent on the steady stream of commissions to fund their operations and a failure to pay those ISO commissions to the ISOs would likely cause the ISOs great harm. In this sense, the ISOs were very similar to CD's employee wage earners who also depended on a regular payment from CD. The ISO Commissions were paid on or about the twentieth of each month in satisfaction of the previous months' earned ISO Commissions, and a failure to pay those commissions on a monthly basis at the beginning of the chapter 11 cases and prior to a sale of CD's assets was believed by CD to risk substantial harm to the Debtors' assets, their business, jeopardize the proposed sale of the Debtors' interest in, among other things, the Debtors' Merchant Processing Agreements and otherwise be harmful to the prospects of a successful chapter 11 process and benefit to the estate.

As of the Petition Date, the ISOs had earned commissions for the month of August that was due, in the ordinary course on or about September 20, 2009. As of the Petition Date, it was estimated that the outstanding and unpaid ISO Commissions for August 2009 were approximately \$7,200,000.00. The Debtors believed that through the Monthly Settlement received on or about September 5, 2009 in combination with anticipated post-petition borrowings, they would have sufficient funds to satisfy the August 2009 ISO Commissions. It further was anticipated, at that time, that most if not all of the Debtors' contracts with the ISOs would be assumed as part of the sale process and assigned to the Purchaser of the Debtors' assets. Therefore, the current payment of the ISO Commissions would not result in payment to the ISOs of any more than the ISOs would otherwise receive once the sale process was completed.

The ISOs' were an essential component to the Debtors' operations and maintaining those relationships were vital to maximizing value in the proposed sale process. All of the ISO Commissions proposed to be paid just after the filing of the chapter 11 cases were those due for the month of August 2009. CD sought to pay the outstanding amounts owed as of the Petition Date for accrued and unpaid ISO Commissions in accordance with the Debtors' cash management system.

CD also had developed a virtual merchant application system, or VIMAS®, which is a proprietary software platform that allows merchants to easily and securely track their CD accounts online. It also provides independent sales agents with the means to simplify their business management. VIMAS® serves as the technological nucleus of all CD product and service developments. VIMAS® served as a key differentiator between CD and its competitors in the payment processing business.

B. The Debtors' Capital and Debt Structure

CD is a wholly-owned subsidiary of Holdings. Marcelo Paladini, Andres Ordonez and Gustavo Ceballos (the "Shareholders") own all of the issued and outstanding shares of Holdings. Holdings has no business operations of its own. Its only asset is 100% of the member interests of CD. CD owns 100% of the member interests of Prosperity.

CD is the borrower under that certain Amended and Restated Credit Agreement, dated as of August 1, 2008 (the "Senior Credit Facility"), among CD, the Lenders party thereto from time to time, and Comerica Bank, as Agent (the "First Lien Agent"). As of the Petition Date, CD owed approximately \$39,820,470 under Term Loan A of the Senior Credit Facility (held by the "Senior First Lien Lenders") and approximately \$27,333,126 under Term Loan B of the Senior Credit Facility (held by the "Junior First Lien Lenders"). Under the terms of an intercreditor agreement, the Term Loan B portion of the Senior Credit Facility is contractually subordinated to the Term Loan A portion. In addition, CD is the borrower under that certain Financing Agreement, dated as of November 15, 2007 (the "Junior Credit Facility"), among CD, the Lenders party thereto from time to time (the "Junior Lenders"), and Dymas Funding Company, LLC, as Agent ("Second Lien Agent"). As of the Petition Date, CD owed approximately \$53,424,000 under the Junior Credit Facility. On July 24, 2009, the Debtors entered into a Forbearance Agreement in connection with the Senior Credit Facility (which is further explained below); the lenders under Junior Credit Facility were not party to this Forbearance Agreement.

Both the Senior Credit Facility and the Junior Credit Facility were guaranteed by Holdings and Prosperity, and each such facility was secured by a lien on and a security interest in all assets of the Debtors (the first priority lien in the case of the Senior Credit Facility and the second priority lien in the case of the Junior Credit Facility). Up to \$10,000,000 of the Senior Credit Facility was also guaranteed by Marcelo Paladini, the largest shareholder in Holdings. In addition, the Second Lien Agent holds a warrant for membership interests in CD, and the First Lien Agent holds a pledge of all of the outstanding equity interests in Holdings.

By a separate Credit Agreement, dated as of September 20, 2007, Comerica Bank, as Agent, and each of the Lenders thereunder, loaned money to Prosperity secured by all of that entity's assets and guaranteed by CD. As of the Petition Date, CD owed approximately \$9,050,000 under the Credit Facility.

One of CD's sponsor banks, Harris Bank, directs transaction funds to CD's merchants, pays certain fees and expenses to itself and to others on CD's and its merchants' behalf, remits daily and monthly revenue to CD, and maintains certain reserves at CD's and CD's merchants' direction. CD and Harris Bank are parties to that certain BIN Sponsorship Agreement dated November 1, 2008 ("BIN Agreement") which, among other things, sets for the terms and conditions under which CD may operate as an ISO pursuant to Visa and MasterCard rules, and further describes the responsibilities and duties of each party. During due diligence discussions and negotiations of the Forbearance Agreement, In mid-July, 2009, Harris Bank realized that a certain reserve account at Harris Bank may have been underfunded. As a pre-condition to not exercising its rights of set-off pursuant to its agreement with CD, and to avoid having to precipitously file a chapter 11 case to stay the threatened setoff, CD proposed that

Harris and the Senior Lenders enter into a forbearance agreement that would allow CD to prepare for an orderly chapter 11 process after identifying a prospect to acquire some or all of CD's assets should a chapter 11 process be necessary in order to effectuate such a transaction.

On July 24, 2009, the Debtors entered into a Forbearance Agreement with its Senior Lenders and Harris Bank. This allowed the Senior Lenders to advance an additional \$9 million in the form of a senior secured revolving credit facility so that CD could continue to operate its business, preserve enterprise value, and find a suitable buyer for its assets. As of the Petition Date, approximately \$9,000,000 of this revolving credit facility remained outstanding.

C. Events Leading to Chapter 11

During 2007, the Debtors acquired the assets of Abanco International for \$36.5 million and acquired the outstanding equity shares of John Martillo, the co-founder and one of its then shareholders, for \$46.5 million. The funds to accomplish both of these transactions were provided by the lenders under the Senior Credit Facility and the Junior Credit Facility. Also during 2007, certain shareholders took out loans from CD that remain outstanding.

During 2007 and 2008, however, certain errors were made in the internal accounting and financial reporting of the Debtors that had the effect of misstating certain revenues and expenses. These errors were uncovered in March 2009, when CD was already severely impacted by the economic downturn.

At CD's request, FTI Consulting, Inc. ("FTI") investigated these errors and recommended restating the financial results for 2007 and 2008, which resulted in a substantial reduction in EBITDA (Earnings before Interest, Taxes, Depreciation, and Amortization) and net income. As a result, the Debtors embarked on a process to identify possible transactions that would allow them to recapitalize their balance sheets or to sell their assets as a going concern at an advantageous price. To assist them in doing so, CD engaged Charles M. Moore of CM&D Management Services LLC ("CM&D") as its Chief Restructuring Officer ("CRO"), The Strawhecker Group ("TSG") to conduct a Value Assessment of the CD portfolio of Merchants and enterprise, and Unicorn Partners as an industry expert and to provide the services of Dean M. Leavitt as Interim President. In addition, CD also engaged Stifel, Nicolaus & Company, Incorporated ("Stifel, Nicolaus") and Peter J. Solomon Company L.P. and Peter J. Solomon Securities LLC ("PJSC") as their financial advisors, to provide investment banking services in conducting an organized process intended to identify the best financial transaction possible for the Debtors. Unicorn Partners, Stifel, and PJSC had been retained since December 2008.

Among the efforts undertaken by the Debtors' management in the period leading up to the Bankruptcy, the Debtors' management, along with Stifel, Nicolaus and PJSC, took a number of steps to explore a possible sale of the Debtors' assets. Specifically, the Debtors, with the advice of Stifel, Nicolaus and PJSC (i) assembled a comprehensive data room; (ii) prepared a "teaser" of the Debtors' businesses and the parameters of a possible sale process that would be sent to all interested parties prior to execution of a confidentiality agreement; (iii) prepared a business presentation primer for delivery to parties that execute a confidentiality agreement; and (iv) utilized the extensive resources of Stifel, Nicolaus, PJSC and company management to contact a targeted group of forty-eight parties to determine potential interest in the assets and

certain related liabilities. Among this identified group were thirty-three strategic parties with an existing, complementary business and the financial wherewithal to support such an acquisition and fifteen financial parties with an identified interest in the operating business of the Debtor and sufficient capital to support a transaction. In addition, the Debtors' management, Stifel, Nicolaus and PJSC identified a further universe of additional strategic and financial potential buyers in connection with the Debtors' prepetition marketing efforts. As a result of these efforts, as of the date of the Bankruptcy filing, the Debtors have circulated twenty-seven confidentiality agreements and received executed agreements from twenty-four interested parties, all of whom were invited to review the Debtors' detailed data room. From this group of interested parties, the Debtors received initial bids from eight potential acquirers. The Debtors' management, with the advice of Stifel, Nicolaus and PJSC selected three potential acquirers who performed final due diligence and with whom the Debtors negotiated over terms of a possible purchase of the subject assets. All three of these potential purchasers submitted final offers and a marked up asset purchase agreement.. All three expressed strong interest in the assets and have engaged in detailed negotiations with the Debtors, Stifel, Nicolaus and PJSC. As a result of these marketing efforts an Asset Purchase Agreement (the "APA") was finalized and signed on August 26, 2009 with Cynergy Holdings, LLC, an affiliate formed for this purpose by the ComVest Group ("ComVest").

There were extensive negotiations between the Debtors and ComVest. The Debtors and ComVest were not related parties and had not engaged in any collusion in relation to the proposed sale. ComVest was not an insider of the Debtors, and no insiders of the Debtors participated in or held any interest in ComVest. In connection with the sale process, the Debtors had consulted with their advisers, evaluated their strategic alternatives and acted with the intent of obtaining the best result possible for their estates, both in maximizing value and in reaching a result that best fits the Debtors' financial and business needs. The First Lien Agent and the Second Lien Agent, by and through their counsel and on behalf of their constituents, had also been actively involved in the negotiations of APA with ComVest and their input had been incorporated in the APA and the sale and bid procedures for which the Debtors sought authority from the Court.

In recognition of the benefit to the estates provided by the Purchaser entering into the APA and serving as a floor against which other interested parties may submit higher and better bids, the Debtors agreed to pay the Break-Up Fee and Expense Reimbursement to the Purchaser as described in the APA. The Debtors believed it was appropriate and reasonable to compensate the Purchaser for undertaking the efforts and expenditures to negotiate the APA, establish a "floor" bid for the Transferred Assets, and establish the terms for the sale and assignment of the Debtors' assets in the event a sale was made to another purchaser, and believed that extending the bid protections to the Purchaser as set for the in the APA was an exercise of sound business judgment and provided a substantial benefit to the estates and creditors.

IV. EVENTS DURING THE CHAPTER 11 CASES

A. Commencement of the Chapter 11 Cases

On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code for the purpose of effecting the sale contemplated by the APA. The Debtors continued to operate their business and manage their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

At the time of the filing of the chapter 11 cases, the Debtors owed the following amounts:

Cynergy Data, LLC	
Amounts Owed to Constituencies (9/1/09)	
Secured Claims:	
Forbearance Agreement Working Capital Loan	\$9,059,439.14
Term Loan A	\$21,415,166.16
Revolver	\$18,055,684.53
Harris Financing	\$7,191,248.48
Prosperity Loan	\$9,371,124.90
Term Loan B	\$27,333,126.34
Term Loan C	\$53,880,112.94
Swap Agreement	\$2,132,637.55
Total Secured Claims	\$148,438,540.04
Unsecured Priority Claims	\$193,992.72
Unsecured Non-Priority Claims	\$30,238,839.39

By their chapter 11 cases, the Debtors hoped to gain Court approval of the APA in the context of an auction sale pursuant to Section 363 of the Bankruptcy Code. ComVest had agreed to act as the stalking horse pursuant to the terms of the APA. The APA contemplated a sale of substantially all of the Debtors' assets (the "Transferred Assets") and certain assumed liabilities and contains certain bid protections that were a necessary inducement to ComVest's willingness to act as a stalking horse in these cases. The Debtors sought approval of those bid protections in the context of the sale process. The proposed sale of the Transferred Assets was determined by the Debtors to be in the best interest of the Debtors' estates. The Debtors, in consultation with their professionals, including Stifel Nicolaus and PJSC, determined that the proceeds from the proposed sale, or from any subsequent higher or better offer, of the Transferred Assets would exceed the proceeds realized through a liquidation and a liquidation process would undoubtedly take longer to accomplish and the Debtors' estates would likely incur unpredictable costs in consummating a liquidation. Moreover, the Debtors' believes that the real value in the Transferred Assets was as a going concern preserving the critical relationships between the Debtors, the ISOs, Downlines and merchants. They believed that a piecemeal liquidation would never capture that essential value and that the best way to maximize value for the Debtors' estates was in maintaining the Debtors' business as a going concern pending a Section 363.

In order to preserve and maximize value for the estates during the postpetition period and in contemplation of the sale process, the Debtors sought authority to enter into a Debtor In Possession Credit Facility (“DIP Credit Facility”) that would allow them to address their cash flow needs and, thereby, to continue to make commission payments to their ISOs and Downlines in a timely manner. The DIP Credit Facility would also allow the Debtors to continue their business and maintain its value as a going concern while minimizing the risk that merchants might seek to terminate their existing contractual agreements with the Debtors or that ISOs might seek to move merchants’ accounts to the Debtors’ competitors. Either of these actions would have had a devastating impact on the Debtors’ business, the proposed sale process and the value for all stakeholders.

The Debtors’ vision for their chapter 11 cases was that once the Debtors’ business had been stabilized with the help of the DIP Credit Facility, the Debtors would continue to pursue the §363 Sale. Thereafter, they expected that any remaining assets would be liquidated either during the chapter 11 cases or pursuant to a liquidating trust put in place via a chapter 11 plan and negotiated with the major stakeholders.

B. Continuation of Business; Stay of Litigation

From and after the Petition Date, the Debtors remained as debtors-in-possession subject to the supervision of the Bankruptcy Court and in accordance with the Bankruptcy Code. As debtors-in-possession, the Debtors were authorized to operate their businesses in the ordinary course of business, with transactions out of the ordinary course of business requiring Bankruptcy Court approval.

C. First Day Orders

To further their objectives of stabilizing their business operations to maintain its going concern value and to pursue a sale of that business through the APA or pursuant to a higher and better offer, the Debtors filed the following first day applications and motions all of which were subsequently approved by the Bankruptcy Court:

- Joint Administration: Motion of Debtors for Entry of Order Directing Joint Administration of Chapter 11 Cases Pursuant to Fed. R. Bankr. P. 1015(b);
- Cash Management: Debtors’ Motion For Interim Order Under 11 U.S.C. §§ 105(A), 345, 363, 364, and 503(B)(1) Authorizing (A) Continued Maintenance of Existing Bank Accounts; (B) Continued Use of Existing Business Forms; (C) Continued Use of Existing Cash Management System; (D) Continued Payment of ISOs and Merchants In Accordance With Customary Practice; (E) Waiver of Certain Guidelines Relating to Bank Accounts; and (F) Scheduling a Final Hearing;
- Schedules and Statements of Financial Affairs: Debtors’ Motion for an Order Under Bankruptcy Rules 1007(A)(5) and 1007(C) and Local Rule 1007-1(B) Granting The Debtors Additional Time to File Schedules of Assets and Liabilities and Statements of Financial Affairs;

- Debtors' Counsel: Application for Order Pursuant to 11 U.S.C. §§ 327(A) and 329 and Bankruptcy Rules 2014 and 2016 Authorizing the Employment and Retention of Nixon Peabody LLP as Counsel for the Debtors;
- Chief Restructuring Officer: Application of Debtors Pursuant To 11 U.S.C. § 363 for Entry of an Order Authorizing the Employment of CM&D Management Services, LLC Nunc Pro Tunc to the Petition Date and the Appointment of Charles M. Moore of CM&D Management Services, LLC as Chief Restructuring Officer Nunc Pro Tunc to the Petition Date;
- Investment Bankers: Application for Order Pursuant to 11 U.S.C. §§ 327(A) and 329 and Bankruptcy Rules 2014 and 2016 Authorizing the Employment and Retention of Stifel, Nicolaus & Company, Incorporated And Peter J. Solomon Securities Company, LLC as Advisers to the Debtors;
- Noticing Agent: Debtors' Application for (A) Authorization to Employ and Retain Kurtzman Carson Consultants LLC as Claims, Noticing, Solicitation, Balloting, and Tabulation Agent for the Debtors, and (B) Appointment of Kurtzman Carson Consultants LLC as Agent of the Bankruptcy Court;
- Industry Advisor: Application for Order Pursuant to 11 U.S.C. §§ 327(A) and 329 and Bankruptcy Rules 2014 and 2016 Authorizing the Employment and Retention of Unicorn Partners, LLC as Advisers to the Debtors;
- Debtors' Delaware Counsel: Application for Order Pursuant to 11 U.S.C. §§ 327(A) and 329 and Bankruptcy Rules 2014 and 2016 Authorizing the Employment and Retention of Pepper Hamilton LLP as Counsel for the Debtors;
- Interim Compensation: Debtors' Motion for an Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals and Committee Members;
- Insurance Policies: Debtors' Motion for Order Under Bankruptcy Code Sections 105, 361, 362, 363, 1107(A) and 1108 Authorizing Debtors to Maintain Existing Insurance Policies and Pay all Policy Premiums and Brokers' Fees Arising Thereunder or in Connection Therewith;
- Taxes: Motion of Debtors for Entry of Order Pursuant to 11 U.S.C. §§ 363(B), 507(A)(8), 541, and 105(A), Authorizing Debtors to Pay Prepetition Taxes and Assessments;
- Wages: Debtors' Motion for Order Under Bankruptcy Code Sections 105, 363(B), 507(A), 541, 1107(A) and 1108, Authorizing, but not Directing, Debtors, Inter Alia, to Pay Prepetition Wages, Commissions, Compensation, and Employee Benefits;
- Rejection of Executory Contracts: Debtors' Motion for Order Under 11 U.S.C. §§ 105(A) and 365(A) and Fed. R. Bankr. P. 6006 Authorizing Rejection of Unexpired

Leases Of Nonresidential Real Property and Other Unexpired Leases and Executory Contracts;

- DIP Credit Facility: Motion of the Debtors for Interim and Final Orders (I) Authorizing Use of Cash Collateral, (II) Authorizing Postpetition Financing, (III) Granting Senior Priming Liens and Superpriority Claims, (IV) Granting Adequate Protection to The Prepetition Secured Parties, And (V) Scheduling A Final Hearing to Incur Such Financing on a Permanent Basis;
- Utilities: Motion Determining Adequate Assurance of Payment for Future Utility Services; and
- Bid Procedures: Debtors' Motion For an Order Pursuant to Sections 105, 363, 365, 503 and 507 of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006, 9007 and 9014 (I)(A) Authorizing And Scheduling an Auction at Which the Debtors Will Solicit Higher and Better Offers in Connection With the Sale of Certain Assets, (B) Approving the Bid Procedures for Such Assets, (C) Approving Break-Up Fee and Expense Reimbursement and (D) Approving The Form and Scope Of Notice Of The Bid Procedures and Auction; (II) Approving The Sale of the Assets Free and Clear of All Liens, Claims, and Encumbrances; (III) Approving Procedures for Assumption and Assignment of Certain Executory Contracts and Unexpired Leases; and (IV) Granting Related Relief as Requested Herein.

D. Appointment of Committee

On September 10, 2009, the United States Trustee for the District of Delaware appointed the Committee pursuant to section 1102(a) of the Bankruptcy Code. The Committee was initially comprised of the following entities:

Jeremy Johnson
Iworks, Inc.
249 East Tabernacle Street, #200
St. George, Utah 84770

Lester Fernandes
Pivotal Payments, Inc.
200 Broadhollow Road, Suite 207
Melville, New York 11747

Timothy Woods
i-Fortuity, LLC
2510 West Dunlap Avenue, #440
Phoenix, Arizona 85021

Sam Chanin
Tribul Merchant Services, LLC
55 Broad Street, 2nd Floor
New York, New York 10004

Dan Price
Gravity Payments, Inc.
1434 Elliott Avenue West, Suite C
Seattle, Washington 98119

The Committee has engaged, all with approval from the Bankruptcy Court, the services of Jager Smith P.C. as its counsel, Ashby & Geddes, P.A. is its Delaware counsel, and Deloitte Financial Advisory Services LLP as its Financial Advisor.

E. Sale of the Debtors' Business Assets and Cure Objections

1. Sale of The Debtors' Business Assets

As previously discussed, the Debtors along with their professionals and with the consent of their Senior Lenders had engaged in a process to identify the best terms for a sale of substantially all of their assets and, in that process, had identified ComVest ("Purchaser") as proposing the best terms. Accordingly, the Debtors had entered into the APA and, after the filing of the Chapter 11 cases sought authority from the Bankruptcy Court to proceed with the §363 Sale. After the Bankruptcy Court approved the Bidding Procedures for such a §363 Sale, the Debtors, Stifel, Nicolaus and PJSC continued their marketing efforts to see if a higher and better bid could be obtained. While several parties explored making a further offer, none was determined to be higher and better than that embodied in the APA. As a result, and pursuant to Section 363 of the Bankruptcy Code, by its Order dated October 9, 2009, the Bankruptcy Court approved the §363 Sale and the §363 Sale closed on October 26, 2009 (the "Sale Order"). With that closing, and in accordance with the Bankruptcy Court's October 9, 2009 order approving the §363 Sale, the Debtors established the Cure Escrow Account into which was deposited \$38 Million from the cash proceeds of the §363 Sale.

The following table illustrates the results of the §363 Sale:

Sale Proceeds:	\$81,000,000.00
Cash Use of Proceeds:	
Cure Escrow	\$38,000,000.00
Harris DIP & Legal	\$4,945,117.09
Bodman (Term A Lenders' Counsel)	\$160,000.00
Comerica Agent Fees (Term A Agent)	\$25,000.00
Facility Fee Revolver - Comerica	\$30,180.02
Facility Fee Revolver – Wells	\$23,107.48
DIP Loan Interest Comerica	\$33,289.89
DIP Loan Interest Wells	\$36,115.33

DIP Loan Principal Comerica	\$4,570,437.32
DIP Loan Principal Wells	\$4,958,348.92
Revolver Interest Comerica	\$289,208.90
Revolver Interest Wells	\$221,434.13
Term Loan A Interest Comerica	\$262,177.81
Term Loan A InterestWels	\$376,692.24
Projected Transaction Fees	\$3,398,000.00
Accrued Professional Fees	\$2,123,000.00
Revolver Principal Comerica	\$1,395,807.90
Revolver Principal Wells	\$1,068,706.75
Term Loan Principal CMA	\$1,265,347.79
Term Loan Principal Wells	\$1,818,028.43
Prosperity Plus	\$2,000,000.00
Total Cash Use of Proceeds	\$67,000,000.00
Sub-Debt Consideration	\$14,000,000.00
Total Use of Proceeds	\$81,000,000.00

2. Cure Objections and The Sale Escrow

Prior to entry of the Sale Order on October 9, 2009, the Debtor filed and served a Cure Notice that identified the amount of money, if any, that would be required to be paid to or for the account of a contract counterparty in connection with the assumption by the Debtors and their assignment of such executory contract to the Purchaser pursuant to the §363 Sale. That Cure Notice included contacts with vendors, with ISOs, with merchants, and the BIN Sponsor Agreement with Harris Bank, N.A. In response to the Cure Notice, a number of contract counterparties as well as the Junior First Lien Lenders, filed objections to the Cure Amount listed in the Cure Notice. Pursuant to the Sale Order, the Cure Escrow Account was established and the proper amount of cure payments, if any, needed to resolve an objection to the Cure Amount as reflected in the Cure Notice, will be paid from the Cure Escrow Account.

Since the closing of the §363 Sale, the Debtors have endeavored to resolve all Cure Objections.

The most significant dispute regarding the Cure Notice was the Objection filed by the Junior First Lien Lenders. They assert that the Debtors are under no obligation to fund by way of cure any previously unfunded MR. In contrast, Harris Bank, N.A. in connection with the assumption and assignment of its BIN Sponsor Agreement, as well as several Merchants in connection with the assumption and assignment of their Merchant Processing Agreements, and ISOs in connection with the assumption and assignment of their EP Agreements, asserted that the Debtors use of the MRs in connection with their pre-petition operation of their business was a default that now must be cured by turning over to Harris Bank, N.A. such funds as are necessary to fully fund the MRs. The Debtors notified each of its Merchants with a MR and Harris Bank, N.A., that the Junior First Lien Lenders had filed an objection to their payment of any funds to Harris Bank, N.A. on account of the MRs. The amount of money that would be necessary to do so at that time was \$19,295,791.09. Such amount was included in the \$38 Million deposited into the Cure Escrow Account. A hearing to resolve the dispute was originally scheduled to take

place shortly after the Sale Order was entered; however, while discovery has taken place that hearing has been repeatedly continued and was scheduled to take place on May 6 and 7, 2010. Prior to that date a settlement of the dispute was reached and embodied in a Settlement Term Sheet. In the interim, an arrangement was agreed upon and approved by the court that would allow Harris Bank, N.A. access to the funds set aside in the Cure Escrow Account to satisfy ongoing MR reserve transactions as a result of post-Closing activity between the merchant and the Purchaser.

To approve the Settlement Term Sheet, the Debtors filed a Motion for Entry of an Order Approving, Pursuant to Section 105(a) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 9019, the Stipulation and Order Between and Among the Debtors, Harris N.A., Moneris Solutions, Inc., Term B Parties and Second Lien Parties, Term A Parties, Cynergy Holdings, LLC and Cynergy Data, LLC Regarding Reconciliation of Amounts Related to the Rolling Reserve Funds and for Certain Related Relief, docketed as #863. The Bankruptcy Court approved the Settlement Term Sheet by its order dated September 13, 2010.

In accordance with the Settlement Term Sheet, all of the MR reserves were fixed as of the date of the Closing of the §363 Sale, i.e. as of October 26, 2009, and the funds necessary to fund the MR reserves as of that date, accounting for distributions that had been made to Harris Bank, N.A., were taken out of the Cure Escrow Account and deposited into a Settlement Escrow Account.

F. Postpetition Financing and Repayment of Lenders

On September 2, 2009, the Debtors obtained authority from the Bankruptcy Court to enter into a postpetition loan (the “DIP Facility”) from the Term A Lenders in an amount up to the aggregate principal amount at any time outstanding of \$9,000,000. The order approving the DIP Facility was entered on an interim basis on September 2, 2009, and a final order was entered on October 16, 2009.

The DIP Facility permitted the Debtors to continue their operations while the sale effort proceeded. Eventually all of the Debtors’ obligations under the DIP Facility were repaid in full from the cash proceeds of the §363 Sale. The proceeds of the §363 Sale also paid in full all of the obligations owed by the Debtors to Harris Bank, N.A. under the so-called Interchange Facility that was established both before and during the chapter 11 proceeding and excess proceeds were distributed to the Senior First Lien Lenders’ Agent, Comerica Bank, N.A., to be applied against the obligations due to the Senior First Lien Lenders. In addition, once the Bankruptcy Court approved the Settlement Term Sheet resolving the dispute surrounding the MR reserves, the Bankruptcy Court approved a distribution of \$6,839,535 to the Senior First Lien Lenders’ Agent of the excess funds sitting in the Cure Escrow Account.

At the time of the hearing on release of the excess funds on September 13, 2010 the Purchaser of Debtors’ assets objected claiming that as a result of post Closing reconciliations Debtors owed the Purchaser a sum that could total \$2,600,000. Debtors disputed that claim, and stated that Purchaser owed Debtors approximately \$600,000 based upon their calculation of post Closing reconciliations. Although negotiations have continued to resolve that dispute no

resolution, to date, has occurred. The Court overruled the object based, among other things, that mechanisms were in place to fund Purchaser's claims in the event it prevailed in whole or in part.

G. Summary of Claims Process, Bar Date and Claims Filed

1. Schedules and Statements of Financial Affairs

On October 5, 2009, each of the Debtors filed its respective Schedule of Assets and Liabilities and Statement of Financial Affairs (collectively the "Schedules and Statements") with the Bankruptcy Court. Among other things, the Schedules and Statements set forth the Claims of known creditors against the Debtors as of the Petition Date based upon the Debtors' books and records.

2. Claims Bar Date

On December 18, 2009, the Bankruptcy Court entered an Order (the "Bar Date Order") establishing the general deadline for filing proofs of claim against the Debtors (the "Bar Date"). The Bar Date established by the Bankruptcy Court was February 1, 2010, for Claims except for (a) Claims based on the rejection of executory contracts and unexpired leases as to which the bar date is the later of (i) the Bar Date, (ii) thirty (30) days after rejection or (iii) such other date as set by the Bankruptcy Court; (b) claims impacted by an amendment to the Debtors' Schedules as to which the bar date is the later of the Bar Date, or thirty (30) days after notice of amended Schedules, (c) claims of a governmental unit un which case the Bar Date was established as February 28, 2009, and (d) for claims that arise as a result of the resolution of Cure Objections related to the MR, thirty (30) days after the effective date of the order resolving the Cure Objections related to the MR. The Debtors' claims and notice agent provided notice of the Bar Date by mailing (i) a notice of the Bar Date and (ii) a proof of claim form to each person listed in the Schedules. In addition, the Debtors published notice of the Bar Date in USA Today (national edition) and put a copy of the Bar Date Notice on its website, i.e. www.kccllc.net/Cynergydata.

Proofs of Claim and Other Claims

Secured Claims:

Class 1: Secured Claims of Senior First Lien Lenders Against CD, Holdings or Prosperity

Term Loan A	\$22,589,025.59
Revolver	26,832,675.25
Prosperity Loan	9,287,059.72

Class 2: Secured Claims of Junior First Lien Lenders Against CD, Holdings or Prosperity

Term Loan B	27,331,599.93
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Class 3: Secured Claims of

Term Loan C	<u>54,153,780.36</u>
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Second Lien Lenders Against CD,
Holdings or Prosperity

Total Secured Claims	\$140,194,140.85
Unclassified Unsecured Priority Claims	193,992.72
Class 7: General Unsecured Claims Against CD, Holdings or Prosperity	1,168,600.04

As of the Bar Date, approximately 385 proofs of claim had been filed and scheduled against the Debtors, which account for, in the aggregate, approximately \$346,437,690. Below is a chart identifying by Class the filed claims:

Total Claims Filed as of February 1, 2010 Bar Date	366
Total Dollar Amount of Claims Filed as of February 1, 2010 Bar Date	\$346,260,524.79
<i>Unsecured</i>	\$13,046,828.47
<i>Priority</i>	\$643,932.24
<i>Secured</i>	\$329,486,574.95
<i>Admin</i>	\$3,083,189.13
Total Claims Filed to Date	385
Total Dollar Amount of Claims Filed to Date	\$346,437,690.12
<i>Unsecured</i>	\$13,220,133.82
<i>Priority</i>	\$647,792.22
<i>Secured</i>	\$329,486,574.95
<i>Admin</i>	\$3,083,189.13

3. Claims Reconciliation

It is anticipated that primary responsibility for the review of proofs of claim filed in these cases by general unsecured creditors will fall to the Liquidation Trustee. However, with the Bankruptcy Court's approval of the Settlement Term Sheet and, thereby, the resolution of disputes concerning the MR reserves, the Debtor initiated an objection to all proofs of claim filed by merchants where the proof of claim arose out of either a i) an MR reserve, ii) asserted a right to be paid either as an expense of administering the chapter 11 proceeding, a priority over general unsecured creditors, or iii) other than the Class 1, 2, 3 and 4 claims of the secured lenders which are allowed by the Plan, asserted that it was secured by an asset of the Debtors. When the Liquidation Trustee anticipates that there will be a distribution to a Class of creditors based upon the priority of claims established by the Bankruptcy Code as reflected in the Plan, the Liquidation Trustee can be expected to review the Claims filed by creditors in that Class and object to those that he believes should not be allowed in the amounts set forth in those proofs of claim.

V. SUMMARY OF THE PLAN

THIS SECTION PROVIDES A SUMMARY OF THE STRUCTURE AND MEANS FOR IMPLEMENTATION OF THE DEBTORS' PLAN, AND OF THE CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS UNDER THE PLAN, AND IS QUALIFIED IN ITS ENTIRETY BY REFERENCE TO THE PLAN (AS WELL AS THE EXHIBITS THERETO AND DEFINITIONS THEREIN), WHICH IS ANNEXED TO THIS DISCLOSURE STATEMENT AS EXHIBIT A.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT INCLUDE SUMMARIES OF THE PROVISIONS CONTAINED IN THE PLAN AND IN DOCUMENTS REFERRED TO THEREIN. THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT DO NOT PURPORT TO BE PRECISE OR COMPLETE STATEMENTS OF ALL THE TERMS AND THE PROVISIONS OF THE PLAN OR DOCUMENTS REFERRED TO THEREIN, AND REFERENCE IS MADE TO THE PLAN AND TO SUCH DOCUMENTS FOR THE FULL AND COMPLETE STATEMENTS OF SUCH TERMS AND PROVISIONS.

THE PLAN ITSELF AND THE DOCUMENTS REFERRED TO THEREIN CONTROL THE ACTUAL TREATMENT OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS UNDER THE PLAN AND WILL, UPON OCCURRENCE OF THE CONSUMMATION DATE, BE BINDING UPON ALL HOLDERS OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS, THEIR ESTATES, ALL PARTIES RECEIVING OR RETAINING PROPERTY OR AN INTEREST IN PROPERTY UNDER THE PLAN, AND OTHER PARTIES IN INTEREST. IN THE EVENT OF ANY CONFLICT BETWEEN THIS DISCLOSURE STATEMENT, ON THE ONE HAND, AND THE PLAN OR ANY OTHER OPERATIVE DOCUMENT, ON THE OTHER HAND, THE TERMS OF THE PLAN AND/OR SUCH OTHER OPERATIVE DOCUMENT WILL CONTROL.

A. Overall Structure of the Plan

The Plan provides for the substantive consolidation or merger of the Debtors' Estates. The Plan constitutes a single plan for CD, Holdings and Prosperity. Under the Plan, Claims against and Interests in the Debtors are divided into eight (8) Classes according to their relative priority and other criteria. The Debtors believe that substantive consolidation or merger is appropriate in these cases because i) it is administratively convenient thereby reducing the overall expenses that would be incurred to complete the liquidation and distribution of proceeds to creditors, and ii) there should be no harm or prejudice to creditors as a result of substantive consolidation or merger. The reasons there should be no harm or prejudice to creditors include that a) the only claims filed against Holdings are guaranty claims filed by the Lenders and Holdings currently has no assets with which to satisfy those claims, b) the only claims filed against Prosperity were guaranteed by CD and all of the assets of Prosperity were transferred to the Purchaser in the §363 Sale. As a result, the only future distributions to be made in these cases will come from the assets of the CD Bankruptcy Estate and all Allowable Creditor Claims in any of the chapter 11 Cases are allowable in the CD Case.

In general, the Plan recognizes that the liens of the Secured Lenders entitle them to the first assets to be distributed until they have been paid in full, either from cash on hand or as additional assets are liquidated. The following chart describes the claims of the Secured Lenders, the remaining assets and the waterfall for how they will be distributed:

Cash Available to Creditors	\$450,783.32			
Sub-Debt	14,000,000.00			
	<u>Balance</u>	<u>Cash Consideration</u>	<u>Sub-Debt</u>	<u>% Recovery</u>
Secured Claims:				
Term Loan A	10,776,411.17	(450,783.32)	(10,325,637.85)	100.0%
Revolver	13,518,757.93	-	(3,674,372.15)	27.2%
Swap Agreement	2,132,637.55	-	-	0-5%
Prosperity Loan	10,322,998.27	-	-	0-5%
Term Loan B	27,333,126.34	-	-	0-5%
Term Loan C	53,880,112.94	-	-	0-5%
Total Secured Claims	117,964,044.19	(450,783.32)	(14,000,000.00)	12.3%
Unsecured Priority Claims	193,992.72			0-5%
Unsecured Non-Priority Claims	2,309,311.14	-	-	0-5%

B. Classification And Treatment Of Claims And Interests

Section 1123 of the Bankruptcy Code provides that a plan of reorganization must classify the claims and interests of a debtor's creditors and equity interest holders. In accordance with section 1123, the Plan divides Claims and Interests into Classes and sets forth the treatment for each Class (other than Administrative Claims and Tax Priority Claims which, pursuant to section 1123(a)(1), need not be and have not been classified). The Debtors also are required, under section 1122 Bankruptcy Code, to classify Claims against and Interests in the Debtors into Classes that contain Claims and Interests that are substantially similar to the other Claims and Interests in such Class.

The Debtors believe that the Plan has classified all Claims and Interests in compliance with the provisions of section 1122 of the Bankruptcy Code. If a Creditor or Interest Holder challenges such classification of Claims or Interests and the Bankruptcy Court finds that a different classification is required for the Plan to be confirmed, the Debtors, to the extent permitted by the Bankruptcy Code, the Plan and the Bankruptcy Court, intend to make such reasonable modifications of the classifications of Claims or Interests under the Plan to provide for whatever classification might be required by the Bankruptcy Court for confirmation. Except to the extent that such modification of classification adversely affects the treatment of a holder of a Claim or Interest and requires resolicitation, acceptance of the Plan by any holder of a Claim pursuant to this solicitation will be deemed to be a consent to the Plan's treatment of such holder of a Claim regardless of the Class as to which such holder ultimately is deemed to be a member.

The amount of any Impaired Claim that ultimately is allowed by the Bankruptcy Court may vary from the estimated allowed amount of such Claim and, accordingly, the total Claims ultimately allowed by the Bankruptcy Court with respect to each Impaired Class of Claims may also vary from the estimates contained herein with respect to the aggregate Claims in any Impaired Class. Thus, the value of the property that ultimately will be received by a particular holder of an Allowed Claim under the Plan may be adversely or favorably affected by

the aggregate amount of Claims ultimately allowed in the applicable Class. There can be no assurance that the actual aggregate amounts of allowed Claims in Impaired Classes will not materially exceed the aggregate amounts estimated by the Debtors. Thus, no representation can be or is being made with respect to the accuracy of the expected percentage recovery by the holder of an Allowed Claim in any particular Class.

The classification of Claims and Interests and the nature of distributions to members of each Class are summarized below. The Debtors believe that the consideration provided under the Plan to holders of Claims and Interests reflects an appropriate resolution of their Claims and Interests, taking into account the differing nature and priority of such Claims and Interests. The Bankruptcy Court must find, however, that a number of statutory tests are met before it may confirm the Plan. Many of these tests are designed to protect the interests of holders of Claims or Interests who are not entitled to vote on the Plan, or do not vote to accept the Plan, but who will be bound by the provisions of the Plan if it is confirmed by the Bankruptcy Court. The “cramdown” provisions of section 1129(b) of the Bankruptcy Code, for example, permit confirmation of a chapter 11 plan in certain circumstances even if the plan has not been accepted by all impaired classes of claims and interests. For the avoidance of doubt, the Debtors and the Committee may seek Confirmation of the Plan in the event that an Impaired Class of Creditors does not vote to accept the Plan. The Debtors believe that their respective Plans will be confirmed pursuant to the cramdown provisions of section 1129(b).

1. **Unclassified Claims**

a. **Administrative Claims**

Except as otherwise provided for herein, and subject to the requirements of Article XII.A of the Plan, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date, (ii) the date such Administrative Claim becomes an Allowed Administrative Claim, or (iii) the date such Administrative Claim becomes payable pursuant to any agreement between the applicable Debtor and the Holder of such Administrative Claim, each Holder of an Allowed Administrative Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Administrative Claim (a) Cash equal to the unpaid portion of such Allowed Administrative Claim or (b) such other treatment as to which the applicable Debtor and such Holder shall have agreed upon in writing.

b. **Tax Priority Claims**

On, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date or (ii) the date such Tax Priority Claim becomes an Allowed Tax Priority Claim, each Holder of an Allowed Tax Priority Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Tax Priority Claim (a) Cash equal to the unpaid portion of such Allowed Tax Priority Claim or (b) such other treatment as to which the applicable Debtor and such Holder shall have agreed upon in writing; *provided* that no Holder of an Allowed Tax Priority Claim shall be entitled to any payments on account of any pre-Effective Date interest accrued on or penalty arising after the Petition Date with respect to or in connection with such Allowed Tax Priority Claim.

2. **Impaired Classes Of Claims And Interests**

a. Class 1: Secured Claims of Senior First Lien Lenders Against CD, Holdings or Prosperity

Class 1 consists of all Allowed Secured Claims of the Senior First Lien Lenders against CD, Holdings or Prosperity. These Lenders are sometimes referred to as the Term A Lenders. The only Claims in Class 1 are the claims of Comerica Bank, as agent for the Senior First Lien Lenders under the First Lien Credit Agreement, i.e. that certain Amended and Restated Credit Agreement dated as of August 1, 2008 with Comerica Bank as Agent and Co-Lead Arranger and Dymas Funding Company, LLC as Co-Lead Arranger, together with all security agreements, pledge agreements, intercreditor agreements, subordination agreements or other documents entered into pursuant thereto. The Class 1 Claim filed by Comerica is in the amount of \$86,469,804.64 not including post petition interest and contingent obligations from, inter alia, hedging obligations, attorneys fee and other costs.

b. Class 2: Secured Claims of Prosperity Lenders Against CD, Holdings or Prosperity

Class 2 consists of all Allowed Secured Claims of the Prosperity Lenders against CD, Holdings or Prosperity. The only Claim in Class 2 is the claim of Comerica Bank, as agent for the Prosperity Lenders under the Prosperity Credit Agreement, i.e. that certain Credit Agreement dated as of September 20, 2007, as amended, with Comerica Bank as Agent, together with all security agreements, pledge agreements, intercreditor agreements, subordination agreements or other documents entered into pursuant thereto. The Class 2 Claim filed by Comerica is in the amount of \$9,808,805 not including post petition interest and contingent obligations from, inter alia, hedging obligations, attorneys fee and other costs.

c. Class 3: Secured Claims of Junior First Lien Lenders Against CD, Holdings or Prosperity.

Class 3 consists of Allowed Secured Claims of Junior First Lien Lenders against CD, Holdings or Prosperity. The Junior First Lien Lenders are sometimes referred to as the Term B Lenders. The only Claim in Class 3 is the claim of Dymas Funding Company, LLC, as agent for the Junior First Lien Lenders under the First Lien Credit Agreement, i.e. that certain Amended and Restated Credit Agreement dated as of August 1, 2008 with Comerica Bank as Agent and Co-Lead Arranger and Dymas Funding Company, LLC as Co-Lead Arranger, together with all security agreements, pledge agreements, intercreditor agreements, subordination agreements or other documents entered into pursuant thereto. The Class 3 Claim filed by the Junior First Lien Lenders is in the amount of \$26,901,732.65 in principal (b) \$429,867.28 of accrued but unpaid prepetition interest, (c) the unliquidated amount of Term B Fee (equal to 1% of the indebtedness outstanding under the Prosperity Loan) and (d) further unliquidated amount of prepetition fees and other costs and charges.

d. Class 4: Secured Claims of Second Lien Lenders Against CD, Holdings or Prosperity.

Class 4 consists of all Allowed Secured Claims of the Second Lien Lenders against CD, Holdings or Prosperity. The only Claim in Class 4 arise out of the Second Lien Credit Agreement, i.e. the Financing Agreement dated as of November 15, 2007 with Dymas Funding Company, LLC as Agent, together with all security agreements, pledge agreements, intercreditor agreements, subordination agreements or other documents entered into pursuant thereto. The Class 4 Claim filed by Dymas is in the aggregate liquidated amount of \$54,153,780.56 plus unliquidated amount of prepetition, attorneys fee and other costs and charges.

e. Class 5: Other Secured Claims Against CD, Holdings or Prosperity.

Class 5 consists of all Allowed Secured Claims against CD, Holdings or Prosperity other than those classified in any of Classes 1, 2, 3 or 4. To the best of the Debtors' knowledge and belief, there are no Allowable Claims in Class 5 and the Class was established out of an abundance of caution. If such a claim is found to exist, then upon the claim becoming and Allowed Claim, the collateral for such Allowed Claim will be surrendered by the applicable Debtor to the claimant in full satisfaction of the Allowed Claim.

f. Class 6: Priority Claims Other Than Tax Priority Claims.

Class 6 consists of all Allowed Priority Claims against CD, Holdings or Prosperity Other Than Allowed Tax Priority Claims including, without limitation employee claims pursuant to 11 U.S.C § 508 (c)(4) of the Bankruptcy Code.

g. Class 7: General Unsecured Claims Against CD, Holdings or Prosperity.

Class 7 consists of all Allowed General Unsecured Claims against CD, Holdings or Prosperity and includes any deficiency claim arising from the Financing Agreements referred to in the descriptions of Classes 1, 2, 3 and 4 above to the extent those claims are not able to be paid in full out of the collateral provided to secure those claims.

h. Class 8: Interests in CD, Holdings or Prosperity.

Class 8 consists of all Interests in CD, Holdings or Prosperity. All of the Interests in Prosperity are held by CD and all of the Interests in CD are held by Holdings. The Interests in Holdings are owned by Marcello Paladini, Gustavo Ceballos and Andres Ordonez. No distribution will be made on account of any of the Interests in CD, Holdings or Prosperity and, accordingly, the holders of those Interests are deemed to have voted against the Plan.

C. Provisions Governing Implementation Of The Plan

1. Establishment of the Liquidation Trust

As of the Effective Date, the Liquidation Trust Assets will be transferred by the Debtors to and vest in the Liquidation Trust, subject to the Liens that secure the Secured Claims and the terms and conditions of this Plan. On the Initial Distribution Date, the Liquidation Trustee will pay in full all Allowed Administrative Claims and Allowed Priority Claims and will establish the Allowed Administrative Claims and Allowed Priority Claims Reserve. The Liquidation Trustee will pay in full each Administrative Claim and each Priority Claim as, if and when such Claim is Allowed.

The Professionals employed by the Debtors or the Committee shall be entitled to reasonable compensation and reimbursement of actual and necessary expenses post-Effective Date for the preparation, filing, and prosecution of final fee applications, upon the submission of invoices to the Liquidation Trustee.

a. Liquidation Trust Generally

On or prior to the Effective Date, the Liquidation Trust shall be established pursuant to the Liquidation Trust Agreement for the purpose of liquidating the Liquidation Trust Assets, resolving all Disputed Claims, making all distributions to Holders of Allowed Claims in accordance with the terms of the Plan and otherwise implementing the Plan and administering the Debtors' Estates. In furtherance of the foregoing, the trust shall be created, pursuant to which the Liquidation Trustee shall hold the Liquidation Trust Assets. On the Effective Date, the Liquidation Trust Assets shall be transferred to, and vest in, the Liquidation Trust.

b. Funding of the Liquidation Trust

On or prior to the Effective Date, the Liquidation Trust shall be established pursuant to the Liquidation Trust Agreement and this Plan. The Liquidation Trust will be funded in accordance with the terms of the Liquidation Trust Agreement with the respective Liquidation Trust Assets or the proceeds thereof.

c. Liquidation Trustee

The Liquidation Trustee shall be the exclusive trustee of the assets of the Liquidation Trust for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate of each of the Debtors appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The Liquidation Trustee shall be authorized to investigate, prosecute, litigate and compromise any Cause of Action and shall have standing as a representative of the Estates to pursue any Causes of Action and objections to Claims, whether initially filed by the Debtors or as may be filed by the Liquidation Trust, and may assert any claims and defenses that may otherwise have been asserted by a trustee under the Bankruptcy Code. The Liquidation Trustee shall be vested with all rights, powers and benefits afforded to a trustee under the Bankruptcy Code, including without limitation, Sections 108 and 505 of the Bankruptcy Code. Except as expressly provided in this Plan, no assets of the Estates shall be deemed released or compromised by or as a result of this Plan, its confirmation, its consummation or its treatment of

any Claim or creditor. No “insured versus insured” exclusion contained in any insurance policy shall apply to any claims brought or prosecuted by the Liquidation Trustee. Further, no defense, right of setoff, counterclaim or right of recoupment of the Debtors shall be deemed waived or compromised. The powers, rights and responsibilities of the Liquidation Trustee shall be specified further in the Liquidation Trust Agreement and shall include, subject to matters requiring approval of the Agent for the Senior First Lien Lenders and the Creditor Representative, the authority and responsibility to: (i) effect all actions and execute all agreements, instruments and other documents necessary to implement the Plan; (ii) accept, preserve, receive, collect, manage, invest, supervise, prosecute, settle and protect the Liquidation Trust Assets, each in accordance with the Plan and Liquidation Trust Agreement; (iii) sell, liquidate, transfer, distribute or otherwise dispose of the Liquidation Trust Assets or any part thereof or any interest therein pursuant to the procedures for allowing Claims and making distributions prescribed in the Plan; (iv) calculate and make distributions to holders of Allowed Claims pursuant to the procedures for allowing Claims and making distributions prescribed in the Plan; (v) establish and administer the Trust Accounts and, if necessary, any additional trust accounts; (vi) comply with the Plan and exercise the Liquidation Trustee’s rights and fulfill its obligations thereunder; (vii) review, reconcile, compromise, settle, prosecute or object to Claims and resolve such objections as set forth in the Plan; (viii) employ Professionals, including Professionals already retained by the Estates or the Committee, to represent the Liquidation Trust with respect to its responsibilities; (ix) file appropriate Tax returns and other reports on behalf of the Liquidation Trust and the Debtors and pay from Liquidation Trust Assets Taxes or other obligations owed by the Liquidation Trust and the Debtors; (x) exercise such other powers as may be vested in the Liquidation Trustee or as deemed by it to be necessary and proper to implement the provisions of the Plan and the Liquidation Trust Agreement in consultation with the Creditor Representative and the Agent for the Senior First Lien Lenders; (xi) take such actions as are necessary or appropriate to close or dismiss any or all of the Chapter 11 Cases; (xii) obtain financing and incur debt on such terms and conditions, and at such time or times as the Liquidation Trustee shall determine and grant a subordinate security interest in the Liquidation Trust Assets (whether tangible or intangible) as security for such obligations; and (xiii) dissolve the Liquidation Trust in accordance with the terms of the Liquidation Trust Agreement. The Liquidation Trustee shall distribute the Liquidation Trust Assets in accordance with the provisions of the Plan and the Liquidation Trust Agreement. Other rights and duties of the Liquidation Trustee and the beneficiaries of the Liquidation Trust shall be as set forth in the Liquidation Trust Agreement.

The Liquidation Trust Agreement (or an employment agreement which shall be entered into by the Liquidation Trustee on behalf of the Liquidation Trust) generally will provide for, among other things, subject to a budget approved by the Agent for the Senior First Lien Lenders: (i) the payment of compensation to the Liquidation Trustee based upon hourly rates typically charged in the conduct of the Liquidation Trustee’s business plus reimbursement of business expenses; (ii) the payment of other expenses of the Liquidation Trust, including the cost of pursuing the claims assigned to the Liquidation Trust; (iii) the retention of counsel, accountants, financial advisors or other professionals and the payment of their compensation; (iv) the investment of Cash by the Liquidation Trustee within certain limitations; (v) the preparation and filing of appropriate Tax returns and other reports on behalf of the Liquidation Trust and the Debtors and the payment of Taxes or other obligations owed by the Liquidation Trust and the Debtors; (vi) the orderly liquidation of the Liquidation Trust’s assets; and (vii)

prosecution of any Causes of Action assigned to the Liquidation Trust, which may include the litigation, settlement, abandonment or dismissal of any claims, rights or Causes of Action assigned to the Liquidation Trust.

d. Creditor Representative

The Creditor Representative is authorized to consult with the Liquidation Trustee and has the powers specified in the Liquidation Trust Agreement.

e. Fees and Expenses of the Liquidation Trust

Except as otherwise ordered by the Court, subject to a budget approved by the Agent for the Senior First Lien Lenders, the Liquidation Trust Expenses shall be paid from the Liquidation Trust Expense Account in accordance with the Plan and the Liquidation Trust Agreement.

f. Reports to be Filed by the Liquidation Trustee

The Liquidation Trustee, on behalf of the Liquidation Trust, shall provide quarterly reports regarding the administration of property subject to its ownership and control pursuant to the Plan, distributions made by it and other matters relating to the implementation of the Plan.

g. Indemnification

The Liquidation Trust Agreement may include reasonable and customary indemnification provisions for the Liquidation Trustee. Any such indemnification shall be the sole responsibility of the Liquidation Trust and payable solely from the Liquidation Trust Expense Account.

h. Tax Treatment

The Liquidation Trust generally is intended to be treated, for U.S. federal income Tax purposes, as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d), for the benefit of the Holders of Allowed Claims entitled to distributions of Pending Payments, as more specifically provided for under the Liquidation Trust Agreement. Accordingly, for all federal income Tax purposes the transfer of Liquidation Trust Assets to the Liquidation Trust will be treated as a transfer of the Liquidation Trust Assets directly from the Debtors to the Holders of such Allowed Claims followed by the transfer of such Liquidation Trust Assets by the Holders of Allowed Claims to the Liquidation Trust in exchange for rights to Pro Rata distributions from the Liquidation Trust. The Holders of Allowed Claims will be treated for federal income Tax purposes as the grantors and deemed owners of their respective shares of the Liquidation Trust Assets in the amounts of the Liquidation Trust Assets and any earnings thereon. The Liquidation Trustee will be required by the Liquidation Trust Agreement to file federal Tax returns for the Liquidation Trust as a grantor trust with respect to any Liquidation Trust Assets pursuant to applicable Treasury Regulations, and any income of the Liquidation Trust will be treated as subject to Tax on a current basis. The Liquidation Trust Agreement will provide that the Liquidation Trustee will pay any such Taxes imposed on it from

the Liquidation Trust Assets as required by law and in accordance with Article V.A of the Plan. In addition, the Liquidation Trust Agreement will require consistent valuation by the Liquidation Trustee and the holders of Allowed Claims, for all federal income Tax purposes, of any property held by the Liquidation Trust. The Liquidation Trust Agreement will provide that termination of the trust will occur no later than seven years after the Effective Date, *provided, however*, that, on or prior to the date of such termination, the Liquidation Trustee may extend the term of the Liquidation Trust for a finite period, if such an extension is necessary to liquidate the Liquidation Trust Assets or for other good cause. Multiple extensions may be obtained so long as the Liquidation Trustee extends such terms prior to the expiration of each extended term; *provided, however*, that, each such extension is approved by the Bankruptcy Court within six months after the beginning of such extended term and the Liquidation Trustee receives an opinion of counsel or a favorable ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the Liquidation Trust as a grantor trust for federal income tax purposes. The Liquidation Trust Agreement also will limit the investment powers of the Liquidation Trustee in accordance with IRS Rev. Proc. 94-45 and will require the Liquidation Trust to distribute at least annually to the holders of Allowed Claims (as such may have been determined at such time) its net income (net of any payment of or provision for Taxes), except for amounts retained as reasonably necessary to maintain the value of the Liquidation Trust Assets or to meet Claims and contingent liabilities (including Disputed Claims).

i. Abandonment and Destruction of Documents

Unless otherwise required by applicable non-bankruptcy law, subject to the approval of the Agent for the Senior First Lien Lenders, the Liquidation Trustee is authorized and empowered to, pursuant to Sections 105 and 554 of the Bankruptcy Code and Bankruptcy Rule 6007, abandon and destroy any and all documents, including electronic files, of or related to the Debtors that the Liquidation Trustee, as a prudent person, determines are burdensome or of inconsequential value and benefit to the Liquidation Trust, all without further notice or hearing or order of the Bankruptcy Court. Unless otherwise required by applicable law or this Plan, upon the first (1st) anniversary of the termination of the Liquidation Trust Agreement, any and all documents in the possession of the Debtors' Professionals and the Committee's Professionals as a result of or arising in any way out of their representation of the Debtors and/or the Committee, respectively, shall be deemed destroyed and no Person shall be entitled to obtain such documents.

2. Corporate Action

a. Certificates of Incorporation or Organization

Each of the Debtors will cease to exist, and all existing certificates of incorporation and organization and by-laws and operating agreements will be canceled, as of the Effective Date. No new certificates of incorporation or organization or articles of incorporation or organization and operating agreements will be necessary.

b. Action

The following actions and transactions will occur and be effective as of the Effective Date, if no such other date is specified in such other documents, and will be authorized and approved in all respects and for all purposes without any requirement of further action by the Debtors, the Liquidation Trustee or any other person or Entity: (a) the establishment of the Liquidation Trust; (b) the appointment of the Liquidation Trustee to act on behalf of the Liquidation Trust; (c) the transfer of the Liquidation Trust Assets to the Liquidation Trust; (d) the creation of the Trust Accounts; (e) distributions pursuant to the Plan; (f) the adoption, execution, delivery and implementation of all contracts, instruments, releases and other agreements or documents related to any of the foregoing; (g) the adoption, execution and implementation of the Liquidation Trust Agreement; and (h) the other matters provided for under the Plan involving the structure of any Debtor or action to be taken by or required of any Debtor or the Liquidation Trustee.

c. Cancellation of the Equity Securities; Agents for Secured Claims

On the Effective Date, except as otherwise provided for herein, (i) the Equity Securities shall be cancelled, and (ii) the obligations of the Debtors under any agreements, indentures or certificates of designations governing the Equity Securities shall be discharged. Each indenture or other agreement that governs the rights of Holders of Secured Claims and that is administered by an indenture trustee, an agent, or a servicer shall continue in effect including for the purposes of (a) allowing such indenture trustee, agent, or servicer to make the distributions to be made on account of such Claims under the Plan as provided in Article III of the Plan and (b) permitting such indenture trustee, agent, or servicer to maintain any rights or Liens it may have for fees, costs and expenses under such indenture or other agreement. Neither the Debtors nor the Liquidation Trustee shall have any obligations to an indenture trustee, an agent, or a servicer other than as specifically provided in this Plan (including the Liquidation Trust Agreement) or the Plan Supplement. The intercreditor provisions of the Financing Agreements are not modified by the Plan.

3. No Revesting Of Assets

The property of the Debtors' Estates shall not revest in the Debtors on or after the Effective Date but, subject to the Debtors funding in full the Allowed Administrative Claims and other Allowed Priority Claims Reserve, shall be deposited in the other Trust Accounts and will vest in the Liquidation Trust to be administered by the Liquidation Trustee in accordance with the Plan and the Liquidation Trust Agreement.

4. Trust Accounts

a. Liquidation Trust Accounts

(1) Creation and Funding

On or prior to the Effective Date, the Trust Accounts will be established and vest in the Liquidation Trust. They shall be maintained by the Liquidation Trustee in accordance with

the terms of the Liquidation Trust Agreement. No later than fifteen (15) days prior to the hearing to consider Confirmation of the Plan, (a) the Committee and the Debtors, subject to the approval of the Agent for the Senior First Lien Lenders, will agree on the budget for the Liquidation Trust Expenses to be funded into each of the Trust Accounts on the Effective Date and (b) the Debtors will file in the Plan Supplement revised Liquidation Trust Agreement reflecting such funding amounts.

(2) Closure

Upon obtaining an order of the Bankruptcy Court authorizing final distribution and closure of the Chapter 11 Cases, any funds remaining in the Liquidation Trust Accounts shall be distributed in accordance with the Plan, the Liquidation Trust Agreement, and any final decree entered in the Debtors' Chapter 11 Cases.

b. Liquidation Trust Expense Account

On or after the Effective Date, the Liquidation Trust Expense Account will be established to pay Liquidation Trust Expenses. The Liquidation Trust Expense Account will be funded by the transfer of funds from the Liquidation Trust Account by the Liquidation Trustee in amounts determined by the Liquidation Trustee with the consent of the Agent for the Senior First Lien Lenders.

5. Preservation of Rights of Action

Except as provided in the Plan or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan including the Liquidation Trust Agreement, in accordance with Section 1123(b) of the Bankruptcy Code, the Liquidation Trustee will retain and may enforce any claims, demands, rights and Causes of Action that any Estate may hold against any person or Entity to the extent not released under Article XII.H of the Plan or otherwise. The Liquidation Trustee may pursue such retained Claims, demands, rights or Causes of Action, in accordance with the best interests of the Estate or Estates that held such Claims, demands, rights or Causes of Action. Any recovery of Cash by the Liquidation Trustee on account of such actions will be deposited in the applicable Liquidation Trust Account and distributed pursuant to the terms of the Plan and the Liquidation Trust Agreement.

6. Exclusivity Period

The Debtors shall retain the exclusive right to amend or modify the Plan, and to solicit acceptances of any amendments to or modifications of the Plan, through and until the Effective Date, in consultation with the Committee.

7. Effectuating Documents; Further Transactions

The Chief Restructuring Officer or any other appropriate officer of the Debtors, or after the Effective Date, the Liquidation Trustee, shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The secretary or assistant secretary of the Debtors, or after the

Effective Date, the Liquidation Trustee, shall be authorized to certify or attest to any of the foregoing actions.

8. Exemption From Certain Transfer Taxes

Pursuant to Section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer from the Debtors to the Liquidation Trust or any other Person or Entity pursuant to the Plan may not be taxed under any law imposing a stamp tax or similar tax, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

D. Provisions Governing Distributions

1. Distributions For Claims Allowed As Of The Effective Date

Except as otherwise provided herein or as ordered by the Bankruptcy Court, distributions to be made on account of Administrative Claims and Priority Claims that are Allowed Administrative Claims or Allowed Priority Claims as of the Effective Date shall be made as of the Effective Date and will be deemed made on the Effective Date if made no later than 60 days after the Effective Date, or as soon thereafter as practicable.

2. Interest On Claims

Except for Classes 1, 2 and 3, or as otherwise specifically provided by this Plan or the Confirmation Order, or by applicable bankruptcy law, post-petition interest shall not accrue and not be paid on Allowed Claims when due under the contract, agreement, or other instrument governing the terms and conditions of the obligation comprising such Allowed Claim.

3. Distributions

Prior to the Effective Date, the Debtors, and after the Effective Date, the Liquidation Trustee, shall make all distributions required under this Plan (subject to the provisions of the Plan). All distributions shall be in cash unless the Holder of the Claim agrees otherwise in writing. The Liquidating Trustee shall not be required to give any bond or surety or other security for the performance of his duties unless otherwise ordered by the Bankruptcy Court.

4. Distributions of Funds Held in Sale Escrow

To the extent the funds in the Sale Escrow have not been previously disbursed in accordance with the terms applicable thereto, such funds will on the Effective Date be disbursed to pay Secured Claims under Class 1, 2, 3, 4, and 5 above in accordance with the priorities for payment of those claims as provided in Article III.B of the Plan.

5. Compensation and Reimbursement for Services Related to Distributions

The Liquidation Trustee will receive from the Liquidation Trust Expense Account, without further Bankruptcy Court approval, unless there is an objection by a party in interest, reasonable compensation for such services and reimbursement of reasonable out-of-pocket expenses incurred in connection with such services in accordance with the Liquidation Trust Agreement.

6. Means Of Cash Payment

Cash payments made pursuant to this Plan shall be in U.S. funds, by the means agreed to by the payor and the payee, including by check or wire transfer, or, in the absence of an agreement, such commercially reasonable manner as the payor shall determine in its discretion.

7. Delivery Of Distributions

Distributions to Holders of Allowed Claims shall be made by the Debtors or Liquidation Trustee, as the case may be, (i) at the addresses set forth on the proofs of Claim filed by such Holders (or at the last known addresses of such Holders if no proof of Claim is filed or if the Debtors have been notified in writing of a change of address), (ii) at the addresses set forth in any written notices of address changes delivered to the Debtors or the Liquidation Trustee, as the case may be, after the date of any related proof of Claim, (iii) at the addresses reflected in the Schedules if no proof of Claim has been filed and the Debtors or the Liquidation Trustee, as the case may be, has not received a written notice of a change of address, (iv) in the case of the Holder of a Claim that is governed by an indenture or other agreement and is administered by an indenture trustee, agent, or servicer, to the indenture trustee, agent, or servicer, or (v) at the addresses set forth in a properly completed letter of transmittal accompanying securities properly remitted to the Debtors. If any Holder's distribution is returned as undeliverable, no further distributions to such Holder shall be made unless and until the Debtors or the Liquidation Trustee, as the case may be, its agent, or servicer is notified of such Holder's then current address, at which time all missed distributions shall be made to such Holder without interest. Amounts in respect of undeliverable distributions made through the Debtors or the Liquidation Trustee, agent, or servicer, shall be returned to the Liquidation Trust until such distributions are claimed. All claims for undeliverable distributions must be made on or before the second (2nd) anniversary of the Distribution Date, after which date all unclaimed property shall revert to the Liquidation Trust Account from which it was disbursed free of any restrictions thereon and the claim of any Holder or successor to such Holder with respect to such property shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

8. Fractional Dollars; *De Minimis* Distributions

Any other provision of the Plan notwithstanding, payments of fractions of dollars shall not be made. Whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment made shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. The Debtors, the Liquidation Trustee, or any indenture trustee, agent, or servicer, as the case may be, shall not

make any payment of less than one hundred dollars (\$100.00) with respect to any Claim unless a request therefore is made in writing to the Debtors, the Liquidation Trustee, indenture trustee, agent, or servicer, as the case may be.

9. **Withholding And Reporting Requirements**

In connection with this Plan and all distributions hereunder, the Debtors or the Liquidation Trustee, as the case may be, shall, to the extent applicable, comply with all Tax withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Debtors or the Liquidation Trustee, as the case may be, shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements including, without limitation, withholding distributions from any beneficiary who fails to provide a completed IRS Form W-9 or other requested Tax information.

10. **Setoffs**

Except with respect to claims of a Debtor released pursuant to the Plan or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan or in the Chapter 11 Cases, the Liquidation Trustee pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, may setoff against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such claim (before any distribution is made on account of such Claim) the claims, rights and Causes of Action of any nature that the applicable Debtor may hold against the holder of such Allowed Claim; *provided, however*, that neither the failure to effect a setoff nor the allowance of any Claim hereunder will constitute a waiver or release by the applicable Debtor of any claims, rights and Causes of Action that the Debtor or Debtors may possess against such a Claim Holder, which are expressly preserved under Article V.E of the Plan.

11. **Rejection**

a. **Status of Remaining Executory Contracts**

On the Effective Date, and unless previously rejected pursuant to a Final Order, to the extent permitted by applicable law, all of the Debtors' remaining prepetition executory contracts and unexpired leases are rejected by the Debtors as of the Confirmation Date, unless such executory contract or unexpired lease:

(1) is expressly identified in the Plan Supplement as a contract or lease that is being assumed pursuant to the Plan;

(2) is the subject of a motion to assume filed on or before the Confirmation Date; or

(3) is the subject of an agreement, entered into on or before the Confirmation Date, among the Debtors and the counterparty to such executory contract to extend the time to assume or reject such executory contract to a date subsequent to the Confirmation Date.

b. Bar Date for Filing Claims for Rejection Damages

If the rejection of any of the Debtors' prepetition executory contracts or unexpired leases gives rise to a Claim, a proof of Claim must be served upon the Debtors, Debtors' counsel and the Claims Agent within thirty (30) days after the earlier of (a) service of notice of entry of the Confirmation Order; or (b) service of such other notice that the executory contract or unexpired lease has been rejected, or (c) such other order of the Bankruptcy Court establishing an earlier date for the filing of such proof of claim. Any claim not served within such time period will be forever barred.

E. Procedures for Resolving Disputed, Contingent and Unliquidated Claims

1. Objection Deadline; Prosecution Of Objections

As soon as practicable after payment in full of Classes 1 and 2, but in no event after the later of (i) one hundred and eighty (180) days after the payment in full of Classes 1 and 2 (unless extended by an order of the Bankruptcy Court) and (ii) the date such Claim or Interest is filed and served upon the Debtors, the Committee or the Debtors prior to the Effective Date, and thereafter the Liquidation Trustee, shall file objections to Claims and Interests with the Bankruptcy Court and serve such objections upon the Holders of each of the Claims or Interests to which objections are made. Nothing contained herein, however, shall limit the Liquidation Trustee right to (y) object to Claims or Interests, if any, filed or amended more than one hundred and eighty (180) days after the foregoing deadline or (z) seek further extension of time by order of the Bankruptcy Court to object to Claims or Interests.

2. Estimation of Claims

Any Debtor or the Liquidation Trustee may at any time request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether such Debtor has previously objected to such Claim or whether the Bankruptcy Court has ruled on any objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal related to any such objection. In the event the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned objection, estimation and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanism.

3. No Distributions Pending Allowance

Notwithstanding any other provision of the Plan, no payments or distributions shall be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by Final Order, and the Disputed Claim, or some portion thereof, has become an Allowed Claim.

4. Adjustment to Claims and Interests Without Objection

Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, may be adjusted or expunged on the Claims Register by the Debtors or the Liquidation Trustee, as applicable, without a claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

Except as otherwise agreed by the Debtors prior to the Effective Date, and thereafter the Liquidation Trustee, any and all proofs of Claim filed after the applicable Claim bar date shall be deemed disallowed in full and expunged from the official Claims register maintained in these Chapter 11 Cases for purposes of distribution or any other treatment under the Plan as of the Effective Date without any further notice to or action, order or approval of the Bankruptcy Court, and Holders of such Claims may not receive any distribution on account of such Claims, unless, on or before the date of the Confirmation Hearing, such late Claim has been deemed timely filed by a Bankruptcy Court order.

5. Disallowance of Claims or Interests

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

6. No New Claims

On or after the Effective Date, except as provided in herein or otherwise agreed, a Claim may not be filed without the prior authorization of the Bankruptcy Court, the Debtors or the Liquidation Trustee, and any such new Claim filed shall be deemed disallowed in full and expunged without any further action or order of the Bankruptcy Court.

7. Offer of Judgment

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

8. Distributions After Allowance

a. Allowed Administrative Expenses and Allowed Priority Claims

Prior to the Effective Date the Debtors, and after the Effective Date, the Liquidation Trustee, shall pay in full each Allowed Administrative Expense and other Allowed Priority Claim from the Allowed Administrative Expenses and Allowed Priority Claims Reserve as soon as each such Administrative Expense or Priority Claim is Allowed.

b. All other Allowed Claims

All other distributions on Allowed Claims shall be made by the Liquidation Trustee on each Distribution Date in accordance with the terms of the Liquidation Trust Agreement.

9. Priority Unsecured and General Unsecured Claims

Notwithstanding the contents of the Schedules, Claims listed therein as undisputed, liquidated and not contingent shall be reduced by the amount, if any, that was paid by the Debtors prior to the Effective Date including pursuant to orders of the Bankruptcy Court. To the extent such payments are not reflected in the Schedules, such Schedules will be deemed amended and reduced to reflect that such payments were made. Nothing in the Plan shall preclude the Liquidation Trustee from paying, pursuant to the terms of this Plan or the Liquidation Trust Agreement, Claims that the Debtors were authorized to pay pursuant to any Final Order entered by the Bankruptcy Court prior to the Confirmation Date.

10. Compliance with Tax Requirements/Allocations

In connection with the Plan, to the extent applicable, the Debtors shall comply with all Tax withholding and reporting requirements imposed on them by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Debtors, and the Liquidation Trustee shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding Taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms they believe are reasonable and appropriate. The Debtors reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, Liens and encumbrances.

11. No Release of Liens

No Liens against the property of any Estate will be released and discharged, and all of the right, title and interest of any Holder of such Liens, including any rights to any collateral thereunder, shall attach to and be enforceable solely against the Liquidation Trust Assets in accordance with and subject to the terms of the applicable Financing Agreements. All

such Liens against the Liquidation Trust Assets shall be fully released and discharged upon the Holder of the Liens receiving its full distribution under the Plan.

F. Summary of Other Provisions of the Plan

1. Modifications and Amendments

The Plan Proponents may jointly amend, alter or modify the Plan or any exhibits thereto under Section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in Section 1101(2) of the Bankruptcy Code, the Plan Proponents may jointly, under Section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan so long as such proceedings do not materially adversely affect the treatment of Holders of Claims or Interests under the Plan; *provided, however*, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

2. Retention of Jurisdiction

Under sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, those matters specifically set forth in Article XI of the Plan.

3. Bar Dates For Certain Claims

a. Administrative Claims

The Confirmation Order will establish an Administrative Claims Bar Date for filing of all Administrative Claims, which date will be forty-five (45) days after the Effective Date. Holders of asserted Administrative Claims must submit proofs of Administrative Claim on or before such Administrative Claims Bar Date or forever be barred from doing so. A notice prepared by the Debtors will set forth such date and constitute notice of this Administrative Claims Bar Date. The Liquidation Trustee shall have ninety (90) days (or such longer period as may be allowed by order of the Bankruptcy Court) following the Administrative Claims Bar Date to review and object to such Administrative Claims before a hearing for determination of allowance of such Administrative Claims.

b. Administrative Ordinary Course Liabilities

Except as the Court may order otherwise in connection with any request by the Debtors or the Liquidation Trustee for the setting of a supplemental Administrative Claims Bar Date, holders of Administrative Claims that are based on liabilities incurred in the ordinary course of the Debtors' businesses (other than Claims of governmental units for Taxes (and for interest and/or penalties related to such Taxes)) shall not be required to file any request for

payment of such Claims. Such Administrative Claims, unless objected to by the Debtors or the Liquidation Trustee, shall be paid by the Debtors or the Liquidation Trust, as the case may be, in Cash, pursuant to the terms and conditions of the particular transaction giving rise to such Administrative Claim. For the avoidance of doubt, Holders of Administrative Claims pursuant to Section 503(b)(9) of the Bankruptcy Code **shall be required** to file a proof of Administrative Claim on or before the Administrative Claims Bar Date.

4. **Payment Of Statutory Fees**

All fees payable pursuant to Section 1930 of Title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing shall be paid on or before the Effective Date.

5. **Committee**

Effective on the Effective Date, the duties of the Committee shall terminate and the Committee shall dissolve, except with respect to any appeal of an order in the Chapter 11 Cases and applications for Professional Fees.

6. **Exculpation And Limitation Of Liability**

None of the Reorganization Parties shall have or incur any liability to the Debtors, their Estates, any Holder of a Claim or an Interest, or to any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, or to any of their successors or assigns, for any act or omission occurring subsequent to the Petition Date in connection with, relating to, or arising out of, the administration of the Chapter 11 Cases, negotiation of the Disclosure Statement, negotiation of this Plan, negotiation of the Liquidation Trust Agreement, the solicitation of acceptances of this Plan, the pursuit of confirmation of this Plan, the consummation of this Plan, or the administration of this Plan or the property to be distributed under this Plan, except for their gross negligence or willful misconduct, and in all respects each of the Reorganization Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under this Plan.

Notwithstanding any other provision of this Plan, no Holder of a Claim or Interest and no other party in interest, none of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, and no successors or assigns of the foregoing, shall have any right of action against any one or more of the Reorganization Parties for any act or omission occurring subsequent to the Petition Date in connection with, relating to, or arising out of, the administration of the Chapter 11 Cases, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their gross negligence or willful misconduct.

7. **Permanent Injunction**

Except as otherwise expressly provided in the Plan or the Confirmation Order, all entities who have held, hold or may hold Claims against, or Interests in, the

Debtors are permanently enjoined, on and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim or Interest against the property or interests in property of the Debtors; (ii) commencing or continuing an action on a Claim released under Article XII.H of the Plan solely against any one or more of the Reorganization Parties, (iii) the enforcement, attachment, collection, or recovery by any manner or means of judgment, award, decree or order against the property or interests in property of the Debtors, (iv) creating, perfecting, or enforcing any encumbrance of any kind against any property or interests in property of the Debtors, and (v) asserting any right of setoff or subrogation of any kind against any obligation due to the Debtors or against the property or Interests in property of the Debtors on account of any such Claim or Interest. The foregoing injunction will extend to and be for the benefit of the Liquidation Trust and its properties and Interests in property. For the avoidance of any doubt, this Permanent Injunction shall not interfere in any way with the ability of the Liquidation Trust to pursue any property of the Debtors and realize the value of the Debtors' interest in such property in accordance with the terms of the Liquidation Trust.

8. Debtors' Releases

As of the Effective Date, the Debtors together with any successors to the Debtors and each of their respective estates, directors, officers, members, managers, employees, agents, financial advisors, representatives, affiliates, attorneys and professionals (solely in their capacities as such) shall be deemed, to the maximum extent permitted by applicable law, to forever release, waive and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities whatsoever (including without limitation for subordination of any kind or nature) in connection with or related to the Debtors, or the administration of the Chapter 11 Cases or the Plan (other than the rights of the Debtors and any successors to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents assumed, passed through or delivered in connection with such Plan) and whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date against any of the Reorganization Parties as of the Effective Date, for any act or omission occurring subsequent to the Petition Date in connection with, relating to, or arising out of, the administration of the Chapter 11 Cases, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their gross negligence or willful misconduct. The releases, waivers and discharges provided for herein shall apply only to acts, omissions, transactions, events or other occurrences that took place to the Effective Date.

9. Plan Supplement

Any and all exhibits, lists, or schedules not filed with the Plan shall be contained in the Plan Supplement and filed with the Clerk of the Bankruptcy Court prior to the Confirmation Hearing. Upon filing with the Bankruptcy Court, the Plan Supplement may be

inspected in the office of the Clerk of the Bankruptcy Court during normal court hours. Holders of Claims or Interests may obtain a copy of the Plan Supplement upon written request to the Debtors.

10. Indemnification Obligations

None of the indemnification provisions currently in place for directors, officers and each of the Debtors' advisors (whether in the Debtors' bylaws, contracts or otherwise) shall survive confirmation of the Plan except to the extent that (i) any related Claims are covered by insurance policies in respect of the Debtors and (ii) the indemnification is part of the retention of an advisor approved by the Bankruptcy Court. The Debtors may obtain sufficient tail coverage under its existing directors and officers insurance policy for current officers and directors provided that the terms are reasonably acceptable to the Debtors and the Committee, subject to the consent of the Agent for the Senior First Lien Creditors.

11. Term Of Injunctions Or Stay

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under Sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in this Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or Confirmation Order shall remain in full force and effect in accordance with their terms..

VI. CONFIRMATION OF THE PLAN

The Bankruptcy Court may confirm the Plan only if it determines that the Plan complies with the technical requirements of chapter 11 of the Bankruptcy Code, including, among other things, that (a) the Plan has properly classified Claims and Interests, (b) the Plan complies with applicable provisions of the Bankruptcy Code, (c) the Debtors have complied with applicable provisions of the Bankruptcy Code, (d) the Plan Proponents have proposed the Plan in good faith and not by any means forbidden by law, (e) disclosure of "adequate information" as required by section 1125 of the Bankruptcy Code has been made, (f) the Plan has been accepted by the requisite votes of all Classes of Creditors and Interest holders, (g) the Plan is in the "best interests" of all holders of Claims or Interests in an Impaired Class, (h) all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid or the Plan provides for the payment of such fees on the Effective Date.

A. Tabulation Requirements

Under the Bankruptcy Code, only Classes of Claims and Interests that are "impaired" (as that term is defined in section 1124 of the Bankruptcy Code) under the Plan are entitled to vote to accept or reject the Plan. A Class is impaired if the legal, equitable or contractual rights to which the holders of Claims or Interests are entitled are modified, other than by curing defaults and reinstating the debt. Pursuant to sections 1126(f) and (g) of the Bankruptcy Code, Classes of Claims and Interests that are not impaired are conclusively presumed to have accepted the Plan and are not entitled to vote on the Plan, and Classes of Claims and Interests whose holders will receive or retain no property under the Plan are deemed

to have rejected the Plan and are not entitled to vote on the Plan. The classification of Claims and Interests is summarized, together with notations as to whether each Class of Claims or Interests is Impaired or Unimpaired, under the caption “Classification and Treatment of Claims and Interests.” Additional information regarding Tabulation is contained in the instructions accompanying the Ballots.

This Disclosure Statement and the appropriate Ballot are being distributed to all holders of Claims and Interests who are entitled to vote on the Plan. There is a separate Ballot designated for each Class of Claims or Interests in order to facilitate vote tabulation; however, all Ballots are substantially similar in form and substance and the term “Ballot” is used without intended reference to the Ballot of any specific Class of Claims.

Each Impaired Class of Claims or Interests that will receive or retain property or any interest in property under the Plan is entitled to vote to accept or reject the Plan. Each Unimpaired Class of Claims is deemed to have accepted the Plan and is not entitled to vote to accept or reject the Plan. An Impaired Class of Claims will have accepted the Plan if (i) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually Tabulation in such Class have voted to accept the Plan and (ii) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually Tabulation in such Class have voted to accept the Plan. An Impaired Class of Interests will have accepted the Plan if (i) the holders (other than any holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Interests actually Tabulation in such Class have voted to accept the Plan.

The Debtors’ estates are being substantively consolidated or merged. The Plan is thus a single plan for CD, Holdings and Prosperity. To confirm the Plan, the Holders of Allowed Claims in Class1 must vote to accept the Plan (the Debtors and the Committee may seek to confirm the Plan pursuant to 1129(b) of the Bankruptcy Code if Class 1 votes to accept the Plan and another Class does not vote to accept the Plan). For the avoidance of doubt, the Debtors and the Committee may seek Confirmation of the Plan with respect to the Debtors in the event that an Impaired Class of Creditors of one of the Debtors does not vote to accept the Plan.

B. Best Interests Test

In order to confirm the Plan, the Bankruptcy Court must independently determine that the Plan is in the best interests of each holder of a Claim or Interest in any such impaired Class who has not voted to accept the Plan. Accordingly, if an impaired Class does not unanimously accept the Plan, the best interests test requires the Bankruptcy Court to find that the Plan provides to each member of such impaired Class a recovery on account of the Class member’s Claim or Interest that has a value, as of the Effective Date, at least equal to the value of the distribution that each such member would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date.

C. Liquidation Analysis

The Debtors have liquidated substantially all of their assets through asset sales during the Chapter 11 Cases and are in the process of liquidating any remaining assets. The Debtors and the Committee believe that liquidation under chapter 11 is more beneficial to the Holders of Claims than a liquidation under chapter 7 because the Plan allows the Debtors' remaining assets to be promptly administered and grants the Liquidation Trustee the right to object to Claims. To that end, the Plan provides that all Causes of Action of the Debtors or their Estates and any other remaining assets will vest in and be transferred to the Liquidation Trust. The Liquidation Trustee will pursue the Causes of Action on behalf of the Liquidation Trust, and the proceeds therefrom will be distributed in accordance with the Plan. The Plan maximizes the recovery to Holders of Claims.

Additionally, if these cases were to be converted to chapter 7 cases, the Debtors' estates would incur the costs of payment of a statutorily allowed commission to the chapter 7 trustee, as well as the costs of counsel and other professionals retained by the trustee. The Debtors believe such amount would exceed the amount of expenses that will be incurred in implementing the Plan and winding up the affairs of the Debtors. Conversion also would likely delay the liquidation process and the ultimate distribution to unsecured creditors. The Debtors' estates would also be obligated to pay all unpaid expenses incurred by the Debtors during these Chapter 11 Cases (such as compensation for professionals) which are allowed in the chapter 7 cases. Accordingly, the Debtors and the Committee believe that holders of Allowed Claims would receive less than anticipated under the Plan if the Chapter 11 Cases were converted to chapter 7 cases.

D. Feasibility

Section 1129(a)(11) of the Bankruptcy Code requires that confirmation of the Plan not be likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors or any successors to the Debtors under the Plan, unless such liquidation or reorganization is proposed in the Plan. The Plan proposed by the Debtors provides for a liquidation of the Debtors' remaining assets and a distribution of Cash to creditors in accordance with the priority scheme of the Bankruptcy Code and the terms of the Plan. The ability of the Liquidation Trust to make the distributions described in the Plan does not depend on future earnings of the Debtors. Accordingly, the Debtors believe that the Plan is feasible and meets the requirements of section 1129(a)(11) of the Bankruptcy Code.

E. Conditions Precedent To Confirmation And Consummation Of The Plan

1. Conditions to Confirmation

The Bankruptcy Court shall not enter the Confirmation Order unless and until (i) the Confirmation Order shall be reasonably acceptable in form and substance to the Debtors and the Committee and (ii) the Confirmation Order includes a finding of fact that the Debtors, the Committee, and their respective present and former members, officers, directors, employees, advisors, attorneys, and agents acted in good faith within the meaning of and with respect to all

of the actions described in section 1125(e) of the Bankruptcy Code and are therefore not liable for the violation of any applicable law, rule, or regulation governing such actions.

2. **Conditions To Consummation**

The following are conditions precedent to the occurrence of the Effective Date, each of which must be (i) satisfied or (ii) waived in accordance with Article IX.D. of the Plan:

(1) The Confirmation Order, in form and substance reasonably acceptable to the Debtors and the Committee and the Agent for the Senior First Lien Lenders, confirming the Plan, as the same may have been modified, must have become a Final Order and must, among other things, provide that:

(a) the Debtors and the Liquidation Trustee are authorized and directed to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan;

(b) the provisions of the Confirmation Order are non-severable and mutually dependent;

(c) the transfers of property by the Debtors (a) to the Liquidation Trust (i) are or will be legal, valid, and effective transfers of property, (ii) vest or will vest the Liquidation Trust with good title to such property, (iii) do not and will not constitute avoidable transfers under the Bankruptcy Code or under applicable bankruptcy or non-bankruptcy law, and (iv) do not and will not subject the Liquidation Trust to any liability by reason of such transfer under the Bankruptcy Code or under applicable non-bankruptcy law, including, without limitation, any laws affecting successor or transferee liability, and (b) to Holders of Claims under the Plan are for good consideration and value and are in the ordinary course of the Debtors' respective businesses; and

(2) The Liquidation Trust Agreement, in form reasonably satisfactory to the Debtors, the Liquidation Trustee the Committee and the Agent for the Senior First Lien Lenders shall have been executed and delivered, and all conditions precedent thereto shall have been satisfied.

(3) The Substantive Consolidation Order shall have been entered or be entered as part of the Confirmation Order;

(4) All authorizations, consents, and regulatory approvals required, if any, in connection with the Effective Date shall have been obtained.

(5) There shall not be in effect on the Effective Date any (i) order entered by a U.S. court or (ii) any order, opinion, ruling or other decision entered by any other court or governmental entity or (iii) United States or other applicable law, staying, restraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by the Plan.

(6) No request for revocation of the Confirmation Order under Section 1144 of the Bankruptcy Code shall remain pending.

3. Substantial Consummation

On the Initial Distribution Date, the Plan shall be deemed to be substantially consummated under Sections 1101 and 1127(b) of the Bankruptcy Code.

4. Waiver Of Conditions

Each of the conditions set forth in Article IX of the Plan, except for Article IX.B.4 of the Plan (related to the requirement of Confirmation and entry of the Confirmation Order), may be waived in whole or in part by the Plan Proponents and the Agent for the Senior First Lien Lenders collectively without any notice to parties in interest except the Bankruptcy Court and without a hearing. The failure to satisfy or waive any condition to the Effective Date may be asserted by the Plan Proponents regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Plan Proponents to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

VII. CERTAIN FACTORS TO BE CONSIDERED

Holders of Impaired Claims who are entitled to vote on the Plan should carefully consider the following factors, as well as the other information set forth in this Disclosure Statement (and the documents delivered together herewith and/or incorporated by reference), before deciding whether to vote to accept or to reject the Plan. This information, however, should not be regarded as the only risk involved in connection with the Plan and its implementation.

A. General Considerations

The formulation of a chapter 11 plan is the principal purpose of a chapter 11 case. The Plan sets forth the means for satisfying the Claims against and interests in each of the Debtors. Certain Classes of Claims will not be paid in full pursuant to the Plan, and Equity Interests will not receive any distributions pursuant to the Plan.

B. Certain Bankruptcy Considerations

1. Failure to Confirm the Plan

Even if all impaired Classes accept or could be deemed to have accepted the Plan, the Plan may not be confirmed by the Bankruptcy Court. Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation and requires, among other things: (a) that the Confirmation of the Plan not be followed by a need for further liquidation or reorganization; (b) that the value of distributions to dissenting holders not be less than the value of distributions to such holders if the Debtors were liquidated under chapter 7 of the Bankruptcy Code; and (c) that the Plan and the Debtors otherwise comply with the applicable provisions of the Bankruptcy Code. Although the Plan Proponents believe that the Plan will meet all applicable tests, there

can be no assurance that the Bankruptcy Court will reach the same conclusion. See Article VI.E.1 of this Disclosure Statement for additional information regarding the requirements for Confirmation.

2. Failure to Consummate the Plan

Consummation of the Plan is conditioned upon, among other things, (a) entry of the Confirmation Order, and (b) execution of the Liquidation Trust Agreement. As of the date of this Disclosure Statement, there can be no assurance that any or all of the foregoing conditions will be met (or waived) or that the other conditions to consummation, if any, will be satisfied. Accordingly, even if the Plan is confirmed by the Bankruptcy Court, there can be no assurance that the Plan will be consummated.

3. Nonconsensual Confirmation

Pursuant to the “cramdown” provisions of section 1129 of the Bankruptcy Code, the Bankruptcy Court can confirm the Plan at the Plan Proponents’ request if at least one impaired Class has accepted the Plan (with such acceptance being determined without including the acceptance of any “insider” in such Class) and, as to each impaired Class that has not accepted the Plan, the Bankruptcy Court determines that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to such impaired Class.

The Plan Proponents reserve the right to modify the terms of the Plan as necessary for Confirmation without the acceptance of all impaired Classes. Such modification could result in less favorable treatment for any non-accepting Classes than the treatment currently provided for in the Plan.

4. Delays of Confirmation and/or Effective Date

Any delay in Confirmation and effectiveness of the Plan could result in, among other things, increased Administrative Claims. These or any other negative effects of delays in Confirmation or effectiveness of the Plan could endanger the ultimate approval of the Plan by the Bankruptcy Court.

C. Liquidation Trustee

The ultimate amount of Cash available to satisfy the allowed amount of Claims in Classes 1, 2, 3, 4, 5, 6 and 7 depends, in part, on the expenses the Liquidation Trustee incurs. The expenses of the Liquidation Trustee will be given priority over distributions to holders of Claims in each of these Classes. As a result, if the Liquidation Trustee incurs professional or other expenses in excess of current expectations, the amount of Cash remaining to satisfy Allowed Claims in each of the Classes will decrease.

At this time, the amount of Cash to be placed in the expense account for the Liquidation Trustee has not been determined. However, the Debtors expect to negotiate this amount with the Committee and file the Liquidation Trust Agreement as Exhibit A to the Plan containing this figure on or prior to fifteen days prior to the Confirmation Hearing. The amount to be placed in such expense account as determined by the Committee and the Debtors may be

materially more than that projected by the Debtors and used to estimate the range of recoveries for Allowed General Unsecured Claims in these cases.

D. Claims Estimations

There can be no assurance that the estimated Claim amounts set forth herein are correct. In addition, certain of the Claims filed against the Debtors are in unliquidated amounts. The Debtors' estimation of Allowed Claims assumes that such unliquidated amounts will not have a material impact on the actual aggregate dollar amount of Allowed Claims. The actual amount of Allowed Claims likely will differ in some respect from the estimates. The estimated amounts are subject to certain risks, uncertainties and assumptions. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, the actual amount of Allowed Claims may vary from those estimated herein. Moreover, the Administrative Claims Bar Date will be set at a date following the Effective Date. Therefore, while an estimated amount of unpaid Administrative Claims incurred during these chapter 11 cases has been factored into the estimated recovery values, the actual amount of Allowed Administrative Claims may vary significantly from those estimated herein.

E. Causes of Action

The net amount of proceeds that may ultimately be recovered by the Debtors from the disposition of their causes of action is uncertain.

The Causes of Action might include:

- Rights against management of the Debtors for breach of their duties of care. The Debtors have in place a D&O policy in the amount of \$5,000,000.
- Rights against the shareholders of Holdings related to distributions made to them in 2007 and 2008 at a time when the Debtors may have not been solvent or may not have been left with sufficient capital such that the distributions may be avoidable as fraudulent transfers under either federal bankruptcy law or state fraudulent transfer law.
- Rights against a former shareholder, John Martillo, in connection with funds he received in 2007 as a result of Holdings' redemption of his shares.

F. Other Assets

The Debtors believe that additional assets, including the following, are available for liquidation and disbursement of the proceeds to creditors in accordance with the priorities established by law and the Bankruptcy Code:

- Monies owed by Purchaser pursuant to the APA: There is a dispute with the Purchaser regarding adjustments that should be made pursuant to the APA. These adjustments include payment for monies collected as a direct result of the pre-sale operation of the Debtors' business, specifically related to the processing of debit cards. That dispute involves \$1,907,002.90. There are several other disputes relating

to post closing adjustments. Depending up on the ultimate dispositions of those disputes the Purchaser could be owed \$2.6 million or Debtor owed \$600,000.

- There are several interests owned by the Debtors in other companies that were intended by the APA to be transferred to the Purchaser, but because of restrictions on transfer in the governing documents of those other companies, the interests owned by the Debtors have not been able to be transferred. Assuming an inability to transfer those interests to the Purchaser, those interests will be available to later disposition.
- The Debtors are in the process of going through audits of its 401k plans and their workers compensation insurance coverage. It is possible that additional funds will be recovered as a result of those audits.
- The Debtors hold promissory notes issued by Marcelo Paldini (\$7,107,000) and Gustavo Cebalos (\$2,250,000) for monies loaned to each of them. The notes have come due as a result of a change of control of the Debtors.
- The Debtors believe that the Reserve Account held by Harris Bank, N.A. and transferred to the Purchaser in connection with the closing of the APA contains \$350,000 that should have been delivered to the Debtors prior to the transfer of the Reserve Account.

VIII. CERTAIN FEDERAL INCOME TAX CONSEQUENCES OF CONSUMMATION OF THE PLAN

A. General

A DESCRIPTION OF THE UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN IS PROVIDED BELOW. THIS DESCRIPTION IS BASED ON THE INTERNAL REVENUE CODE, TREASURY REGULATIONS ISSUED THEREUNDER, JUDICIAL DECISIONS AND INTERNAL REVENUE SERVICE AND ADMINISTRATIVE DETERMINATIONS, ALL AS IN EFFECT ON THE DATE OF THIS DISCLOSURE STATEMENT AND ALL SUBJECT TO CHANGE, POSSIBLY WITH RETROACTIVE EFFECT. CHANGES IN ANY OF THESE AUTHORITIES OR IN THEIR INTERPRETATION COULD CAUSE THE UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN TO DIFFER MATERIALLY FROM THE CONSEQUENCES DESCRIBED BELOW.

THE UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX AND IN IMPORTANT RESPECTS UNCERTAIN. NO RULING HAS BEEN REQUESTED FROM THE INTERNAL REVENUE SERVICE; NO OPINION HAS BEEN REQUESTED FROM DEBTORS' COUNSEL CONCERNING ANY TAX CONSEQUENCE OF THE PLAN; AND NO TAX OPINION IS GIVEN BY THIS DISCLOSURE STATEMENT.

THE DESCRIPTION THAT FOLLOWS DOES NOT COVER ALL ASPECTS OF UNITED STATES FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO

THE DEBTORS OR HOLDERS OF CLAIMS. FOR EXAMPLE, THE DESCRIPTION DOES NOT ADDRESS ISSUES OF SPECIAL CONCERN TO CERTAIN TYPES OF TAXPAYERS, SUCH AS DEALERS IN SECURITIES, LIFE INSURANCE COMPANIES, FINANCIAL INSTITUTIONS, TAX EXEMPT ORGANIZATIONS AND NON-U.S. TAXPAYERS NOR DOES IT ADDRESS TAX CONSEQUENCES TO HOLDERS OF INTERESTS IN THE DEBTORS. IN ADDITION, THE DESCRIPTION DOES NOT DISCUSS STATE, LOCAL OR NON-U.S. TAX CONSEQUENCES.

FOR THESE REASONS, THE DESCRIPTION THAT FOLLOWS IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND PROFESSIONAL TAX ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES OF EACH HOLDER OF A CLAIM OR INTEREST. HOLDERS OF CLAIMS OR INTERESTS ARE URGED TO CONSULT WITH THEIR OWN TAX ADVISORS REGARDING THE FEDERAL, STATE, LOCAL AND NON-U.S. TAX CONSEQUENCES OF THE PLAN.

B. United States Federal Income Tax Consequences of Payment of Allowed Claims Pursuant to Plan

The United States federal income tax consequences of Plan implementation to the Holders of Allowed Claims will depend on, among other things, the consideration to be received by the Holder, whether the Holder reports income on the accrual or cash method, whether the Holder receives distributions under the Plan in more than one taxable year, whether the Holder's claim is allowed or disputed at the Effective Date, and whether the Holder has taken a bad debt deduction or worthless security deduction with respect to its Claim.

1. Recognition of Gain or Loss

a. In General

In general, a Holder of a Claim should recognize gain or loss equal to the amount realized under the Plan in respect of its Claim less the Holder's basis in the Claim. Any gain or loss recognized in the exchange may be long-term or short-term capital gain or loss or ordinary income or loss, depending upon the nature of the Claim and the Holder, the length of time the Holder held the Claim and whether the Claim was acquired at a market discount. If the Holder realizes a capital loss, its deduction of the loss may be subject to limitation. The Holder's aggregate Tax basis for any property received under the Plan generally will equal the amount realized. The Holder's amount realized generally will equal the sum of the Cash and the fair market value of any other property received (or deemed received) by the Holder under the Plan on the Effective Date or subsequent distribution date, less the amount (if any) allocable to Claims for interest, as discussed below.

b. Post-Effective Date Cash Distributions

Because certain Holders of Allowed Claims, including Disputed Claims that ultimately become Allowed Claims, may receive Cash distributions subsequent to the Effective Date of the Plan, the imputed interest provisions of the Internal Revenue Code may apply to treat a portion of the subsequent distributions as imputed interest. Additionally, because Holders may receive distributions with respect to an Allowed Claim in a taxable year or years following the

year of the initial distribution, any loss and a portion of any gain realized by the Holder may be deferred. All Holders of Allowed Claims are urged to consult their tax advisors regarding the possible application of (or ability to elect out of) the “installment method” of reporting with respect to their claims.

c. Bad Debt and/or Worthless Securities Deduction

A Holder who, under the Plan, receives in respect of a Claim an amount less than the Holder’s tax basis in the claim may be entitled in the year of receipt (or in an earlier or later year) to a bad debt deduction in some amount under Section 166(a) of the Internal Revenue Code or a worthless securities deduction under Section 165(g) of the Internal Revenue Code. The rules governing the character, timing and amount of bad debt or worthless securities deductions place considerable emphasis on the facts and circumstances of the Holder, the obligor and the instrument with respect to which a deduction is claimed. Holders of Claims, therefore, are urged to consult their tax advisors with respect to their ability to take such a deduction.

2. Pending Payments

Cash and other Distribution Trust Assets that a Trust Account holds as a Pending Payment after the Effective Date should be deemed to have been paid to the Holder of the Claim entitled to receive such Pending Payment on the date that the Distribution Trust received it and to have been contributed by such Holder to the Trust Account as a grantor and beneficiary of the Distribution Trust. Thus, the Holder should recognize gain or loss based upon the amount deemed received and contributed to the Trust Account on the Effective Date, and any income subsequently realized by the Trust Account with respect to such Pending Payment will be reported by the Trustee as income of the grantor-beneficiary in the year realized, prior to the actual distribution of the Pending Payment to the Holder of the Allowed Claim. The actual receipt of the Pending Payments from the Trust Account will not be a taxable event.

3. Payments Other than Pending Payments

If any payment other than a Pending Payment is to be made out of a Trust Account, such payment will not be deemed to have been made to any recipient until, and to the extent that, the amount to which the payee is entitled has been determined and distributed. Any income realized by the Trust Account prior to such time will be reported by the Distribution Trustee as income of and taxable to the Trust Account.

C. Certain Other Tax Consequences for Holders of Claims

1. Receipt of Pre-Effective Date Interest

In general, a Holder of a Claim that was not previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be required to take such amount into income as taxable interest. A Holder of a Claim that was previously required to include in its taxable income any accrued but unpaid pre-Effective Date interest on the Claim may be entitled to recognize a deductible loss to the extent that such interest is not satisfied under the Plan. The Plan provides that all distributions to a Holder of an Allowed Claim Class 1, 2, 3 and 4 Claim will be deemed to apply first to the principal amount of such

Claim until such principal amount is paid in full, and then the remaining portion of such distributions, if any, will be deemed to apply to any prepetition accrued interest included in such Claim. There is no assurance, however, that the Internal Revenue Service will respect this treatment and will not determine that all or a portion of amounts distributed to Holders of Allowed Class 1, 2, 3 and 4 Claims is properly allocable to prepetition interest. Each such Holder is urged to consult its tax advisor regarding the tax treatment of its distributions under the Plan and the deductibility of any accrued but unpaid interest for federal income tax purposes.

2. Installment Method

A Holder of a Claim constituting an installment obligation for Tax purposes may be required to recognize currently any gain remaining with respect to the obligation if, pursuant to the Plan, the obligation is considered to be satisfied at other than its face value, distributed, transmitted, sold or otherwise disposed of within the meaning of Section 453B of the Internal Revenue Code.

3. Information Reporting and Withholding

Under the Internal Revenue Code's backup withholding rules, the Holder of an Allowed Claim may be subject to backup withholding with respect to distributions or payments made pursuant to the Plan unless the Holder comes within certain exempt categories (which generally include corporations) and, when required, demonstrates that fact, or provides a correct taxpayer identification number and certifies under penalty of perjury that the taxpayer identification number is correct and that the Holder is not subject to backup withholding because of a failure to report all dividend and interest income. Backup withholding is not an additional tax, but merely an advance payment that may be refunded to the extent it results in an overpayment of tax. Holders of Allowed Claims may be required to establish exemption from backup withholding or to make arrangements with respect to the payment of backup withholding.

D. Importance of Obtaining Professional Tax Assistance

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN, AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATION PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S INDIVIDUAL CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE URGED TO CONSULT WITH THEIR TAX ADVISORS ABOUT FEDERAL, STATE, LOCAL AND NON-U.S. TAX CONSEQUENCES TO THE PLAN.

IX. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN

The Debtors believe that the Plan affords Holders of Claims against and Interests in the Debtors the potential for the greatest realization on the Debtors' assets and, therefore, is in the best interests of such Holders. If, however, the Plan is not confirmed and consummated, the

theoretical alternatives include: (a) formulation of an alternative plan or plans of liquidation, or (b) liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

A. Other Potential Plan(s)

If the Plan is not confirmed, the Debtors or, any other party-in-interest could attempt to formulate and propose a different plan or plans. Because the Debtors have no ongoing operations, the alternatives to the Plan are limited and not likely to benefit creditors. Although the Debtors could theoretically file a new plan, the most likely result if the Plan is not confirmed and consummated is that the Chapter 11 Cases will be converted to cases under chapter 7 of the Bankruptcy Code. The Debtors and the Committee believe that conversion of these Chapter 11 Cases to chapter 7 would result in (i) significant delay in distributions to all creditors who would have received a distribution under the Plan and (ii) diminished recoveries for creditors.

With respect to other potential plans, the Plan Proponents have explored various other choices in connection with the negotiation process involved in the formulation and development of the Plan. The Plan, as described herein, is the result of extensive negotiations between the Debtors, the Committee and the holders of the largest Claims including the Lenders and enables Creditors to realize the greatest possible value under the circumstances, and, that as compared to any other plan, the Plan has the greatest chance to be confirmed and consummated. If the Debtors remain in chapter 11, the Debtors could continue to wind down their businesses and liquidate their remaining properties as debtors in possession, but they would remain subject to the restrictions imposed by the Bankruptcy Code. Ultimately, the Debtors (or other parties in interest) could propose another plan or liquidate under chapter 7.

B. Liquidation Under Chapter 7

If no plan is confirmed, the Chapter 11 Cases may be converted to cases under chapter 7 of the Bankruptcy Code, pursuant to which a trustee would be elected or appointed to liquidate the Debtors' assets for distribution to creditors in accordance with the priorities specified by the Bankruptcy Code. It is impossible to predict precisely how the proceeds of the liquidation would be distributed to the respective holders of Claims against or Interests in the Debtors.

The Debtors believe that in a liquidation under chapter 7, before creditors receive any distribution, additional administrative expenses involved in the appointment of a trustee or trustees and attorneys, accountants and other professionals to assist such trustees would cause a substantial diminution in the value of the Debtors' Estates. The assets available for distribution to creditors would be reduced by such additional expenses and by Claims, some of which would be entitled to priority, which would arise by reason of the liquidation and the failure to realize the greater going concern value of the Debtors' assets.

THE DEBTORS AND THE COMMITTEE BELIEVE THAT THE PLAN AFFORDS SUBSTANTIALLY GREATER BENEFITS TO CREDITORS, AND INTEREST HOLDERS THAN WOULD ANY OTHER REASONABLY CONFIRMABLE PLAN UNDER ANY CHAPTER OF THE BANKRUPTCY CODE.

X. VOTING REQUIREMENTS

On [], 2010, the Bankruptcy Court entered the Disclosure Statement Order which among other things, approved this Disclosure Statement, set voting procedures, scheduled the hearing on confirmation of the Plan, and approved the notice of the confirmation hearing and certain related matters (the “Confirmation Hearing Notice”). A copy of the Confirmation Hearing Notice is enclosed with this Disclosure Statement. It sets forth in detail, among other things, procedures governing voting deadlines and objection deadlines. The Confirmation Hearing Notice and the instructions attached to the Ballot, if any, accompanying this Disclosure Statement should be read in connection with this Section of this Disclosure Statement.

If you have any questions about the procedure for Tabulation your Claim or the packet of material you received, please contact the Tabulation Agent at the address set forth below:

Kurtzman Carlson Consultants LLC
2335 Alaska Avenue
El Segundo, CA 90245
www.kccllc.com

If you wish to obtain, at your own expense, unless otherwise specifically required by Federal Rule of Bankruptcy Procedure 3017(d), an additional copy of the Plan, this Disclosure Statement, or any appendices or exhibits to such documents, please contact the Tabulation Agent at the address or telephone number set forth above. Copies of the Plan and this Disclosure Statement (including all exhibits, schedules and appendices) and all pleadings and orders of the Bankruptcy Court are publicly available at the Bankruptcy Court’s general Website at: <http://www.deb.uscourts.gov>. and certain pleadings and orders relevant to these chapter 11 cases may be found at <http://www.kccllc.net/Cynergydata> which is a website set up and maintained by the Tabulation Agent.

A. Fiduciaries And Other Representatives

If a Ballot is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation, or another acting in a fiduciary or representative capacity, such person should indicate such capacity when signing and, unless otherwise determined by the Debtors, must submit proper evidence satisfactory to the Debtors of authority to so act. Authorized signatories should submit separate Ballots for each beneficial owner for whom they are voting.

UNLESS THE BALLOT BEING FURNISHED IS TIMELY SUBMITTED TO THE TABULATION AGENT ON OR PRIOR TO THE VOTING DEADLINE, SUCH BALLOT WILL NOT BE COUNTED.

DO NOT RETURN DEBT INSTRUMENTS, OR ANY OTHER DOCUMENTATION WITH YOUR BALLOT.

B. Parties In Interest Entitled To Vote

Under section 1124 of the Bankruptcy Code, a class of claims or interests is deemed to be “impaired” under a plan unless (i) the plan leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder thereof or (ii) notwithstanding any legal right to an accelerated payment of such claim or interest, the plan cures all existing defaults (other than defaults resulting from the occurrence of events of bankruptcy) and reinstates the maturity of such claim or interest as it existed before the default.

In general, a holder of a claim or interest may vote to accept or to reject a plan if (i) the claim or interest is “allowed,” which means generally that no party in interest has objected to such claim or interest, and (ii) the claim or interest is impaired by the Plan. If, however, the holder of an impaired claim or interest will not receive or retain any distribution under the plan in respect of such claim or interest, the Bankruptcy Code deems such holder to have rejected the plan, and, accordingly, holders of such claims and interests do not actually vote on the Plan. If a claim or interest is not impaired by the Plan, the Bankruptcy Code deems the holder of such claim or interest to have accepted the plan and, accordingly, holders of such claims and interests do not actually vote on the Plan.

Any Claim as to which an objection has been timely filed and has not been withdrawn or dismissed is not entitled to vote, unless the Bankruptcy Court, pursuant to Bankruptcy Rule P. 3018(a), upon application of the holder of the Claim with respect to which there has been objection, temporarily allows the Claim in an amount that the Bankruptcy Court deems proper for the purpose of accepting or rejecting the Plan. The procedures for seeking such temporary allowance are set forth in the Disclosure Statement Order. The Disclosure Statement Order also sets forth assumptions and procedures for tabulating Ballots that are not completed fully or correctly.

A vote may be disregarded if the Bankruptcy Court determines, pursuant to section 1126(e) of the Bankruptcy Code, that it was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

C. Classes Impaired Under The Plan

Classes 1, 2, 3, 4, 5, 6 and 7 are the Classes of Claims Impaired under the Plan that are entitled to vote on the Plan. All other Classes of (i) Claims are not Impaired under the Plan, are deemed, under section 1126(f) of the Bankruptcy Code, to have accepted the Plan, and accordingly are not entitled to vote to accept or reject the Plan and (ii) impaired but will not receive a distribution under the Plan and are deemed, under section 1126(g) of the Bankruptcy Code, to have rejected the Plan, and accordingly are not entitled to vote to accept or reject the Plan. Acceptances of the Plan are being solicited only from those who hold Claims or Interests in an Impaired Class whose members will receive a distribution under the Plan.

D. Internet Access to Bankruptcy Court Documents

Bankruptcy Court documents filed in these Chapter 11 Cases as well as the Bankruptcy Court’s calendar and other administrative matters may be found, downloaded and printed from the Bankruptcy Court’s website found at <http://www.deb.uscourts.gov> and certain

pleadings and orders relevant to these chapter 11 cases may be found at <http://www.kccllc.net/Cynergydata> which is a website set up and maintained by the Tabulation Agent.

PLEASE SEE THE ATTACHED DISCLOSURE STATEMENT ORDER FOR OTHER PROVISIONS CONCERNING SOLICITATION AND VOTING

XI. CONCLUSION AND RECOMMENDATION.

A. Conclusion

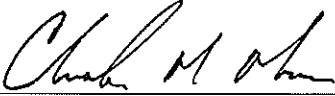
The Plan Proponents believe that confirmation and implementation of the Plan is preferable to any of the alternatives described above because it will result in the greatest recoveries to holders of Claims against and Interests in the Debtors. Other alternatives would involve significant delay, uncertainty and substantial additional administrative costs. Consequently, the Plan Proponents urge all Holders of Impaired Claims to vote to accept the Plan and to evidence their acceptance by duly completing and returning their Ballots so that they will be received on or before 5:00 p.m., (prevailing Eastern Time), on December 14, 2010.

B. Recommendation

THE DEBTORS AND THE COMMITTEE BELIEVE THAT THE PLAN PROVIDES THE BEST RECOVERIES POSSIBLE FOR THE HOLDERS OF CLAIMS AGAINST THE DEBTORS. ACCORDINGLY, THE DEBTORS AND THE COMMITTEE STRONGLY RECOMMEND THAT YOU VOTE TO ACCEPT THE PLAN.

Dated: September 27, 2010
Wilmington, DE

**CD LIQUIDATION CO. LLC, f/k/a
CYNERGY DATA, LLC,**

By: 
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Title: Chief Restructuring Officer

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Counsel for the Debtors and Debtors in Possession

Dated: September 27, 2010
Wilmington, DE

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UNSECURED CREDITORS**

By: _____
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APPENDIX A:

Joint Plan of Liquidation

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
In re: : Chapter 11
: :
CD LIQUIDATION CO., LLC, f/k/a : Case No. 09-13038 (KG)
CYNERGY DATA, LLC, *et al.*,¹ :
: : Jointly Administered
Debtors. :
-----X

**JOINT PLAN OF LIQUIDATION OF CD LIQUIDATION CO., LLC, CD
LIQUIDATION CO. PLUS, LLC, AND CYNERGY DATA HOLDINGS, INC.**

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Counsel for the Official Committee of Unsecured Creditors

Dated: September 27, 2010
Wilmington, DE

¹ By its order dated November 18, 2009, the Bankruptcy Court ordered that the caption in these jointly administered bankruptcy cases be changed to reflect changes to the corporate names of Cynergy Data, LLC and Cynergy Prosperity Plus, LLC agreed to as part of the sale of substantially all of their assets during these chapter 11 cases.

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TABLE OF EXHIBITS²

<u>Exhibit</u>	<u>Name</u>
A	Liquidation Trust Agreement

² All exhibits to this Plan will be filed with the Bankruptcy Court no later than fifteen (15) days before the Confirmation Hearing (as defined herein). The Plan Proponents jointly reserve the right to amend, modify, supplement, restate or withdraw the exhibits after they are filed with the Bankruptcy Court.

INTRODUCTION

CD Liquidation Co., LLC, f/k/a Cynergy Data, LLC, Cynergy Data Holdings, Inc., CD Liquidation Co. Plus, LLC, f/k/a Cynergy Prosperity Plus, LLC (collectively, the “Debtors”) and the Official Committee of Unsecured Creditors hereby propose the following liquidation plan (the “Plan”) for the resolution of the outstanding creditor claims against and equity interests in the Debtors. Reference is made to the Disclosure Statement (as that term is defined herein), distributed contemporaneously herewith, for a discussion of the Debtors’ history, business, properties, results of operations, risk factors, a summary and analysis of the Plan and certain related matters.

These Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to an order of the Court. The Plan contemplates and moves for the substantive consolidation of the Debtors for voting and distribution purposes pursuant to Sections 105 and 1123 (a)(5)(C) of the Bankruptcy Code (as that term is defined herein).

All holders of Claims and Interests (as such terms are defined herein) are encouraged to read the Plan and the accompanying solicitation materials in their entirety before voting to accept or reject the Plan. No materials other than the accompanying solicitation materials and any exhibits and schedules attached thereto or referenced therein have been authorized by the Debtors for use in soliciting acceptances or rejections of the Plan. Each of the Debtors and the Committee are the proponents of this Plan with respect to each Debtor within the meaning of Section 1129 of the Bankruptcy Code.

Subject to certain restrictions and requirements set forth in Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in Article X of this Plan, each Debtor and the Committee jointly reserve the right to alter, amend, modify, revoke or withdraw this Plan with respect to each Debtor prior to its substantial consummation.

ARTICLE I.

DEFINITIONS, RULES OF INTERPRETATION, AND COMPUTATION OF TIME

A. Scope Of Definitions; Rules Of Construction

For purposes of this Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms not otherwise defined shall have the meanings ascribed to them in Article I of this Plan. Any term used in this Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules. Whenever the context requires, such terms shall include the plural as well as the singular number. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.

B. Definitions

a. “Administrative Claim” means a Claim for payment of an administrative expense of a kind specified in Section 503(b) of the Bankruptcy Code and entitled to priority pursuant to Section 507(a)(2) of the Bankruptcy Code and incurred prior to the Effective Date, including, but not limited to (a) Professional Fee Claims, (b) Committee Member Expenses, and (c) all fees and charges assessed against the Estates under Chapter 123 of Title 28, United States Code.

b. “Allowed” means when used in reference to a Claim or Interest within a particular Class, an Allowed Claim or Allowed Interest of the type described in such Class.

c. “Allowed Administrative Claims and Allowed Priority Claims Reserve” means Cash reserved by the Debtors and transferred to the Liquidation Trust to fund payment in full of all Administrative Claims and Priority Claims that have not been Allowed and paid in full as of the Effective Date, but does not include administrative claims or priority claims that have been withdrawn or disallowed.

d. “Allowed Class . . . Claim” means a Claim or any portion thereof in the particular Class described (a) as to which no objection to allowance or request for estimation has been interposed before the expiration of the applicable period of limitation fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court or is listed on the Schedules as liquidated, non-contingent and undisputed, (b) as to which any objection to its allowance has been settled, waived through payment, withdrawn, or denied by a Final Order, (c) that has been allowed by a Final Order, (d) as to which the liability of the Debtors, and the amount thereof are determined by final order of a court of competent jurisdiction other than the Bankruptcy Court, or (e) that is expressly allowed in the Plan.

e. “Allowed Administrative Claim” means an Administrative Claim as to which a timely request for payment has been made in accordance with Article XII.A of this Plan (if such written request is required) or other Administrative Claim, in each case as to which the Debtors (1) have not interposed a timely objection or (2) have interposed a timely objection and such objection has been settled, waived through payment or withdrawn, or has been denied by a Final Order.

f. “Allowed Class . . . Interest” means an Interest in the particular Class described (a) that has been allowed by a Final Order, (b) for which (i) no objection to its allowance has been filed within the periods of limitation fixed by the Plan, the Bankruptcy Code or by any Final Order of the Bankruptcy Court or (ii) any objection to its allowance has been settled or withdrawn, or (c) that is expressly allowed in the Plan.

g. “Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as codified in Title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as now in effect or hereafter amended.

h. “Bankruptcy Court” means the United States Bankruptcy Court for the District of Delaware or such other court as may have jurisdiction over the Chapter 11 Cases.

i. “Bankruptcy Rules” means, collectively, the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as now in effect or hereafter amended, the Federal Rules of Civil Procedure, as amended, as applicable to the Chapter 11 Cases or proceedings therein, and the Local Rules of the Bankruptcy Court, as applicable to the Chapter 11 Cases or proceedings therein, as the case may be.

j. “Bar Date(s)” means the applicable bar date by which a proof of Claim, Interest or request for payment of Administrative Claim must be or must have been filed, as established by an order of the Bankruptcy Court, including the Bar Date Order and the Confirmation Order.

k. “Bar Date Order” means the order of the Bankruptcy Court dated December 18, 2009 establishing the Bar Date for filing in the Chapter 11 Cases proofs of Claim, as the same may be amended, modified or supplemented.

l. “Business Day” means any day, excluding Saturdays, Sundays or “legal holidays” (as defined in Bankruptcy Rule 9006(a)), on which commercial banks are open for business in New York, New York.

m. “Cash” means legal tender of the United States or equivalents thereof.

n. “Causes of Action” means claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities, arising on, prior to or after the Petition Date, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, whether existing on the Petition Date or thereafter arising in law, equity or otherwise, that are based in whole or in part on any act, omission, transaction or other occurrence in any way relating to any Debtor or the Plan, including Recovery Actions.

o. “CD” means CD Liquidation Co., LLC, f/k/a Cynergy Data, LLC.

p. “CD Interests” means the membership interests in CD owned by Holdings.

q. “Chapter 11 Cases” means the jointly administered bankruptcy cases of the Debtors commenced under Chapter 11 of the Bankruptcy Code captioned “CD Liquidation Co., LLC, f/k/a Cynergy Data LLC” (Case No. 09-13038 (KG)).

r. “Chief Restructuring Officer” shall mean Charles M. Moore.

s. “Claim” means a claim against one of the Debtors, whether or not asserted, as defined in Section 101(5) of the Bankruptcy Code.

t. “Claims Agent” means that entity designated to manage the receipt and retention of proofs of claims and related duties.

u. “Class” means a category of holders of Claims or Interests, as described in Article II below.

v. “Committee” means the Official Committee of Unsecured Creditors appointed on September 11, 2009 pursuant to Section 1102(a) of the Bankruptcy Code in the Chapter 11 Cases.

w. “Committee Member Expenses” means the reasonable expenses of the members of the Committee authorized pursuant to Section 503(b)(3)(F) of the Bankruptcy Code.

x. “Confirmation” means entry by the Bankruptcy Court of the Confirmation Order.

y. “Confirmation Date” means the date on which the Confirmation Order is entered on the docket of the Chapter 11 Cases by the clerk of the Bankruptcy Court within the meaning of Bankruptcy Rules 5003 and 9021.

z. “Confirmation Hearing” means the hearing held by the Bankruptcy Court to consider Confirmation of the Plan pursuant to Section 1129 of the Bankruptcy Code.

aa. “Confirmation Order” means the order entered by the Bankruptcy Court confirming the Plan pursuant to Section 1129 of the Bankruptcy Code.

bb. “Consummation” means the occurrence of the Effective Date.

cc. “Creditor” means any Person who holds a Claim against one of the Debtors.

dd. “Creditor Representative” shall have the meaning set forth in the Liquidation Trust Agreement. The Creditor Representative shall be initially selected in the manner set forth in the Liquidation Trust Agreement prior to the commencement of the Confirmation Hearing.

ee. “Debtors” means CD, Holdings and Prosperity including in their capacity as debtors in possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

ff. “Disclosure Statement” means the written disclosure statement that relates to the Plan, dated September 27, 2010, as amended, supplemented, or modified from time to time, and that is prepared and distributed in accordance with Sections 1125 and 1126(b) of the Bankruptcy Code and Bankruptcy Rule 3018.

gg. “Disputed Claim” or “Disputed Interest” means any Claim or Interest not otherwise Allowed or paid pursuant to the Plan or an order of the Bankruptcy Court (a) which has been or hereafter is listed on the Schedules as unliquidated, contingent, or disputed, and which has not been resolved by written agreement of the parties or a Final Order, (b) proof of which was required to be filed by order of the Bankruptcy Court but as to which a proof of Claim or Interest was not timely or properly filed, (c) proof of which was timely and properly filed and which has been or hereafter is listed on the Schedules as unliquidated, disputed or contingent, (d) that is disputed in accordance with the provisions of this Plan, or (e) as to which the Debtors have interposed a timely objection or request for estimation in accordance with the Plan, the Bankruptcy Code, the Bankruptcy Rules, and any orders of the Bankruptcy Court, or is otherwise disputed by the Debtors in accordance with applicable law, which objection, request for estimation, or dispute has not been withdrawn or determined by a Final Order; *provided, however*, that for purposes of determining whether a particular Claim or Interest is a Disputed Claim or Disputed Interest prior to the expiration of any period of limitation fixed for the interposition by the Debtors of objections to the allowance of Claims or Interests, any Claim or Interest that is not an Allowed Claim or Allowed Interest shall be treated as a Disputed Claim or Disputed Interest, respectively.

hh. “Distribution Date” until Classes 1, 2, and 3 have been paid in full means the last Business Day of each month following the Initial Distribution Date; after Classes 1 and 2 have been paid in full, it means the last Business Day of the month following the end each calendar quarter.

ii. “Distribution Reserve” means the reserve established and maintained by the Liquidation Trustee into which the Liquidation Trustee shall deposit the amount of Cash that would have been distributed on each Distribution Date to holders of (a) Disputed Claims, or (b) contingent liquidated Claims, as if such Claims had been Allowed Claims on the Distribution Date, pending (i) the allowance of such Claims, (ii) the estimation of such Claims for purposes of allowance or (iii) the realization of the contingencies, and (c) unliquidated Claims, as if such Claims had been liquidated on the Distribution Date.

jj. “Dymas” means Dymas Funding Company, LLC.

kk. “Effective Date” means the Business Day on which all of the conditions set forth in Article IX.B hereof have been satisfied or waived as provided in Article IX.D hereof and which has been designated by the Debtors as the effective date of the Plan.

ll. “Equity Securities” means, collectively, the CD Interests, Holdings Interests and Prosperity Interests.

mm. “Estates” means as to each Debtor the estate created for the Debtor in its Chapter 11 Case pursuant to Section 541 of the Bankruptcy Code.

nn. “Face Amount” means (a) when used in reference to a Disputed Claim, the full stated amount claimed by the Holder of such Claim in any proof of Claim timely filed with the Bankruptcy Court or otherwise deemed timely filed by any Final Order of the Bankruptcy Court or other applicable bankruptcy law, and (b) when used in reference to an Allowed Claim, the allowed amount of such Claim.

oo. “Final DIP Order” means that certain Final Order (I) Authorizing Use of Cash Collateral, (II) Authorizing Postpetition Financing, (III) Granting Senior Priming Liens and Superpriority Claims, and (IV) Granting Adequate Protection to the Prepetition Secured Parties entered by the Bankruptcy Court on October 16, 2009, as it has from time to time since been amended.

pp. “Final Order” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket of such court, the operation or effect of which has not been stayed, reversed, or amended and as to which order or judgment (or any revision, modification, or amendment thereof) the time to appeal or seek review or rehearing has expired and as to which no appeal or petition for review or rehearing was filed or, if filed, remains pending.

qq. “Financing Agreements” means, collectively (a) the First Lien Credit Agreement, (b) the Prosperity Credit Agreement, (c) the Second Lien Credit Agreement, (d), each other guaranty, security agreement, pledge agreement, intercreditor agreement, subordination agreement or other document entered into pursuant to each of the foregoing (a), (b) and/or (c), and (e) each other agreement that creates or purports to create or perfect a Lien in favor of any one or more of the Lenders.

rr. “First Lien Credit Agreement” means that certain Amended and Restated Credit Agreement dated as of August 1, 2008, as amended, with Comerica Bank as Agent and Co-Lead Arranger and Dymas Funding Company, LLC as Co-Lead Arranger, together with all security agreements, pledge agreements, intercreditor agreements, subordination agreements, guaranties or other documents entered into pursuant thereto.

ss. “General Unsecured Claim” means, collectively, a Claim against any Debtor that is not an Administrative Claim, a Priority Claim or a Secured Claim.

tt. “Holdings” means Cynergy Data Holdings, Inc.

uu. “Holdings Interests” means the shares of stock in Holdings.

vv. “Holder” means the holder of any Claim or Interest.

ww. “Impaired” means, when used with reference to a Claim or Interest, a Claim or Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

xx. “Initial Distribution Date” means the date, occurring on or as soon as practicable after the Effective Date, upon which the initial distributions are made by

the Liquidation Trustee to Holders of Allowed Administrative Claims, other Priority Claims, and/or Classes 1, 2, 3, 4 or 5 Claims.

yy. “Interest” means (a) the legal, equitable, contractual and other rights of any Person with respect to equity securities of any Debtor and (b) the legal, equitable, contractual or other rights of any Person to acquire or receive any of the foregoing.

zz. “Junior First Lien Lenders” means, collectively, all lenders defined as the “Term Loan B Banks” in the First Lien Credit Agreement.

aaa. “Lenders” means the Senior First Lien Lenders, the Prosperity Lenders, the Junior First Lien Lenders, and the Second Lien Lenders.

bbb. “Lien” means a charge against or interest in property to secure payment of a debt or performance of an obligation.

ccc. “Liquidation Trust” means the trust established pursuant to the Liquidation Trust Agreement to, among other things, hold the Liquidation Trust Assets and make distributions on account of Allowed Claims pursuant to Article VII.

ddd. “Liquidation Trust Account” means the Liquidation Trust Account established in accordance with the Liquidation Trust Agreement.

eee. “Liquidation Trust Agreement” means the Liquidation Trust Agreement.

fff. “Liquidation Trust Assets” means all assets and property of every kind and nature, owned by any of the Debtors as of the Effective Date or subsequently acquired by any of them, including, without limitation, all property of Estates, all Causes of Action, all proceeds from any sale or other disposition of any such asset, and any interest in any insurance policies or proceeds thereof. Without limiting the foregoing, the Liquidation Trust Assets include interests in i) any funds remaining in the Sale Escrow and ii) the Senior Subordinated Promissory Note issued by Cynergy Operations LLC dated October 26, 2009 in the principal amount of \$14 million and any and all payments thereafter or other proceeds thereof.

ggg. “Liquidation Trust Expense Account” means the trust account established pursuant to Article V.D.1 to fund the payment of the Liquidation Trust Expenses.

hhh. “Liquidation Trust Expenses” means, to the extent provided for under the budget approved by the Agent for the Senior First Lien Lenders, any and all reasonable fees, costs and expenses incurred by the Liquidation Trust or the Liquidation Trustee (or any person, Entity or professional engaged by the Liquidation Trustee) on or after the Effective Date in connection with any of their duties under the Plan and the Liquidation Trust Agreement, including any administrative fees, attorneys’ fees and expenses, insurance fees, taxes and escrow expenses.

iii. “Liquidation Trustee” means the Liquidation Trustee designated under the Liquidation Trust Agreement; provided, that Charles M. Moore will be the initial Liquidation Trustee commencing on the Effective Date.

jjj. “Net Liquidation Trust Proceeds” means the cash proceeds from the liquidation of the Liquidation Trust Assets, less the reasonable costs and expenses, subject to the budget approved by the Agent for the Senior First Lien Lenders, approved in accordance with the provisions of the Liquidation Trust arising from or relating to the distribution of such assets pursuant to the terms of the Liquidation Trust Agreement.

kkk. “Person” means an individual, partnership, limited liability company, trust, incorporated or unincorporated association, joint venture, joint stock company, government (or an agreed or political subdivision thereof) or other entity of any kind.

lll. “Petition Date” means September 1, 2009, the date on which each of the respective Debtors filed their respective voluntary petitions for reorganization relief under chapter 11 of the Bankruptcy Code.

mmm. “Plan” means this chapter 11 liquidation plan for the Debtors and all exhibits annexed hereto or referenced herein, as the same may be amended, modified or supplemented from time to time.

nnn. “Plan Proponents” means, collectively, each of the Debtors and the Committee.

ooo. “Plan Supplement” means the compilation of documents and forms of documents specified in the Plan which will be filed with the Bankruptcy Court prior to the Confirmation Hearing.

ppp. “Priority Claim” means a Claim that is entitled to priority pursuant to Section 507 of the Bankruptcy Code.

qqq. “Professional” means any professional (a) employed in the Chapter 11 Cases pursuant to Sections 327, 328 or 1103 of the Bankruptcy Code and to be compensated for services rendered pursuant to Sections 327, 328, 329, 330, and 331 of the Bankruptcy Code or (b) seeking compensation or reimbursement of expenses in connection with the Chapter 11 Cases pursuant to Section 503(b)(4) of the Bankruptcy Code.

rrr. “Professional Fee Claim” means a Claim of a Professional for compensation or reimbursement of costs and expenses relating to services after the Petition Date and prior to and including the Effective Date.

sss. “Pro Rata” means, at any time, the proportion that the Face Amount of a Claim or Interest, as applicable, in a particular Class bears to the aggregate Face Amount of all Claims or all Interests (including Disputed Claims and Interests) in such Class, unless the Plan provides otherwise.

ttt. “Prosperity” means CD Liquidation Co. Plus, LLC, f/k/a Cynergy Prosperity Plus, LLC.

uuu. “Prosperity Credit Agreement” means that certain Credit Agreement dated as of September 20, 2007, as amended, with Comerica Bank as Agent, together with all security agreements, pledge agreements, intercreditor agreements, subordination agreements or other documents entered into pursuant thereto.

vvv. “Prosperity Lenders” means all lenders under the Prosperity Credit Agreement.

www. “Prosperity Interests” means the membership interests in Prosperity owned by CD.

xxx. “Recovery Actions” means, collectively and individually, preference actions, fraudulent conveyance actions, rights of setoff and other claims or causes of action under Sections 510, 544, 547, 548, 549, 550 and 553 of the Bankruptcy Code.

yyy. “Reorganization Parties” means the Committee, each of the members of the Committee, the Chief Restructuring Officer, each Lender (all of the foregoing solely in their respective capacities), each of the Debtors’ Professionals and each of the Committee’s Professionals, and as to the Lenders and the Committee members, their respective members, managers, officers, directors, employees, advisors, attorneys, representatives or agents or any of their successors or assigns, each in their capacity as such, but, for the avoidance of doubt, does not include any one or more of the Debtors or of their respective members, managers, officers (other than the Chief Restructuring Officer), directors, employees, advisors, or attorneys (other than Debtors’ Professionals), representatives or agents.

zzz. “Sale Escrow” means the funds currently on deposit with Wilmington Trust Company as Escrow Agent pursuant to the Sale Order entered by the Bankruptcy Court on October 9, 2009 and the Escrow Agreement dated October 26, 2009 by and between Cynergy Data, LLC as Seller and Wilmington Trust Company, as Escrow Agent.

aaaa. “Schedules” means the schedules of assets and liabilities and the statements of financial affairs filed with the Bankruptcy Court pursuant to Section 521 of the Bankruptcy Code and Bankruptcy Rule 1007(b) by the Debtors as such schedules or statements may be amended or supplemented from time to time in accordance with Bankruptcy Rule 1009 or orders of the Bankruptcy Court.

bbbb. “Second Lien Credit Agreement” means that certain Financing Agreement dated as of November 15, 2007 with Dymas Funding Company, LLC as Agent, together with all security agreements, pledge agreements, intercreditor agreements, subordination agreements, guaranties or other documents entered into pursuant thereto.

cccc. “Second Lien Lenders” means all lenders under the Second Lien Credit Agreement.

dddd. “Secured Claim” means a Claim that is secured by a security interest in or Lien upon property, or the proceeds of the sale of such property, in which the Debtors have an interest, to the extent of the value, as of the Effective Date or such later date as is established by the Bankruptcy Court, of such Interest or Lien as determined by this Plan, a Final Order of the Bankruptcy Court pursuant to section 506 of the Bankruptcy Code or as otherwise agreed upon in writing by the Debtors and the Holder of such Claim.

eeee. “Senior First Lien Lenders” means, collectively, all lenders defined as the “Revolving Credit Banks” and “Term Loan A Banks” and all lenders which are “Banks” that entered into a “Hedging Transaction” in connection with the “Revolving Credit” and/or “Term Loan A” as such terms are defined in the First Lien Credit Agreement.

ffff. “Substantive Consolidation Order” means the order, or provisions of the Confirmation Order, substantively consolidating the Chapter 11 Cases as provided in Article IV of the Plan.

gggg. “Taxes” means (a) any income, alternative or add-on minimum, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, license, property, environmental or other tax, assessment or charge of any kind whatsoever (together in each instance with any interest, penalty, addition to tax or additional amount) imposed by any federal, state or local taxing authority; or (b) any liability for payment of any amounts of the foregoing types as a result of being a member of an affiliated, consolidated, combined or unitary group, or being a party to any agreement or arrangement whereby liability for payment of any such amounts is determined by reference to the liability of any other Entity.

hhhh. “Trust Accounts” means the Liquidation Trust Account, the Liquidation Trust Expense Account and any other trust account established in accordance with the Liquidation Trust Agreement.

iiii. “Unimpaired Claim” means a Claim that is not Impaired.

C. Rules of Interpretation

1. General

For purposes of the Plan (a) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, (b) any reference in the Plan to an existing document or exhibit filed or to be filed means such document or exhibit as it may have been or may be amended, modified, or supplemented, (c) unless otherwise specified, all references in the Plan to Sections, Articles, Schedules, and Exhibits are references to Sections, Articles, Schedules, and Exhibits of or to the

Plan, (d) the words “herein” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan, (e) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan, and (f) the rules of construction set forth in section 102 of the Bankruptcy Code and in the Bankruptcy Rules shall apply (other than Section 102(5) of the Bankruptcy Code).

2. Rule of “Contra Proferentum” Not Applicable

This Plan is the product of extensive discussions and negotiations between and among, *inter alia*, the Debtors, the Committee, and certain other Creditors and constituencies. Each of the foregoing was represented by independent counsel of its choice who either (a) participated in the formulation and documentation of or (b) was afforded the opportunity to review and provide comments on, the Plan, the Disclosure Statement, and the documents ancillary thereto. Accordingly, unless explicitly indicated otherwise, the general rule of contract construction known as “*contra proferentum*” shall not apply to the construction or interpretation of any provision of this Plan, the Disclosure Statement, or any exhibit, contract, instrument, release, indenture, or other agreement or document generated in connection therewith.

D. Computation of Time

In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

ARTICLE II.

CLASSIFICATION OF CLAIMS AND INTERESTS

A. Introduction

All Claims and Interests, except for Administrative Claims and other Priority Claims, are placed in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, all Claims entitled to priority over General Unsecured Claims, including Administrative Claims and other Priority Claims, have not been classified.

A Claim or Interest is placed in a particular Class only to the extent that a Claim or Interest falls within the description of that Class, and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes. A Claim is also placed in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and such Claim has not been paid, released, or otherwise settled prior to the Effective Date.

B. Unclassified Claims (not entitled to vote on the Plan)

1. Administrative Claims

2. Tax Priority Claims

C. Impaired Classes Of Claims And Interests

1. Classes 1, 2, 3, 4, 5, 6 and 7

Classes 1, 2, 3, 4, 5, 6 and 7 are Impaired and are entitled to vote on the Plan.

2. Class 8

Class 8 is Impaired but is not entitled to vote on the Plan.

D. Classified Claims And Interests

1. Class 1: Secured Claims of Senior First Lien Lenders Against CD, Holdings or Prosperity

Class 1 consists of all Allowed Secured Claims of Senior First Lien Lenders against CD, Holdings or Prosperity.

2. Class 2: Secured Claims of Prosperity Lenders Against CD, Holdings or Prosperity

Class 2 consists of Allowed Secured Claims of the Prosperity Lenders against CD, Holdings or Prosperity.

3. Class 3: Secured Claims of Junior First Lien Lenders Against CD, Holdings or Prosperity.

Class 3 consists of Allowed Secured Claims of Junior First Lien Lenders against CD, Holdings or Prosperity.

4. Class 4: Secured Claims of Second Lien Lenders Against CD, Holdings or Prosperity.

Class 4 consists of all Allowed Secured Claims of Second Lien Lenders against CD, Holdings or Prosperity.

5. Class 5: Other Secured Claims Against CD, Holdings or Prosperity.

Class 5 consists of all Allowed Secured Claims against CD, Holdings or Prosperity other than those classified in any of Classes 1, 2, 3 or 4.

6. Class 6: Priority Claims Other Than Tax Priority Claims Against CD, Holdings or Prosperity.

Class 6 consists of Unsecured Claims entitled to Priority, including employee wage claims, other than Tax Priority Claims.

7. Class 7: General Unsecured Claims Against CD, Holdings or Prosperity.

Class 7 consists of all Allowed General Unsecured Claims against CD, Holdings or Prosperity.

8. Class 8: Interests in CD, Holdings or Prosperity.

Class 8 consists of all Interests in CD, Holdings or Prosperity.

ARTICLE III.

TREATMENT OF CLAIMS AND INTERESTS

A. Unclassified Claims

1. Administrative Claims

Except as otherwise provided for herein, and subject to the requirements of Article XII.A. hereof, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date, (ii) the date such Administrative Claim becomes an Allowed Administrative Claim, or (iii) the date such Administrative Claim becomes payable pursuant to any agreement between the applicable Debtor and the Holder of such Administrative Claim, each Holder of an Allowed Administrative Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Administrative Claim (a) Cash equal to the unpaid portion of such Allowed Administrative Claim or (b) such other treatment as to which the applicable Debtor and such Holder shall have agreed upon in writing.

2. Tax Priority Claims

On, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date or (ii) the date such Tax Priority Claim becomes an Allowed Tax Priority Claim, each Holder of an Allowed Tax Priority Claim shall receive in full satisfaction, settlement, release, and discharge of and in exchange for such Allowed Tax Priority Claim (a) Cash equal to the unpaid portion of such Allowed Tax Priority Claim or (b) such other treatment as to which the applicable Debtor and such Holder shall have agreed upon in writing; *provided* that no Holder of an Allowed Tax Priority Claim shall be entitled to any payments on account of any pre-Effective Date interest accrued on or penalty arising after the Petition Date with respect to or in connection with such Allowed Tax Priority Claim.

B. Impaired Classes of Claims

1. Class 1: Secured Claims of Senior First Lien Lenders against CD, Holdings and Prosperity

Comerica Bank, as agent for the Senior First Lien Lenders, is the agent for the Holders of the Class 1 Claims. It will receive for such Allowed Secured Claims of Senior First Lien Lenders against CD, Holdings and Prosperity, all of the Net Liquidation Trust Proceeds until such Claims

have been paid in full. The entire Claim as filed is Allowed without offset, counterclaim or any defense whatsoever, as a fully secured claim under Section 506(a) of the Bankruptcy Code entitled to interest and all costs and expenses, including attorney fees, as provided by the Financing Agreements. Without limitation, the waivers, discharges and releases provided to the Senior First Lien Lenders under the Final DIP Order are ratified and confirmed as of the Effective Date.

2. Class 2: Secured Claims of Prosperity Lenders against CD, Holdings and Prosperity

Comerica Bank, as agent for the Prosperity Lenders, is the agent for the Holders of the Class 2 Claims. After irrevocable payment in full of the Claims in Class 1, it will receive for such Allowed Secured Claims of Prosperity Lenders against CD, Holdings and Prosperity all of the Net Liquidation Trust Proceeds, until such Claims have been paid in full. The entire Claim is Allowed without offset, counterclaim or any defense whatsoever, as a fully secured claim under Section 506(a) of the Bankruptcy Code entitled to interest and all costs and expenses, including attorney fees, as provided by the Financing Agreements. Without limitation, the waivers, discharges and releases provided to the Prosperity Lenders under the Final DIP Order are ratified and confirmed as of the Effective Date. After irrevocable payment in full of the Claims in Class 1, the Prosperity Lenders succeed to all of the consent and approval rights accorded to the First Lien Lenders under this Plan and the Liquidation Trust Agreement.

3. Class 3: Secured Claims of Junior First Lien Lender against CD, Holdings and Prosperity

Dymas, as agent for the Junior First Lien Lenders, is the agent for the Holders of the Secured Claims of the Junior First Lien Lenders against CD, Holdings and Prosperity. After irrevocable payment in full of the Claims in Class 1 and 2, it will receive all of the Net Liquidation Trust Proceeds until such Claims have been paid in full. The entire Claim as filed is Allowed without offset, counterclaim or any defense whatsoever, as a fully secured claim under Section 506(a) of the Bankruptcy Code entitled to interest and all costs and expenses, including attorney fees, as provided by the Financing Agreements. Without limitation, the waivers, discharges and releases provided to the Junior First Lien Lenders under the Final DIP Order are ratified and confirmed as of the Effective Date. After irrevocable payment in full of the Claims in Classes 1 and 2, the Junior First Lien Lenders succeed to all of the consent and approval rights accorded to the First Lien Lenders under this Plan and the Liquidation Trust Agreement.

4. Class 4: Secured Claims of Second Lien Lenders against CD, Holdings and Prosperity

Dymas, as agent for the Second Lien Lenders, is the Holder of the Class 4 Secured Claims of the Second Lien Lenders against CD, Holdings and Prosperity. After irrevocable payment in full of the Claims in Classes 1, 2 and 3, it will receive all of the Net Liquidation Trust Proceeds until such Claims have been paid in full. The entire Claim as filed is Allowed without offset, counterclaim or any defense whatsoever, as a fully secured claim under Section 506(a) of the Bankruptcy Code entitled to interest and all costs and expenses, including attorney fees, as provided by the Financing Agreements. Without limitation, the waivers, discharges and releases

provided to the Junior First Lien Lenders under the Final DIP Order are, under the confirmed Plan, also provided to the Second Lien Lenders as of the Effective Date. After irrevocable payment in full of the Claims in Classes 1, 2 and 3, the Junior First Lien Lenders succeed to all of the consent and approval rights accorded to the First Lien Lenders under this Plan and the Liquidation Trust Agreement.

5. Class 5: Other Secured Claims

To the extent there are Secured Claims against the assets of either CD, Holdings or Prosperity other than the Secured Claims set forth in Classes 1, 2, 3 or 4, such other Allowed Secured Claims shall be paid from any Net Liquidation Trust Proceeds derived from the collateral that secures such other Allowed Secured Claims after payment in full of the Allowed Secured Claims in Classes 1, 2, 3 and 4.

6. Class 6: Priority Claims Other Than Tax Priority Claims Against CD, Holdings or Prosperity

Each Holder of a Class 6 Priority Claim Other Than Tax Priority Claims against CD, Holdings or Prosperity will receive, in full satisfaction settlement, release, and discharge and in exchange for such Claim, its Pro Rata share of the Net Liquidation Trust Proceeds after all Secured Claims (Classes 1, 2, 3, 4 and 5) have been paid in full. The Net Liquidation Trust Proceeds will be distributed to the Holders of Class 6 Claims pursuant to the terms of the Liquidation Trust Agreement.

7. Class 7: General Unsecured Claims Against CD, Holdings or Prosperity

Each Holder of a Class 7 Allowed Unsecured Claim against CD, Holdings or Prosperity will receive, in full satisfaction, settlement, release, and discharge and in exchange for such Claim, its Pro Rata share of the Net Liquidation Trust Proceeds after all Secured Claims (Classes 1, 2, 3, 4 and 5) and Class 6 Priority Claims Other Than Tax Priority Claims have been paid in full. The Net Liquidation Trust Proceeds will be distributed to the Holders of Class 7 Claims pursuant to the terms of the Liquidation Trust Agreement.

8. Class 8: Interests in CD, Holdings or Prosperity

The Holders of the Interests in CD, Holdings and/or Prosperity shall receive no distribution on or on account of such Interests and all such Equity Interests shall be cancelled. The Holders of the Interests are deemed to reject the Plan.

ARTICLE IV.

SUBSTANTIVE CONSOLIDATION/MERGER

A. Substantive Consolidation/Merger

In accordance with Section 1123(a)(5)(C) of the Bankruptcy Code, the Plan contemplates and is predicated upon entry of the Substantive Consolidation Order, which shall effect the

merger or substantive consolidation of the Chapter 11 Cases into a single chapter 11 case solely for the purposes of all actions associated with confirmation and consummation of the Plan. On the Confirmation Date or such other date as may be set by a Final Order of the Court, but subject to the occurrence of the Effective Date: (i) all Intercompany Claims by and among the Debtors shall be eliminated; (ii) all assets and liabilities of the Debtors shall be merged or treated as though they were merged; (iii) all Claims based upon guarantees of collection, payment or performance made by one or more Debtors as to the obligations of another Debtor shall be disregarded and any obligation of any Debtor and all guarantees thereof executed by one or more of the Debtors shall be deemed to be one obligation of the consolidated Debtors; (iv) any Claims filed or to be filed in connection with any such obligation and such guarantees shall be deemed one Claim against the consolidated Debtors; and (v) each and every Claim filed in the individual Reorganization Case of any of the Debtors shall be deemed filed against the consolidated Debtors in the consolidated Chapter 11 Cases and shall be deemed a single obligation of all of the Debtors under the Plan on and after the Confirmation Date; provided, however, that nothing herein shall affect the obligations of the Debtors under the Plan.

B. Order Granting Substantive Consolidation

Unless substantive consolidation has been approved by a prior order of the Court, this Plan shall serve as a motion seeking entry of an order substantively consolidating the Chapter 11 Cases. Unless an objection to substantive consolidation is made in writing by any creditor affected by the Plan as herein provided on or before the objection date fixed by the Court, the Substantive Consolidation Order (which may be the Confirmation Order) may be entered by the Court. In the event any such objections are timely filed, a hearing with respect thereto shall be scheduled by the Court, which hearing may, but need not, coincide with the Confirmation Hearing.

ARTICLE V.

MEANS FOR IMPLEMENTATION OF THE PLAN

A. Establishment of the Liquidation Trust

As of the Effective Date, the Liquidation Trust Assets will be transferred by the Debtors to and vest in the Liquidation Trust, subject to the Liens that secure the Secured Claims and the terms and conditions of this Plan. On the Initial Distribution Date, the Liquidation Trustee will pay in full all Allowed Administrative Claims and Allowed Priority Claims and will establish the Allowed Administrative Claims and Allowed Priority Claims Reserve. The Liquidation Trustee will pay in full each Administrative Claim and each Priority Claim as, if and when such Claim is Allowed.

The Professionals employed by the Debtors or the Committee shall be entitled to reasonable compensation and reimbursement of actual and necessary expenses post-Effective Date for the preparation, filing, and prosecution of final fee applications, upon the submission of invoices to the Liquidation Trustee.

1. Liquidation Trust Generally

On or prior to the Effective Date, the Liquidation Trust shall be established pursuant to the Liquidation Trust Agreement for the purpose of liquidating the Liquidation Trust Assets, resolving all Disputed Claims, making all distributions to Holders of Allowed Claims in accordance with the terms of the Plan and otherwise implementing the Plan and administering the Debtors' Estates. In furtherance of the foregoing, the trust shall be created, pursuant to which the Liquidation Trustee shall hold the Liquidation Trust Assets. On the Effective Date, the Liquidation Trust Assets shall be transferred to, and vest in, the Liquidation Trust.

2. Funding of the Liquidation Trust

On or prior to the Effective Date, the Liquidation Trust shall be established pursuant to the Liquidation Trust Agreement and this Plan. The Liquidation Trust will be funded in accordance with the terms of the Liquidation Trust Agreement with the respective Liquidation Trust Assets or the proceeds thereof.

3. Liquidation Trustee

The Liquidation Trustee shall be the exclusive trustee of the assets of the Liquidation Trust for purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of the Estate of each of the Debtors appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The Liquidation Trustee shall be authorized to investigate, prosecute, litigate and compromise any Cause of Action and shall have standing as a representative of the Estates to pursue any Causes of Action and objections to Claims, whether initially filed by the Debtors or as may be filed by the Liquidation Trust, and may assert any claims and defenses that may otherwise have been asserted by a trustee under the Bankruptcy Code. The Liquidation Trustee shall be vested with all rights, powers and benefits afforded to a trustee under the Bankruptcy Code, including without limitation, Sections 108 and 505 of the Bankruptcy Code. Except as expressly provided in this Plan, no assets of the Estates shall be deemed released or compromised by or as a result of this Plan, its confirmation, its consummation or its treatment of any Claim or creditor. No "insured versus insured" exclusion contained in any insurance policy shall apply to any claims brought or prosecuted by the Liquidation Trustee. Further, no defense, right of setoff, counterclaim or right of recoupment of the Debtors shall be deemed waived or compromised. The powers, rights and responsibilities of the Liquidation Trustee shall be specified further in the Liquidation Trust Agreement and shall include, subject to matters requiring approval of the Agent for the Senior First Lien Lenders and the Creditor Representative, the authority and responsibility to: (i) effect all actions and execute all agreements, instruments and other documents necessary to implement the Plan; (ii) accept, preserve, receive, collect, manage, invest, supervise, prosecute, settle and protect the Liquidation Trust Assets, each in accordance with the Plan and Liquidation Trust Agreement; (iii) sell, liquidate, transfer, distribute or otherwise dispose of the Liquidation Trust Assets or any part thereof or any interest therein pursuant to the procedures for allowing Claims and making distributions prescribed in the Plan; (iv) calculate and make distributions to holders of Allowed Claims pursuant to the procedures for allowing Claims and making distributions prescribed in the Plan; (v) establish and administer the Trust Accounts and, if necessary, any additional trust accounts; (vi) comply with the Plan and exercise the Liquidation Trustee's rights and fulfill its

obligations thereunder; (vii) review, reconcile, compromise, settle, prosecute or object to Claims and resolve such objections as set forth in the Plan; (viii) employ Professionals, including Professionals already retained by the Estates or the Committee, to represent the Liquidation Trust with respect to its responsibilities; (ix) file appropriate Tax returns and other reports on behalf of the Liquidation Trust and the Debtors and pay from Liquidation Trust Assets Taxes or other obligations owed by the Liquidation Trust and the Debtors; (x) exercise such other powers as may be vested in the Liquidation Trustee or as deemed by it to be necessary and proper to implement the provisions of the Plan and the Liquidation Trust Agreement in consultation with the Creditor Representative and the Agent for the Senior First Lien Lenders; (xi) take such actions as are necessary or appropriate to close or dismiss any or all of the Chapter 11 Cases; (xii) obtain financing and incur debt on such terms and conditions, and at such time or times as the Liquidation Trustee shall determine and grant a subordinate security interest in the Liquidation Trust Assets (whether tangible or intangible) as security for such obligations; and (xiii) dissolve the Liquidation Trust in accordance with the terms of the Liquidation Trust Agreement. The Liquidation Trustee shall distribute the Liquidation Trust Assets in accordance with the provisions of the Plan and the Liquidation Trust Agreement. Other rights and duties of the Liquidation Trustee and the beneficiaries of the Liquidation Trust shall be as set forth in the Liquidation Trust Agreement.

The Liquidation Trust Agreement (or an employment agreement which shall be entered into by the Liquidation Trustee on behalf of the Liquidation Trust) generally will provide for, among other things, subject to a budget approved by the Agent for the Senior First Lien Lenders: (i) the payment of compensation to the Liquidation Trustee based upon hourly rates typically charged in the conduct of the Liquidation Trustee's business plus reimbursement of business expenses; (ii) the payment of other expenses of the Liquidation Trust, including the cost of pursuing the claims assigned to the Liquidation Trust; (iii) the retention of counsel, accountants, financial advisors or other professionals and the payment of their compensation; (iv) the investment of Cash by the Liquidation Trustee within certain limitations; (v) the preparation and filing of appropriate Tax returns and other reports on behalf of the Liquidation Trust and the Debtors and the payment of Taxes or other obligations owed by the Liquidation Trust and the Debtors; (vi) the orderly liquidation of the Liquidation Trust's assets; and (vii) prosecution of any Causes of Action assigned to the Liquidation Trust, which may include the litigation, settlement, abandonment or dismissal of any claims, rights or Causes of Action assigned to the Liquidation Trust.

4. Creditor Representative

The Creditor Representative is authorized to consult with the Liquidation Trustee and has the powers specified in the Liquidation Trust Agreement.

5. Fees and Expenses of the Liquidation Trust

Except as otherwise ordered by the Court, subject to a budget approved by the Agent for the Senior First Lien Lenders, the Liquidation Trust Expenses shall be paid from the Liquidation Trust Expense Account in accordance with the Plan and the Liquidation Trust Agreement.

6. Reports to be Filed by the Liquidation Trustee

The Liquidation Trustee, on behalf of the Liquidation Trust, shall provide quarterly reports regarding the administration of property subject to its ownership and control pursuant to the Plan, distributions made by it and other matters relating to the implementation of the Plan.

7. Indemnification

The Liquidation Trust Agreement may include reasonable and customary indemnification provisions for the Liquidation Trustee. Any such indemnification shall be the sole responsibility of the Liquidation Trust and payable solely from the Liquidation Trust Expense Account.

8. Tax Treatment

The Liquidation Trust generally is intended to be treated, for U.S. federal income Tax purposes, as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d), for the benefit of the Holders of Allowed Claims entitled to distributions of Pending Payments, as more specifically provided for under the Liquidation Trust Agreement. Accordingly, for all federal income Tax purposes the transfer of Liquidation Trust Assets to the Liquidation Trust will be treated as a transfer of the Liquidation Trust Assets directly from the Debtors to the Holders of such Allowed Claims followed by the transfer of such Liquidation Trust Assets by the Holders of Allowed Claims to the Liquidation Trust in exchange for rights to Pro Rata distributions from the Liquidation Trust. The Holders of Allowed Claims will be treated for federal income Tax purposes as the grantors and deemed owners of their respective shares of the Liquidation Trust Assets in the amounts of the Liquidation Trust Assets and any earnings thereon. The Liquidation Trustee will be required by the Liquidation Trust Agreement to file federal Tax returns for the Liquidation Trust as a grantor trust with respect to any Liquidation Trust Assets pursuant to applicable Treasury Regulations, and any income of the Liquidation Trust will be treated as subject to Tax on a current basis. The Liquidation Trust Agreement will provide that the Liquidation Trustee will pay any such Taxes imposed on it from the Liquidation Trust Assets as required by law and in accordance with Article V.A. In addition, the Liquidation Trust Agreement will require consistent valuation by the Liquidation Trustee and the holders of Allowed Claims, for all federal income Tax purposes, of any property held by the Liquidation Trust. The Liquidation Trust Agreement will provide that termination of the trust will occur no later than seven years after the Effective Date, *provided, however*, that, on or prior to the date of such termination, the Liquidation Trustee may extend the term of the Liquidation Trust for a finite period, if such an extension is necessary to liquidate the Liquidation Trust Assets or for other good cause. Multiple extensions may be obtained so long as the Liquidation Trustee extends such terms prior to the expiration of each extended term; *provided, however*, that, each such extension is approved by the Bankruptcy Court within six months after the beginning of such extended term and the Liquidation Trustee receives an opinion of counsel or a favorable ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the Liquidation Trust as a grantor trust for federal income tax purposes. The Liquidation Trust Agreement also will limit the investment powers of the Liquidation Trustee in accordance with IRS Rev. Proc. 94-45 and will require the Liquidation Trust to distribute at least annually to the holders of Allowed Claims (as such may have been determined at such time) its net income (net of any payment of or provision for Taxes), except

for amounts retained as reasonably necessary to maintain the value of the Liquidation Trust Assets or to meet Claims and contingent liabilities (including Disputed Claims).

9. Abandonment and Destruction of Documents

Unless otherwise required by applicable non-bankruptcy law, subject to the approval of the Agent for the Senior First Lien Lenders, the Liquidation Trustee is authorized and empowered to, pursuant to Sections 105 and 554 of the Bankruptcy Code and Bankruptcy Rule 6007, abandon and destroy any and all documents, including electronic files, of or related to the Debtors that the Liquidation Trustee, as a prudent person, determines are burdensome or of inconsequential value and benefit to the Liquidation Trust, all without further notice or hearing or order of the Bankruptcy Court. Unless otherwise required by applicable law or this Plan, upon the first (1st) anniversary of the termination of the Liquidation Trust Agreement, any and all documents in the possession of the Debtors' Professionals and the Committee's Professionals as a result of or arising in any way out of their representation of the Debtors and/or the Committee, respectively, shall be deemed destroyed and no Person shall be entitled to obtain such documents.

B. Corporate Action

1. Certificates of Incorporation or Organization

Each of the Debtors will cease to exist, and all existing certificates of incorporation and organization and by-laws and operating agreements will be canceled, as of the Effective Date. No new certificates of incorporation or organization or articles of incorporation or organization and operating agreements will be necessary.

2. Action

The following actions and transactions will occur and be effective as of the Effective Date, if no such other date is specified in such other documents, and will be authorized and approved in all respects and for all purposes without any requirement of further action by the Debtors, the Liquidation Trustee or any other person or Entity: (a) the establishment of the Liquidation Trust; (b) the appointment of the Liquidation Trustee to act on behalf of the Liquidation Trust; (c) the transfer of the Liquidation Trust Assets to the Liquidation Trust; (d) the creation of the Trust Accounts; (e) distributions pursuant to the Plan; (f) the adoption, execution, delivery and implementation of all contracts, instruments, releases and other agreements or documents related to any of the foregoing; (g) the adoption, execution and implementation of the Liquidation Trust Agreement; and (h) the other matters provided for under the Plan involving the structure of any Debtor or action to be taken by or required of any Debtor or the Liquidation Trustee.

3. Cancellation of the Equity Securities; Agents for Secured Claims

On the Effective Date, except as otherwise provided for herein, (i) the Equity Securities shall be cancelled, and (ii) the obligations of the Debtors under any agreements, indentures or certificates of designations governing the Equity Securities shall be discharged. Each indenture or other agreement that governs the rights of Holders of Secured Claims and that is administered

by an indenture trustee, an agent, or a servicer shall continue in effect including for the purposes of (a) allowing such indenture trustee, agent, or servicer to make the distributions to be made on account of such Claims under the Plan as provided in Article III hereof and (b) permitting such indenture trustee, agent, or servicer to maintain any rights or Liens it may have for fees, costs and expenses under such indenture or other agreement. Neither the Debtors nor the Liquidation Trustee shall have any obligations to an indenture trustee, an agent, or a servicer other than as specifically provided in this Plan (including the Liquidation Trust Agreement) or the Plan Supplement. The intercreditor provisions of the Financing Agreements are not modified by the Plan.

C. No Revesting Of Assets

The property of the Debtors' Estates shall not revert in the Debtors on or after the Effective Date but, subject to the Debtors funding in full the Allowed Administrative Claims and other Allowed Priority Claims Reserve, shall be deposited in the other Trust Accounts and will vest in the Liquidation Trust to be administered by the Liquidation Trustee in accordance with the Plan and the Liquidation Trust Agreement.

D. Trust Accounts

1. Liquidation Trust Accounts

a. Creation and Funding

On or prior to the Effective Date, the Trust Accounts will be established and vest in the Liquidation Trust. They shall be maintained by the Liquidation Trustee in accordance with the terms of the Liquidation Trust Agreement. No later than fifteen (15) days prior to the hearing to consider Confirmation of the Plan, (a) the Committee and the Debtors, subject to the approval of the Agent for the Senior First Lien Lenders, will agree on the budget for the Liquidation Trust Expenses to be funded into each of the Trust Accounts on the Effective Date and (b) the Debtors will file in the Plan Supplement revised Liquidation Trust Agreement reflecting such funding amounts.

b. Closure

Upon obtaining an order of the Bankruptcy Court authorizing final distribution and closure of the Chapter 11 Cases, any funds remaining in the Liquidation Trust Accounts shall be distributed in accordance with the Plan, the Liquidation Trust Agreement, and any final decree entered in the Debtors' Chapter 11 Cases.

2. Liquidation Trust Expense Account

On or after the Effective Date, the Liquidation Trust Expense Account will be established to pay Liquidation Trust Expenses. The Liquidation Trust Expense Account will be funded by the transfer of funds from the Liquidation Trust Account by the Liquidation Trustee in amounts determined by the Liquidation Trustee with the consent of the Agent for the Senior First Lien Lenders.

E. Preservation of Rights of Action

Except as provided in the Plan or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan including the Liquidation Trust Agreement, in accordance with Section 1123(b) of the Bankruptcy Code, the Liquidation Trustee will retain and may enforce any claims, demands, rights and Causes of Action that any Estate may hold against any person or Entity to the extent not released under Article XII.H or otherwise. The Liquidation Trustee may pursue such retained Claims, demands, rights or Causes of Action, in accordance with the best interests of the Estate or Estates that held such Claims, demands, rights or Causes of Action. Any recovery of Cash by the Liquidation Trustee on account of such actions will be deposited in the applicable Liquidation Trust Account and distributed pursuant to the terms of the Plan and the Liquidation Trust Agreement.

F. Exclusivity Period

The Debtors shall retain the exclusive right to amend or modify the Plan, and to solicit acceptances of any amendments to or modifications of the Plan, through and until the Effective Date, in consultation with the Committee.

G. Effectuating Documents; Further Transactions

The Chief Restructuring Officer or any other appropriate officer of the Debtors, or after the Effective Date, the Liquidation Trustee, shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The secretary or assistant secretary of the Debtors, or after the Effective Date, the Liquidation Trustee, shall be authorized to certify or attest to any of the foregoing actions.

H. Exemption From Certain Transfer Taxes

Pursuant to Section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer from the Debtors to the Liquidation Trust or any other Person or Entity pursuant to the Plan may not be taxed under any law imposing a stamp tax or similar tax, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

ARTICLE VI.

ACCEPTANCE OR REJECTION OF THE PLAN

A. Classes Entitled To Vote

Each Impaired Class of Claims or Interests that will (or may) receive or retain property or any interest in property under the Plan, shall be entitled to vote to accept or reject the Plan. By

operation of law, each Unimpaired Class of Claims is deemed to have accepted the Plan and, therefore, is not entitled to vote to accept or reject the Plan.

B. Acceptance By Impaired Classes

An Impaired Class of Claims shall have accepted the Plan if (i) the Holders (other than any Holder designated under Section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have voted to accept the Plan and (ii) the Holders (other than any Holder designated under Section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have voted to accept the Plan.

ARTICLE VII.

PROVISIONS GOVERNING DISTRIBUTIONS

A. Distributions For Claims Allowed As Of The Effective Date

Except as otherwise provided herein or as ordered by the Bankruptcy Court, distributions to be made on account of Administrative Claims and Priority Claims that are Allowed Administrative Claims or Allowed Priority Claims as of the Effective Date shall be made as of the Effective Date and will be deemed made on the Effective Date if made no later than 60 days after the Effective Date, or as soon thereafter as practicable.

B. Interest On Claims

Except for Classes 1, 2 and 3, or as otherwise specifically provided by this Plan or the Confirmation Order, or by applicable bankruptcy law, post-petition interest shall not accrue and not be paid on Allowed Claims when due under the contract, agreement, or other instrument governing the terms and conditions of the obligation comprising such Allowed Claim.

C. Distributions

Prior to the Effective Date, the Debtors, and after the Effective Date, the Liquidation Trustee, shall make all distributions required under this Plan (subject to the provisions of the Plan). All distributions shall be in cash unless the Holder of the Claim agrees otherwise in writing. The Liquidating Trustee shall not be required to give any bond or surety or other security for the performance of his duties unless otherwise ordered by the Bankruptcy Court.

D. Distributions of Funds Held in Sale Escrow

To the extent the funds in the Sale Escrow have not been previously disbursed in accordance with the terms applicable thereto, such funds will on the Effective Date be disbursed to pay Secured Claims under Class 1, 2, 3, 4, and 5 above in accordance with the priorities for payment of those claims as provided in Article III.B above.

E. Compensation and Reimbursement for Services Related to Distributions

The Liquidation Trustee will receive from the Liquidation Trust Expense Account, without further Bankruptcy Court approval, unless there is an objection by a party in interest, reasonable compensation for such services and reimbursement of reasonable out-of-pocket expenses incurred in connection with such services in accordance with the Liquidation Trust Agreement.

F. Means Of Cash Payment

Cash payments made pursuant to this Plan shall be in U.S. funds, by the means agreed to by the payor and the payee, including by check or wire transfer, or, in the absence of an agreement, such commercially reasonable manner as the payor shall determine in its discretion.

G. Delivery Of Distributions

Distributions to Holders of Allowed Claims shall be made by the Debtors or Liquidation Trustee, as the case may be, (i) at the addresses set forth on the proofs of Claim filed by such Holders (or at the last known addresses of such Holders if no proof of Claim is filed or if the Debtors have been notified in writing of a change of address), (ii) at the addresses set forth in any written notices of address changes delivered to the Debtors or the Liquidation Trustee, as the case may be, after the date of any related proof of Claim, (iii) at the addresses reflected in the Schedules if no proof of Claim has been filed and the Debtors or the Liquidation Trustee, as the case may be, has not received a written notice of a change of address, (iv) in the case of the Holder of a Claim that is governed by an indenture or other agreement and is administered by an indenture trustee, agent, or servicer, to the indenture trustee, agent, or servicer, or (v) at the addresses set forth in a properly completed letter of transmittal accompanying securities properly remitted to the Debtors. If any Holder's distribution is returned as undeliverable, no further distributions to such Holder shall be made unless and until the Debtors or the Liquidation Trustee, as the case may be, its agent, or servicer is notified of such Holder's then current address, at which time all missed distributions shall be made to such Holder without interest. Amounts in respect of undeliverable distributions made through the Debtors or the Liquidation Trustee, agent, or servicer, shall be returned to the Liquidation Trust until such distributions are claimed. All claims for undeliverable distributions must be made on or before the second (2nd) anniversary of the Distribution Date, after which date all unclaimed property shall revert to the Liquidation Trust Account from which it was disbursed free of any restrictions thereon and the claim of any Holder or successor to such Holder with respect to such property shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

H. Fractional Dollars; *De Minimis* Distributions

Any other provision of the Plan notwithstanding, payments of fractions of dollars shall not be made. Whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment made shall reflect a rounding of such fraction to the nearest whole dollar (up or down), with half dollars being rounded down. The Debtors, the Liquidation Trustee, or any indenture trustee, agent, or servicer, as the case may be, shall not make any payment of less than one hundred dollars (\$100.00) with respect to any Claim unless a request

therefore is made in writing to the Debtors, the Liquidation Trustee, indenture trustee, agent, or servicer, as the case may be.

I. Withholding And Reporting Requirements

In connection with this Plan and all distributions hereunder, the Debtors or the Liquidation Trustee, as the case may be, shall, to the extent applicable, comply with all Tax withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Debtors or the Liquidation Trustee, as the case may be, shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements including, without limitation, withholding distributions from any beneficiary who fails to provide a completed IRS Form W-9 or other requested Tax information.

J. Setoffs

Except with respect to claims of a Debtor released pursuant to the Plan or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan or in the Chapter 11 Cases, the Liquidation Trustee pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, may setoff against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such claim (before any distribution is made on account of such Claim) the claims, rights and Causes of Action of any nature that the applicable Debtor may hold against the holder of such Allowed Claim; *provided, however,* that neither the failure to effect a setoff nor the allowance of any Claim hereunder will constitute a waiver or release by the applicable Debtor of any claims, rights and Causes of Action that the Debtor or Debtors may possess against such a Claim Holder, which are expressly preserved under Article V.E.

K. Rejection

1. Status of Remaining Executory Contracts

On the Effective Date, and unless previously rejected pursuant to a Final Order, to the extent permitted by applicable law, all of the Debtors' remaining prepetition executory contracts and unexpired leases are rejected by the Debtors as of the Confirmation Date, unless such executory contract or unexpired lease:

(1) is expressly identified in the Plan Supplement as a contract or lease that is being assumed pursuant to the Plan;

(2) is the subject of a motion to assume filed on or before the Confirmation Date; or

(3) is the subject of an agreement, entered into on or before the Confirmation Date, among the Debtors and the counterparty to such executory contract to extend the time to assume or reject such executory contract to a date subsequent to the Confirmation Date.

2. Bar Date for Filing Claims for Rejection Damages

If the rejection of any of the Debtors' prepetition executory contracts or unexpired leases gives rise to a Claim, a proof of Claim must be served upon the Debtors, Debtors' counsel and the Claims Agent within thirty (30) days after the earlier of (a) service of notice of entry of the Confirmation Order; or (b) service of such other notice that the executory contract or unexpired lease has been rejected, or (c) such other order of the Bankruptcy Court establishing an earlier date for the filing of such proof of claim. Any claim not served within such time period will be forever barred.

ARTICLE VIII.

PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT, AND UNLIQUIDATED CLAIMS

A. Objection Deadline; Prosecution Of Objections

As soon as practicable after payment in full of Classes 1 and 2, but in no event after the later of (i) one hundred and eighty (180) days after the payment in full of Classes 1 and 2 (unless extended by an order of the Bankruptcy Court) and (ii) the date such Claim or Interest is filed and served upon the Debtors, the Committee or the Debtors prior to the Effective Date, and thereafter the Liquidation Trustee, shall file objections to Claims and Interests with the Bankruptcy Court and serve such objections upon the Holders of each of the Claims or Interests to which objections are made. Nothing contained herein, however, shall limit the Liquidation Trustee right to (y) object to Claims or Interests, if any, filed or amended more than one hundred and eighty (180) days after the foregoing deadline or (z) seek further extension of time by order of the Bankruptcy Court to object to Claims or Interests.

B. Estimation of Claims

Any Debtor or the Liquidation Trustee may at any time request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether such Debtor has previously objected to such Claim or whether the Bankruptcy Court has ruled on any objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal related to any such objection. In the event the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned objection, estimation and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims may be estimated and thereafter resolved by any permitted mechanism.

C. No Distributions Pending Allowance

Notwithstanding any other provision of the Plan, no payments or distributions shall be made with respect to all or any portion of a Disputed Claim unless and until all objections to

such Disputed Claim have been settled or withdrawn or have been determined by Final Order, and the Disputed Claim, or some portion thereof, has become an Allowed Claim.

D. Adjustment to Claims and Interests Without Objection

Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, may be adjusted or expunged on the Claims Register by the Debtors or the Liquidation Trustee, as applicable, without a claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

Except as otherwise agreed by the Debtors prior to the Effective Date, and thereafter the Liquidation Trustee, any and all proofs of Claim filed after the applicable Claim bar date shall be deemed disallowed in full and expunged from the official Claims register maintained in these Chapter 11 Cases for purposes of distribution or any other treatment under the Plan as of the Effective Date without any further notice to or action, order or approval of the Bankruptcy Court, and Holders of such Claims may not receive any distribution on account of such Claims, unless, on or before the date of the Confirmation Hearing, such late Claim has been deemed timely filed by a Bankruptcy Court order.

E. Disallowance of Claims or Interests

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

F. No New Claims

On or after the Effective Date, except as provided in herein or otherwise agreed, a Claim may not be filed without the prior authorization of the Bankruptcy Court, the Debtors or the Liquidation Trustee, and any such new Claim filed shall be deemed disallowed in full and expunged without any further action or order of the Bankruptcy Court.

G. Offer of Judgment

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

H. Distributions After Allowance

1. Allowed Administrative Expenses and Allowed Priority Claims.

Prior to the Effective Date the Debtors, and after the Effective Date, the Liquidation Trustee, shall pay in full each Allowed Administrative Expense and other Allowed Priority Claim from the Allowed Administrative Expenses and Allowed Priority Claims Reserve as soon as each such Administrative Expense or Priority Claim is Allowed.

2. All other Allowed Claims.

All other distributions on Allowed Claims shall be made by the Liquidation Trustee on each Distribution Date in accordance with the terms of the Liquidation Trust Agreement.

I. Priority Unsecured and General Unsecured Claims

Notwithstanding the contents of the Schedules, Claims listed therein as undisputed, liquidated and not contingent shall be reduced by the amount, if any, that was paid by the Debtors prior to the Effective Date including pursuant to orders of the Bankruptcy Court. To the extent such payments are not reflected in the Schedules, such Schedules will be deemed amended and reduced to reflect that such payments were made. Nothing in the Plan shall preclude the Liquidation Trustee from paying, pursuant to the terms of this Plan or the Liquidation Trust Agreement, Claims that the Debtors were authorized to pay pursuant to any Final Order entered by the Bankruptcy Court prior to the Confirmation Date.

J. Compliance with Tax Requirements/Allocations

In connection with the Plan, to the extent applicable, the Debtors shall comply with all Tax withholding and reporting requirements imposed on them by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Debtors, and the Liquidation Trustee shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding Taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms they believe are reasonable and appropriate. The Debtors reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, Liens and encumbrances.

K. No Release of Liens

No Liens against the property of any Estate will be released and discharged, and all of the right, title and interest of any Holder of such Liens, including any rights to any collateral thereunder, shall attach to and be enforceable solely against the Liquidation Trust Assets in accordance with and subject to the terms of the applicable Financing Agreements. All such Liens against the Liquidation Trust Assets shall be fully released and discharged upon the Holder of the Liens receiving its full distribution under the Plan.

ARTICLE IX.

CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

A. Conditions To Confirmation

The Bankruptcy Court shall not enter the Confirmation Order unless and until (i) the Confirmation Order shall be reasonably acceptable in form and substance to the Debtors and the Committee and Agent for the Senior First Lien Lenders and (ii) the Confirmation Order includes a finding of fact that the Reorganization Parties acted in good faith within the meaning of and with respect to all of the actions described in Section 1125(e) of the Bankruptcy Code and are therefore not liable for the violation of any applicable law, rule, or regulation governing such actions.

B. Conditions To Consummation

The following are conditions precedent to the occurrence of the Effective Date, each of which must be (i) satisfied or (ii) waived in accordance with Article IX.D. below:

(1) The Confirmation Order, in form and substance reasonably acceptable to the Debtors and the Committee and the Agent for the Senior First Lien Lenders, confirming the Plan, as the same may have been modified, must have become a Final Order and must, among other things, provide that:

(a) the Debtors and the Liquidation Trustee are authorized and directed to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, indentures and other agreements or documents created in connection with the Plan;

(b) the provisions of the Confirmation Order are non-severable and mutually dependent;

(c) the transfers of property by the Debtors (a) to the Liquidation Trust (i) are or will be legal, valid, and effective transfers of property, (ii) vest or will vest the Liquidation Trust with good title to such property, (iii) do not and will not constitute avoidable transfers under the Bankruptcy Code or under applicable bankruptcy or non-bankruptcy law, and (iv) do not and will not subject the Liquidation Trust to any liability by reason of such transfer under the Bankruptcy Code or under applicable non-bankruptcy law, including, without limitation, any laws affecting successor or transferee liability, and (b) to Holders of Claims under the Plan are for good consideration and value and are in the ordinary course of the Debtors' respective businesses; and

(2) The Liquidation Trust Agreement, in form reasonably satisfactory to the Debtors, the Liquidation Trustee the Committee and the Agent for the Senior First Lien Lenders shall have been executed and delivered, and all conditions precedent thereto shall have been satisfied.

(3) The Substantive Consolidation Order shall have been entered or be entered as part of the Confirmation Order;

(4) All authorizations, consents, and regulatory approvals required, if any, in connection with the Effective Date shall have been obtained.

(5) There shall not be in effect on the Effective Date any (i) order entered by a U.S. court or (ii) any order, opinion, ruling or other decision entered by any other court or governmental entity or (iii) United States or other applicable law, staying, restraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by the Plan.

(6) No request for revocation of the Confirmation Order under Section 1144 of the Bankruptcy Code shall remain pending.

C. Substantial Consummation

On the Initial Distribution Date, the Plan shall be deemed to be substantially consummated under Sections 1101 and 1127(b) of the Bankruptcy Code.

D. Waiver Of Conditions

Each of the conditions set forth in Article IX, except for Article IX.B.4 (related to the requirement of Confirmation and entry of the Confirmation Order), may be waived in whole or in part by the Plan Proponents and the Agent for the Senior First Lien Lenders collectively without any notice to parties in interest except the Bankruptcy Court and without a hearing. The failure to satisfy or waive any condition to the Effective Date may be asserted by the Plan Proponents regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure of the Plan Proponents to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right that may be asserted at any time.

ARTICLE X.

MODIFICATIONS AND AMENDMENTS

The Plan Proponents may jointly amend, alter or modify the Plan or any exhibits thereto under Section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in Section 1101(2) of the Bankruptcy Code, the Plan Proponents may jointly, under Section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan so long as such proceedings do not materially adversely affect the treatment of Holders of Claims or Interests under the Plan; *provided, however*, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

ARTICLE XI.

RETENTION OF JURISDICTION

Under Sections 105(a) and 1142 of the Bankruptcy Code, and notwithstanding entry of the Confirmation Order and occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

(1) Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance or priority of Claims or Interests;

(2) Hear and determine all applications for compensation and reimbursement of expenses of Professionals under Sections 327, 328, 330, 331, 503(b), 1103 or 1129(a)(4) of the Bankruptcy Code; *provided, however*, that from and after the Effective Date, the payment of fees and expenses of professionals retained by the Liquidation Trustee shall be made in the ordinary course of business and, absent an objection by a party in interest, shall not be subject to the approval of the Bankruptcy Court;

(3) Hear and determine all matters with respect to the assumption or rejection of any executory contract or unexpired lease to which one or more of the Debtors are parties or with respect to which one or more of the Debtors may be liable, including, if necessary, the nature or amount of any required cure or the liquidation of any claims arising therefrom;

(4) Hear and determine any and all adversary proceedings, motions, applications, and contested or litigated matters arising out of, under, or related to, the Chapter 11 Cases, including, but not limited to, any and all motions for approval of asset sales by the Debtors or the Liquidation Trustee;

(5) Enter and enforce such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan, the Liquidation Trust Agreement, the Disclosure Statement or the Confirmation Order;

(6) Hear and determine disputes arising in connection with the interpretation, implementation, consummation, or enforcement of the Plan, including disputes arising under agreements, documents or instruments executed in connection with the Plan;

(7) Consider any modifications of the Plan, cure any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(8) Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with implementation, consummation, or enforcement of the Plan or the Confirmation Order;

(9) Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified, or vacated;

(10) Hear and determine any matters arising in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order, the Liquidation Trust Agreement or any contract, instrument, release, or other agreement or document created in connection with the Plan, the Disclosure Statement, the Liquidation Trust Agreement or the Confirmation Order;

(11) Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Cases;

(12) Recover all assets of the Debtors and property of the Estates, wherever located;

(13) Hear and determine any Causes of Action that might be brought by the Liquidation Trustee against any present or former officer, director, manager, shareholder or member of any one or more of the Debtors including but not limited to i) any preference or fraudulent transfer action under federal or state law arising from loans made by one or more of the Debtors, ii) from distributions made by one or more of the Debtors to one or more of its equity Holders for the payment of federal or state Taxes on income realized or thought to be realized by one or more of the Debtors, iii) fraud, mismanagement, breach of fiduciary duty or similar Claims related to the management of one or more of the Debtors prior to the Petition Date, or iv) related to the redemption or purchase by one or more of the Debtors or by any of their equity Holders of the equity Interests of John Martillo in any one or more of the Debtors.

(14) Hear and determine matters concerning state, local, and federal taxes in accordance with Sections 346, 505, and 1146 of the Bankruptcy Code;

(15) Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under, or not inconsistent with, provisions of the Bankruptcy Code; and

(16) Enter a final decree closing the Chapter 11 Cases.

ARTICLE XII.

MISCELLANEOUS PROVISIONS

A. Bar Dates For Certain Claims

1. Administrative Claims

The Confirmation Order will establish an Administrative Claims Bar Date for filing of all Administrative Claims, which date will be forty-five (45) days after the Effective Date. Holders of asserted Administrative Claims must submit proofs of Administrative Claim on or before such Administrative Claims Bar Date or forever be barred from doing so. A notice prepared by the Debtors will set forth such date and constitute notice of this Administrative Claims Bar Date. The Liquidation Trustee shall have ninety (90) days (or such longer period as may be allowed by order of the Bankruptcy Court) following the Administrative Claims Bar Date to review and

object to such Administrative Claims before a hearing for determination of allowance of such Administrative Claims.

2. Administrative Ordinary Course Liabilities

Except as the Court may order otherwise in connection with any request by the Debtors or the Liquidation Trustee for the setting of a supplemental Administrative Claims Bar Date, holders of Administrative Claims that are based on liabilities incurred in the ordinary course of the Debtors' businesses (other than Claims of governmental units for Taxes (and for interest and/or penalties related to such Taxes)) shall not be required to file any request for payment of such Claims. Such Administrative Claims, unless objected to by the Debtors or the Liquidation Trustee, shall be paid by the Debtors or the Liquidation Trust, as the case may be, in Cash, pursuant to the terms and conditions of the particular transaction giving rise to such Administrative Claim. For the avoidance of doubt, Holders of Administrative Claims pursuant to Section 503(b)(9) of the Bankruptcy Code **shall be required** to file a proof of Administrative Claim on or before the Administrative Claims Bar Date.

B. Payment Of Statutory Fees

All fees payable pursuant to Section 1930 of Title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing shall be paid on or before the Effective Date.

C. Severability Of Plan Provisions

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

D. Successors And Assigns

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

E. Committee

Effective on the Effective Date, the duties of the Committee shall terminate and the Committee shall dissolve, except with respect to any appeal of an order in the Chapter 11 Cases and applications for Professional Fees.

F. Exculpation And Limitation Of Liability

None of the Reorganization Parties shall have or incur any liability to the Debtors, their Estates, any Holder of a Claim or an Interest, or to any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, or to any of their successors or assigns, for any act or omission occurring subsequent to the Petition Date in connection with, relating to, or arising out of, the administration of the Chapter 11 Cases, negotiation of the Disclosure Statement, negotiation of this Plan, negotiation of the Liquidation Trust Agreement, the solicitation of acceptances of this Plan, the pursuit of confirmation of this Plan, the consummation of this Plan, or the administration of this Plan or the property to be distributed under this Plan, except for their gross negligence or willful misconduct, and in all respects each of the Reorganization Parties shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities under this Plan.

Notwithstanding any other provision of this Plan, no Holder of a Claim or Interest and no other party in interest, none of their respective agents, employees, representatives, financial advisors, attorneys, or affiliates, and no successors or assigns of the foregoing, shall have any right of action against any one or more of the Reorganization Parties for any act or omission occurring subsequent to the Petition Date in connection with, relating to, or arising out of, the administration of the Chapter 11 Cases, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their gross negligence or willful misconduct.

G. Permanent Injunction

Except as otherwise expressly provided in the Plan or the Confirmation Order, all entities who have held, hold or may hold Claims against, or Interests in, the Debtors are permanently enjoined, on and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim or Interest against the property or interests in property of the Debtors; (ii) commencing or continuing an action on a Claim released under Article XII.H of the Plan solely against any one or more of the Reorganization Parties, (iii) the enforcement, attachment, collection, or recovery by any manner or means of judgment, award, decree or order against the property or interests in property of the Debtors, (iv) creating, perfecting, or enforcing any encumbrance of any kind against any property or interests in property of the Debtors, and (v) asserting any right of setoff or subrogation of any kind against any obligation due to the Debtors or against the property or Interests in property of the Debtors on account of any such Claim or Interest. The foregoing injunction will extend to and be for the benefit of the Liquidation Trust and its properties and Interests in property. For the avoidance of any doubt, this Permanent Injunction shall not interfere in any way with the ability of the Liquidation Trust to pursue any property of the Debtors and realize the value of the Debtors' interest in such property in accordance with the terms of the Liquidation Trust.

H. Debtors' Releases

As of the Effective Date, the Debtors together with any successors to the Debtors and each of their respective estates, directors, officers, members, managers, employees, agents, financial advisors, representatives, affiliates, attorneys and professionals (solely in their capacities as such) shall be deemed, to the maximum extent permitted by applicable law, to forever release, waive and discharge all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities whatsoever (including without limitation for subordination of any kind or nature) in connection with or related to the Debtors, or the administration of the Chapter 11 Cases or the Plan (other than the rights of the Debtors and any successors to enforce the Plan and the contracts, instruments, releases, indentures, and other agreements or documents assumed, passed through or delivered in connection with such Plan) and whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date against any of the Reorganization Parties as of the Effective Date, for any act or omission occurring subsequent to the Petition Date in connection with, relating to, or arising out of, the administration of the Chapter 11 Cases, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Plan or the property to be distributed under the Plan, except for their gross negligence or willful misconduct. The releases, waivers and discharges provided for herein shall apply only to acts, omissions, transactions, events or other occurrences that took place to the Effective Date.

I. Binding Effect

The Plan shall be binding upon and inure to the benefit of the Debtors, all present and former Holders of Claims against and Interests in the Debtors, their respective successors and assigns, including, but not limited to, the Liquidation Trust, and all other parties-in-interest in these Chapter 11 Cases.

J. Revocation, Withdrawal, Or Non-Consummation

The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date, subject to the consent of the Committee, and to file subsequent plans of liquidation. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then (i) the Plan shall be null and void in all respects, (ii) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), and any document or agreement executed pursuant to the Plan shall be deemed null and void, and (iii) nothing contained in the Plan, and no acts taken in preparation for Consummation, shall (a) constitute or be deemed to constitute a waiver or release of any Claims by or against, or any Interests in person, the Debtors or any other person, (b) prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors, or (iii) constitute an admission of any sort by the Debtors or any other Person.

K. Plan Supplement

Any and all exhibits, lists, or schedules not filed with the Plan shall be contained in the Plan Supplement and filed with the Clerk of the Bankruptcy Court prior to the Confirmation Hearing. Upon filing with the Bankruptcy Court, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal court hours. Holders of Claims or Interests may obtain a copy of the Plan Supplement upon written request to the Debtors.

L. Notices

Any notice, request, or demand required or permitted to be made or provided to or upon the Liquidation Trustee under the Plan shall be (i) in writing, (ii) served by (a) certified mail, return receipt requested, (b) hand delivery, (c) overnight delivery service, (d) first class mail, or (e) facsimile transmission, and (iii) deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

CM&D Management Services LLC
Charles M. Moore
401 S. Old Woodward, Suite 340
Birmingham, MI 48009
Telephone: (248) 433-3100
Facsimile: (248) 433-3143

and

JAGER SMITH P.C.
Bruce F. Smith
Steven C. Reingold
Michael J. Fencer
Brendan C. Recupero
One Financial Center
Boston, MA 02110
Telephone: (617) 951-0500
Facsimile: (617) 951-2414

and

Peter J. Antoszyk
Proskauer Rose LLP
One International Place
Boston, MA 02100-2600
Telephone: (617) 526-9600
Facsimile: (617) 526-9899

and

Gregory A. Bray
Milbank, Tweed, Hadley & McCloy LLP
601 South Figueroa Street, 30th Floor
Los Angeles, CA 90017
Telephone: (213) 892-4000
Facsimile: (213) 629-5063

and

Robert J. Diehl, Jr.
Bodman LLP
1901 St. Antoine
6th Floor at Ford Field
Detroit, MI 48226
Telephone: (313) 393-7597
Facsimile: (313) 393-7579

and

Peter Burke
Paul, Hastings, Janofsky & Walker LLP
515 South Flower Street
Twenty-fifth Floor
Los Angeles, CA 90071
Telephone: (213) 683-6338
Facsimile: (213) 996-3338

M. Indemnification Obligations

None of the indemnification provisions currently in place for directors, officers and each of the Debtors' advisors (whether in the Debtors' bylaws, contracts or otherwise) shall survive confirmation of the Plan except to the extent that (i) any related Claims are covered by insurance policies in respect of the Debtors and (ii) the indemnification is part of the retention of an advisor approved by the Bankruptcy Court. The Debtors may obtain sufficient tail coverage under its existing directors and officers insurance policy for current officers and directors provided that the terms are reasonably acceptable to the Debtors and the Committee, subject to the consent of the Agent for the Senior First Lien Creditors.

N. Prepayment

Except as otherwise provided in this Plan or the Confirmation Order, the Debtors shall have the right to prepay, without penalty, all or any portion of an Allowed Claim at any time; *provided, however*, that any such prepayment shall not violate, or otherwise prejudice, the relative priorities among the Classes of Claims.

O. Term Of Injunctions Or Stay

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under Sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in this Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or Confirmation Order shall remain in full force and effect in accordance with their terms.

P. No Admissions

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed as an admission by the Debtors with respect to any matter set forth herein including, without limitation, liability on any Claim.

Q. Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules), the laws of (i) the State of Delaware shall govern the construction and implementation of the Plan and any agreements, documents, and instruments executed in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control) and (ii) the laws of the state of incorporation of the Debtors shall govern corporate governance matters with respect to such Debtors, in either case without giving effect to the principles of conflicts of law thereof.

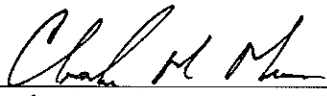
ARTICLE XIII.

CONFIRMATION REQUEST

The Debtors and the Committee request Confirmation of the Plan under Section 1129 of the Bankruptcy Code. If any Impaired Class does not accept the Plan pursuant to Section 1126 of the Bankruptcy Code, the Debtors and the Committee request Confirmation pursuant to Section 1129(b) of the Bankruptcy Code. In that event, the Debtors and the Committee reserve the right to modify the Plan to the extent (if any) that Confirmation of the Plan under Section 1129(b) of the Bankruptcy Code requires modification.

Dated: September 27, 2010
Wilmington, DE

**CD LIQUIDATION CO. LLC, f/k/a
CYNERGY DATA, LLC,**

By: 
Name: Charles M. Moore
Title: Chief Restructuring Officer

NIXON PEABODY LLP
Mark N. Berman
Dennis J. Drebsky
Lee Harrington
437 Madison Avenue
New York, New York 10022
Telephone: (212) 940-3000
Facsimile: (212) 940-3111

PEPPER HAMILTON LLP
David B. Stratton
Evelyn Meltzer
1313 Market Street, Suite 5100
Wilmington, Delaware 19899
Telephone: (302) 777-6500
Facsimile: (302) 421-8390

Counsel for the Debtors and Debtors in Possession

Dated: September 27, 2010
Wilmington, DE

**OFFICIAL COMMITTEE OF
UNSECURED CREDITORS**

By: _____
Name: Maria Aprile Sawczuk, Esq.
Counsel for Iworks, Inc.
Title: Committee Chair

JAGER SMITH P.C.
Bruce F. Smith
Steven C. Reingold
Michael J. Fencer
Brendan C. Recupero
One Financial Center
Boston, MA 02110
Telephone: (617) 951-0500
Facsimile: (617) 951-2414

ASHBY & GEDDES. P.A.
Gregory A. Taylor
Karen B. Skomorucha
500 Delaware Avenue, 8th Floor
P.O. Box 1150
Wilmington, Delaware 19899
Telephone: (302) 654-1888
Fax: (302) 654-2067

Attorneys for the Official Committee of Unsecured Creditors

EXHIBIT A

Liquidation Trust Agreement

LIQUIDATION TRUST AGREEMENT

This *Liquidation Trust Agreement* (the “Agreement”) is entered into as of the ____ day of _____, 2010, by and among CD Liquidation Co., LLC, *f/k/a* Cynergy Data, LLC, CD Liquidation Co. Plus, LLC, *f/k/a* Cynergy Prosperity Plus, LLC, and Cynergy Data Holdings, Inc. (collectively, the “Debtors”) and Charles M. Moore (the “Liquidation Trustee” and, together with the Debtors, the “Parties”).

WITNESSETH:

WHEREAS, on September 1, 2009, each of the Debtors filed a *Voluntary Petition* for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”), with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), thereby initiating the Debtors’ cases, jointly administered under Case No. 09-13038 (KG) (collectively, the “Cases”); and

WHEREAS, on _____, 2010, the Bankruptcy Court entered an order, pursuant to Section 1129 of the Bankruptcy Code, confirming the *Joint Plan of Liquidation of CD Liquidation Co., LLC, CD Liquidation Co. Plus, LLC, and Cynergy Data Holdings, Inc.* (the “Plan”) proposed by the Debtors and the Official Committee of Unsecured Creditors (the “Committee”) appointed in the Debtors’ Cases; and

WHEREAS, together with certain other provisions, the Plan provides for the Debtors and the Liquidation Trustee to enter into this Agreement relative to the administration of the Liquidation Trust Assets (as defined below) subsequent to the Effective Date of the Plan; and

WHEREAS, the Liquidation Trustee is willing to accept the duties of Liquidation Trustee upon such terms and conditions as are hereinafter set forth.

NOW, THEREFORE, for and in consideration of the premises 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.* For purposes of this Agreement, all capitalized terms shall have the meanings ascribed to them herein, and the following terms shall have the following meanings:

(a) *Beneficiary* means any holder of an Allowed Claim entitled, under the terms of the Plan, to a distribution from the Liquidation Trust Assets.

(b) *Permitted Investments* means any of the following: (i) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency thereof maturing or redeemable within one hundred eighty (180) days from the date of acquisition thereof; (ii) certificates of deposit, maturing no more than one hundred eighty (180) days from the date of creation thereof, issued by commercial banks incorporated under the laws

of the United States of America or any state thereof or the District of Columbia having membership in the Federal Deposit Insurance Corporation and in amounts not exceeding the maximum amounts insured thereunder; (iii) time deposits, maturing no more than thirty (30) days from the date of creation thereof with commercial banks or savings banks each having membership in the Federal Deposit Insurance Corporation and in amounts not exceeding the maximum amounts insured thereunder; (iv) money market funds managed by nationally recognized firms and making only investments qualified under (i), (ii), (iii) or (v) herein; (v) variable rate demand notes with a rating from Standard & Poor's of "A-1" or better or from Moody's of "P-1" or better; or (vi) demand deposits at any bank or savings institution organized under the laws of the United States of America or any state thereof or the District of Columbia having membership in the Federal Deposit Insurance Corporation; *provided, however*, such demand deposits shall be in amounts not to exceed the maximum amounts insured by the Federal Deposit Insurance Corporation.

(c) *Liquidating Trust Assets* means all assets and property of every kind and nature, owned by any of the Debtors as of the Confirmation Date or subsequently acquired by any of them, including, without limitation, all property of Estates, all Causes of Action, all proceeds from any sale or other disposition of any such asset, and any interest in any insurance policies or proceeds thereof. Without limiting the forgoing, the Liquidation Trust Assets include interests in i) any funds remaining in the Sale Escrow and ii) the Senior Subordinated Promissory Note issued by Cynergy Operations LLC dated October 26, 2009 in the principal amount of \$14 million.

(d) *Capitalized Terms in Plan*. Any capitalized term not defined herein shall have the meaning assigned 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: (i) references to "Articles," "Sections" and other subdivisions, without reference to a document, are to designated Articles, Sections and other subdivisions of this Agreement; (ii) the use of the term "including" means "including but not limited to"; and (iii) the words "herein," "hereof," "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular provision. 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 the same. The singular shall include the plural, and the plural the singular, wherever the context so requires, and the masculine, the feminine and the neuter genders shall be mutually inclusive.

ARTICLE II

Purpose; Administration.

2.1 *Purpose of Agreement*. The Parties hereby enter into this Agreement for the purposes of: (a) liquidating the Liquidation Trust Assets in the manner prescribed by the Plan as rapidly as market conditions allow, consistent with the objective of maximizing value; (b) distributing the net proceeds thereof in accordance with the terms of the Plan; and (c) engaging in any and all other activities incidental to the foregoing. All activities of the

Liquidation Trustee shall be reasonably necessary to, and consistent with the accomplishment of, these purposes.

2.2 *Administration of the Liquidation Trust Assets.* From and after the Effective Date, the Liquidation Trustee shall manage, administer, invest and reinvest all of the Liquidation Trust Assets, collect the income therefrom, and distribute the proceeds, all pursuant to the terms and conditions of the Plan and this Agreement and in consultation with the Creditor Representative.

2.3 *Creditor Representative.*

(a) On the Effective Date, Comerica Bank, as agent for the Senior First Lien Lenders and the Prosperity Lenders shall serve as the initial Creditor Representative until such time that the Claims of the Senior First Lien Lenders and the Prosperity Lenders have been paid in full in accordance with the Plan. Following payment in full of the Claims of Class 1 and Class 2, Dymas, as agent for the Junior First Lien Lenders and the Second Lien Lenders shall serve as Creditor Representative until such time that the Claims of the Junior First Lien Lenders and the Second Lien Lenders have been paid in full in accordance with the Plan. Following payment in full of the Claims of Class 3 and Class 4, and to the extent that Liquidation Trust Assets remain to be administered in accordance with the Plan and this Agreement, the Liquidation Trustee may designate one or more Creditors from the remaining Classes created under the Plan to serve as the Creditor Representative.

(b) [Intentionally Omitted].

(c) The Creditor Representative shall oversee, but not control, the liquidation of the Liquidation Trust Assets and the prosecution of claims and Causes of Action pursuant to the terms of the Plan and of the Liquidation Trust Agreement (other than claims against a Creditor Representative or entities that have designated a Creditor Representative), and shall oversee the activities of the Liquidation Trustee. Nothing contained herein shall modify, impair or limit any release of claims and Causes of Action pursuant to the Final DIP Order, the Plan or the Confirmation Order. The Creditor Representative shall have all of the powers provided in this Agreement, including, without limitation, the power to remove and replace the Liquidation Trustee.

(d) The Creditor Representative shall be reimbursed by the Liquidation Trustee for his or her reasonable and necessary out-of-pocket expenses incurred in performing his or her duties upon presentation of invoices and supporting documentation.

(e) In the event of the death or resignation of the Creditor Representative, the constituency that had designated such Credit Representative may, but need not, designate a replacement. If no replacement is designated, the successor shall be the next designated Creditor Representative identified in Section 2.3(a) without regard to the payment in full of the Claims of the prior Class. Unless and until such vacancy is filled, the Liquidating Trustee may continue to manage the Liquidation Trust Assets without a Creditor Representative.

(f) In the event that a Creditor whose representative serves as the Creditor Representative should assign its Claim or release the Debtors from further distribution on such Claim, such assignment or release shall constitute the resignation of such creditor's representative as the Creditor Representative.

(g) The Creditor Representative shall not be in any way liable for any acts or omissions in connection with the Liquidation Trust, except for acts undertaken in bad faith, gross negligence or willful misconduct in the performance of his or her duties as the Creditor Representative. The Liquidation Trust shall indemnify and hold harmless the Creditor Representative from and against any and all liabilities, expenses, claims, damages or losses incurred by them in direct result of acts or omissions taken by it in good faith in his or her capacity as the Creditor Representative.

(h) The role of the Creditor Representative shall terminate upon the earlier to occur of (i) the termination of the Liquidation Trust; and (ii) the entry of a final decree by Bankruptcy Court in the Debtors' Chapter 11 Cases.

ARTICLE III

Post-Effective Date Management.

3.1 *Post-Effective Date Management.* The Liquidation Trustee, subject to the oversight of the Creditor Representative, shall have the exclusive right and duty to manage the Liquidation Trust Assets, subject, however, to certain limitations of liability as set forth herein.

ARTICLE IV

Duties, Rights and Powers of Liquidation Trustee.

4.1 *Liquidation Trustee's Duties.* The Liquidation Trustee shall, subject to the oversight of the Creditor Representative, manage the Liquidation Trust Assets, collect the income and make any distributions, including final distribution, as provided under the Plan and shall thereupon take such steps as provided herein and as otherwise necessary and proper to close the Cases.

4.2 *Liquidation Trustee's Rights and Powers.* The Liquidation Trustee shall have the powers and authority as set forth herein and in the Plan necessary to manage the Liquidation Trust Assets and effect the disposition, orderly liquidation and distribution of all the Liquidation Trust Assets, all in compliance with the Budget. The Liquidation Trustee is not authorized in his capacity as such to engage in any trade or business. The rights and powers shall include, subject to the limitations set forth in the Plan and this Agreement, the right and power to:

(a) Effect all actions and execute all agreements, instruments and other documents necessary to implement the Plan;

(b) Accept, preserve, receive, collect, manage, invest, supervise, prosecute, settle and protect the Liquidation Trust Assets (directly or through an agent), each in accordance with the Plan and Liquidation Trust Agreement;

(c) Establish and administer the Trust Accounts and, if necessary, any additional trust accounts;

(d) Comply with the Plan and exercise the Liquidation Trustee's rights and fulfill his or her obligations thereunder;

(e) Subject to the approval of the Creditor Representative, sell at public or private sale, or exchange, transfer, convey, liquidate, distribute or otherwise dispose of the Liquidation Trust Assets or any part thereof or any interest therein on such terms and conditions, and at such time or times as the Liquidation Trustee shall determine, any or all of the Liquidation Trust Assets (whether tangible or intangible) and, to that end, grant options, make contracts, retain brokers, and sign, seal, acknowledge, and deliver any and all proper deeds, or other instruments of conveyance or transfer thereof; and delegate to an attorney in fact the power to execute all documents necessary to accomplish a sale, lease, transfer, or exchange of any such property provided, however, that disposition of Liquidation Trust Assets of less than fifty thousand dollars (\$50,000) shall not require prior approval of the Creditor Representative;

(f) Subject to the approval of the Creditor Representative, prepare an operating budget for the Liquidation Trust (the "Budget");

(g) Subject to the approval of the Creditor Representative, obtain financing and incur debt on such terms and conditions, and at such time or times as the Liquidation Trustee shall determine and grant a subordinate security interest in the Liquidation Trust Assets (whether tangible or intangible) as security for such obligations;

(h) Obtain and maintain such space, facilities, equipment, supplies and personnel as shall be reasonably necessary for the performance of the Liquidation Trustee's duties hereunder and under the Plan;

(i) Subject to the limitations contained in the Plan and herein, review, reconcile, pay, compromise, settle, adjust, agree to, investigate, pursue, contest, prosecute or object to any and all Claims, other matters, or taxes;

(j) Pay all expenses and obligations of the Estates out of the Liquidation Trust Assets including, without limitation, any Administrative Claims approved by the Bankruptcy Court that accrued prior to, but remained unpaid as of, the Effective Date provided, however, that sufficient funds to pay such Administrative Claims are reserved and turned over to the Liquidation Trust on or before the Effective Date;

(k) Investigate, prosecute and, if necessary, litigate, any Cause of Action, including, but not limited to, Recovery Actions, or any other causes of action, rights to payments, or claims, that may belong to the Debtors or to the Estates, which, on the Effective Date, shall vest in the Liquidation Trust for the benefit of the Estates pursuant to the terms of the Plan; *provided, however*, that (1) the Liquidating Trustee shall not consult with the Creditor Representative with respect to claims against the Creditor Representative or entity that has designated a member of the Creditor Representative and shall have the sole authority to investigate, prosecute and, with Bankruptcy Court

approval, settle such claims and (2) nothing contained herein shall modify, impair or limit any release of claims and Causes of Action pursuant to the Final DIP Order, the Plan or the Confirmation Order;

(l) Employ professionals, including Professionals already retained by the Estates or the Committee, to represent the Liquidating Trust with respect to its responsibilities;

(m) Consult with counsel retained by the Liquidation Trust with the approval of the Creditor Representative, and employ other individuals in connection with the administration of the liquidation, and pay all reasonable and necessary costs of any litigation directly or indirectly involving the liquidation;

(n) File a suit in interpleader or in the nature of interpleader in the Bankruptcy Court and obtain an order requiring all persons and parties involved to litigate in such court their respective claims arising out of or in connection with this Agreement;

(o) File any other appropriate action for relief in an appropriate court of competent jurisdiction;

(p) File appropriate Tax returns and other reports on behalf of the Liquidation Trust and the Debtors and pay Taxes or other obligations owed by the Liquidation Trust and the Debtors;

(q) Exercise such other powers as may be vested in the Liquidation Trustee or as deemed by it to be necessary and proper to implement the provisions of the Plan and the this Agreement in consultation with the Creditor Representative;

(r) Take such actions as are necessary or appropriate to close or dismiss any or all of the Chapter 11 Cases; and

(s) Dissolve the Liquidation Trust in accordance with the terms of this Agreement.

4.3 *Limitations on Liquidation Trustee's Liabilities as to Losses.* The Liquidation Trustee shall not be responsible, and shall have no liability whatsoever, to any person for any loss to the Liquidation Trust or the amount of interest thereon resulting from the investment thereof in any Permitted Investments. The Liquidation Trustee shall not invest or reinvest any the Liquidation Trust Assets in a security or instrument that does not constitute a Permitted Investment. The Liquidation Trustee shall not have any liability to any retirement, employee benefit or pension plan of the Debtors in excess of the amounts available to be distributed from such Plans.

4.4 *Agents and Counsel.* The Liquidation Trustee shall retain (i) Jager Smith P.C. as counsel to the Liquidation Trust and (ii) Stout Risius Ross, Inc. as financial advisor to the Liquidation Trust. As long as the Liquidation Trustee is in compliance with the Budget, he may select, determine compensation for, and employ brokers, consultants, custodians, investment advisors, asset services, auditors, accountants, and other agents as may be approved by the

Creditor Representative. The Liquidation Trustee shall avail himself of the services of counsel or special counsel subject to the oversight of, but not the direction of, the Creditor Representative. Subject to the Budget, the Plan and the consent of the Creditor Representative, the Liquidation Trustee may pay the salaries, fees, and expenses of such professionals out of the Liquidation Trust Assets. The Liquidation Trustee shall not be liable for any loss to the Liquidation Trust or any Beneficiary by reason of any mistake or default of any such agent or consultant unless such mistake or default breaches the standard of care set forth in Section 4.7(a).

4.5 *Signature.* As of the Effective Date, the Liquidation Trustee and the Liquidation Trustee's agent, Lorraine Ossolinski, shall have signature power and authority 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) effectuate purchases and sales of securities and give security purchase and sale orders to brokers or any other third parties; (e) complete and file federal and state tax returns on behalf of the Estates; and (f) execute any and all documents reasonably necessary in furtherance of the Liquidation Trustee's rights and powers under Section 4.2 of this Agreement and the exercise of such power and authority shall be deemed to be authorized by and to represent the decision of the Liquidation Trustee then entitled to make such decision.

4.6 *Maintenance of Register.* The Liquidation Trustee shall at all times maintain a register of the names, addresses and amounts of the Claims asserted against the Debtors, as revised from time to time.

4.7 *Liability of Liquidation Trustee.*

(a) *Standard of Care.* The Liquidation Trustee shall not be liable for any action taken or omitted to be taken by him in good faith and in the exercise of reasonable judgment and believed to be within the discretion or power conferred by this Agreement, or be responsible for the consequences of any act or failure to act, except for gross negligence or willful misconduct. The Liquidation Trustee shall not have any fiduciary relationship with any party by virtue of this Agreement except as specifically set forth in this Agreement.

(1) The Liquidation Trustee shall not, solely by virtue of his position as Liquidation Trustee, be liable or in any way responsible for the acts or omissions of the Debtors, their boards of managers, board of directors, officers, employees or agents, prior to the Effective Date.

(2) Unless indemnified to his satisfaction against liability and expense, the Liquidation Trustee shall not be compelled to do any act or to take any action toward the execution or enforcement of the powers created under the Plan or this Agreement or to prosecute or defend any suit in respect hereof. If the Liquidation Trustee requests approval from the Bankruptcy Court with respect to any act or action in connection with the Plan or this Agreement, the Liquidation Trustee shall be entitled (but shall not be required) to refrain (without incurring any liability to any person by so refraining) from such act or action unless and until he has received such instructions of approval. In no event, however, shall the Liquidation Trustee or any of his representatives be required to take any action which he reasonably determines could lead to criminal or civil liability.

(3) The Liquidation Trustee shall not be responsible in any manner to the Debtors, the Estates, any Beneficiary, or any other party-in-interest for any of the following: (i) the effectiveness, enforceability, genuineness, validity, or any due execution of the Plan or this Agreement as to any person other than the Liquidation Trustee; (ii) any representation, warranty, document, certificate, report, or statement made herein or furnished hereunder or in connection with the Plan or this Agreement not constituting a breach of the standard of care set forth in this Section 4.7(a) on the part of the Liquidation Trustee; (iii) the existence, priority or perfection of any existing Lien; or (iv) the observation or compliance with any of the terms, covenants, or conditions of the Plan or this Agreement on the part of any party thereto other than the Liquidation Trustee.

(4) The Liquidation Trustee shall be entitled to act on negative notice to any Beneficiary. Any Beneficiary that fails to object in writing so as to be received by the Liquidation Trustee on or before ten (10) business days after service by the Liquidation Trustee of a proposed action (or determination not to take action) shall be deemed to have consented to such action or determination not to take action.

(5) The Beneficiaries, by voting for the Plan and/or accepting the benefits thereof, have agreed not to sue or otherwise pursue or seek damages from the Liquidation Trustee pursuant to the Plan or this Agreement, except for actions or omissions which violate the standard of care set forth in this Section 4.7(a).

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

(c) *No Implied Obligations.* The Liquidation Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and in the Plan, and no other or further covenants or obligations shall be implied into this Agreement. The Liquidation 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 Liquidation Trust Assets. The Liquidation Trustee makes no representations as to the value of the Liquidation Trust Assets or any part thereof, nor as to the validity, execution, enforceability, legality, or sufficiency of this Agreement; and the Liquidation Trustee shall incur no liability or responsibility with respect to any such matters.

(d) *Reliance by Liquidation Trustee on Documents or Advice of Counsel or Other Persons.* Except as otherwise provided herein, the Liquidation 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; nor shall the Liquidation Trustee be liable for any act which he may do or omit to do hereunder, all subject only to the limitation that the Liquidation Trustee acts in accordance with the standard of care set forth in Section 4.7(a). None of the provisions hereof shall require the Liquidation Trustee to expend or risk his own funds or otherwise incur financial liability or expense in the performance of any duties hereunder. The Liquidation Trustee may consult with legal counsel retained by him, subject to the oversight, but not the approval, of the Creditor Representative, and shall not be liable for any action taken or suffered in reliance upon the advice of such counsel.

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

4.8 *Reports and Fees.* The Liquidation Trustee shall provide quarterly statements of receipts and disbursements to the Office of the United States Trustee and the Creditor Representative, such reports to be based upon a calendar year. The Liquidation Trustee will be responsible for timely payment of United States Trustee fees incurred pursuant to 28 U.S.C. § 1930(a)(b) subsequent to the Effective Date of the Plan.

4.9 *Tax Returns; Tax Treatment of the Liquidation Trust.* From and after the Effective Date, the Liquidation Trustee shall be responsible for the filing of any and all local, state, and federal tax returns as required by law to be filed on behalf of the Estates, including the final tax returns, and shall pay all tax liabilities arising from such tax returns out of the Liquidation Trust Assets. Beneficiaries shall be treated as the beneficiaries and deemed owners of the Liquidation Trust. The Liquidation Trustee shall file tax returns for the Liquidation Trust as a grantor trust pursuant to 1.671-4(a) of the Income Tax Regulations promulgated pursuant to the United States Internal Revenue Code. The Liquidation Trustee may require any Beneficiary to furnish to the Liquidation Trustee its, his or her employer or taxpayer identification number (“TIN”) as assigned by the Internal Revenue Service, and the Liquidation Trustee may condition any distribution to any such Beneficiary upon receipt of such identification number. If a Beneficiary shall fail to provide the Liquidation Trustee with any requested TIN within one hundred eighty (180) days after the request, such failure shall be deemed a waiver of all of such Beneficiary’s interests in the Liquidation Trust and rights to distribution under the Plan. Distributions that would have been made to such Beneficiary shall be distributed to the other Beneficiaries based on their pro rata interests in the Liquidation Trust.

4.10 *Final Decree.* After the Estates are fully administered pursuant to the terms of the Plan and this Agreement, the Liquidation Trustee shall file with the Bankruptcy Court a motion requesting the entry of a final decree closing the Cases.

4.11 *Liquidation Trustee’s Compensation.* It is not anticipated that the Liquidation Trustee will need to devote his full business time to his duties as such, but rather it is anticipated that the Liquidation Trustee can fulfill his duties on a part-time basis. The Liquidation Trustee’s compensation shall be based upon hourly rates typically charged in the conduct of the

Liquidation Trustee's business. The Liquidation Trustee shall be paid his compensation from time to time but not more often than every thirty (30) days.

4.12 *Reimbursements.* The Liquidation Trustee and any agents, attorneys or consultants employed pursuant to this Agreement shall be reimbursed from the Liquidation Trust Assets for all reasonable out-of-pocket expenses incurred in the performance of their duties hereunder in addition to any compensation received.

4.13 *Indemnification.* Pursuant to this Agreement and the Plan, the Liquidation Trustee shall be indemnified by, held harmless, and receive reimbursement solely from the Liquidation Trust Assets for any and all claims, actions, demands, losses, damages, expenses, and liabilities, including without limitation court costs, attorneys' fees and accountants' fees as long as he was not in violation of the standard of care set forth in Section 4.7(a). Notwithstanding the above, the Liquidation Trustee shall not be entitled to indemnification in the event that a court of competent jurisdiction determines that he has incurred losses or claims as a result of his actions or omissions that breach that standard of care.

ARTICLE V

Distributions.

5.1 *Distributions.* The Liquidation Trustee shall exercise its best efforts to make an initial distribution to Holders of Allowed General Unsecured Claims as soon as reasonably practicable after: (i) payment or provision for payment of Allowed Administrative Claims and Allowed Priority Claims; (ii) payment of all Allowed Secured Claims; (iii) reservation of the Distribution Reserve; (iv) reservation of the Liquidation Trust Expenses; and (v) liquidation of some or all of the Liquidation Trust Assets. Furthermore, the Liquidation Trustee shall make subsequent distributions under the Plan at such times and in such amounts as required thereby and shall make such additional distributions with the oversight of the Creditor Representative in accordance with the Plan.

5.2 *Legal Proceedings.* If any Recovery Actions are initiated or prosecuted against any Beneficiary pursuant to the Plan and this Agreement or asserted as an objection to any Claim, then notwithstanding anything to the contrary contained in the Plan, until such Recovery Action is finally resolved and any payments to the Estates required by such resolution have been made, such Beneficiary shall only receive distributions under the Plan to the extent that the distributions to which such Beneficiary is otherwise entitled exceed the maximum liability of such Beneficiary to the Estates asserted in such Recovery Action.

ARTICLE VI

Appointment, Removal and Resignation of Liquidation Trustee.

6.1 *Appointment of Liquidation Trustee; Acceptance of Appointment.* Charles M. Moore of Conway MacKenzie, Inc. is hereby appointed to serve as the initial Liquidation Trustee hereunder, and pursuant to the Plan. Charles M. Moore is willing, and does hereby accept the appointment, to serve as the initial Liquidation Trustee, and to hold and administer the Liquidation Trust Assets pursuant to the terms of the Plan and this Agreement. The Liquidation Trustee shall serve at the pleasure of the Creditor Representative.

6.2 *Removal of Liquidation Trustee.* A Liquidation Trustee appointed pursuant to this Agreement may be removed with or without cause by order of the Bankruptcy Court after notice and opportunity for a hearing. If a Liquidation Trustee is removed for cause, such Liquidation Trustee shall not be entitled to any accrued but unpaid fees, reimbursements or other compensation under this Agreement or otherwise. For purposes of this Agreement, the term “cause” shall mean: (a) the Liquidation Trustee’s gross negligence or willful failure to perform his duties under this Agreement; (b) the Liquidation Trustee’s misappropriation or embezzlement of any Liquidation Trust Assets or the proceeds thereof, or (c) the Liquidation Trustee’s continued or repeated neglect of or failure to perform his duties hereunder. If a Liquidation Trustee is removed by order of the Bankruptcy Court other than for cause, or is unwilling or unable to serve (1) by virtue of his inability to perform his duties under this Agreement due to death, illness or other physical or mental disability, (2) following the liquidation of all or substantially all of the Liquidation Trust Assets, or (3) for any other reason whatsoever other than for “cause,” subject to a final accounting, such Liquidation 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 Liquidation Trustee, as long as they are in compliance with the Budget.

6.3 *Resignation of Liquidation Trustee.* A Liquidation Trustee may resign upon motion to the Bankruptcy Court, which resignation shall become effective at the time specified by the Bankruptcy Court, contemporaneous with the appointment of a successor Liquidation Trustee. If a Liquidation Trustee resigns from his position hereunder, subject to a final accounting and the approval of the Bankruptcy Court, such Liquidation Trustee 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 out-of-pocket expenses reasonably incurred in compliance with the Budget in connection with the transfer of all powers and duties to the successor Liquidation Trustee.

6.4 *Successor Liquidation Trustee.* In the event that a Liquidation Trustee is removed, resigns, or otherwise ceases to serve as Liquidation Trustee, a successor Liquidation Trustee shall be appointed by the Creditor Representative, subject to approval by the Bankruptcy Court.

ARTICLE VII

Effect of Agreement on Third Parties.

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

ARTICLE VIII

No Waiver.

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 IX

Termination of the Agreement; Amendment of the Agreement.

9.1 *Termination of the Agreement.* The Agreement will terminate upon the earlier of (i) entry of an order of the Bankruptcy Court terminating the Liquidation Trust and (ii) seven (7) years from and after the Effective Date; *provided, however*, that, on or prior to the date of such termination, the Liquidation Trustee may extend the term of the Liquidation Trust for a finite period, if such an extension is necessary to liquidate the Liquidation Trust Assets or for other good cause. Multiple extensions may be obtained so long as the Liquidation Trustee extends such terms prior to the expiration of each extended term; *provided, however*, that, each such extension is approved by the Bankruptcy Court within six months after the beginning of such extended term and the Liquidation Trustee receives an opinion of counsel or a favorable ruling from the Internal Revenue Service that any further extension would not adversely affect the status of the Liquidation Trust as a grantor trust for federal income tax purposes. .

9.2 *Amendment of Agreement.* Except as otherwise set forth herein, any provisions of the Agreement may, consistent with the terms of the Plan, be amended, modified, terminated, revoked or altered only upon Bankruptcy Court approval.

ARTICLE X

Miscellaneous.

10.1 *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.

10.2 *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 and the Plan, the Plan shall govern. 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.

10.3 *Jurisdiction; Venue, Etc.* The Parties agree that any suit, action or proceeding with respect to this Agreement shall be brought in the Bankruptcy Court , and that if for any reason such submission to jurisdiction is invalid, then such action, suit or proceeding shall be brought in the Superior Court of the State of Delaware, New Castle County, the Delaware Court of Chancery, New Castle County, or in the United States District Court for the District of Delaware, and by execution and delivery of this Agreement, the Parties (i) irrevocably submit to each such jurisdiction and venue; (ii) waive, to the fullest extent permitted by law, any objection which they may have to the laying of the venue of any such suit, action or proceeding brought in such court and any argument that such suit, action or proceeding has been brought in an inconvenient forum; and (iii) agree that final judgment in any such suit, action or proceeding brought in such a court shall be conclusive and binding and may be enforced in any court to the jurisdiction of which the Parties are subject by a suit upon such judgment, provided that service of process is effected as otherwise permitted by law.

10.4 *Waiver of Jury Trial.* The Parties hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement or the transactions contemplated hereby.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the day and year first above written to evidence their consent and agreement with the terms and provisions of this Agreement.

CD LIQUIDATION CO., LLC
f/k/a CYNERGY DATA, LLC

By: _____
Name:
Title:

CD LIQUIDATION CO. PLUS, LLC
f/k/a CYNERGY PROSPERITY PLUS, LLC

By: _____
Name:
Title:

CYNERGY DATA HOLDINGS, INC.

By: _____
Name:
Title:

LIQUIDATION TRUSTEE

By: _____
Name: Charles M. Moore

APPENDIX B:

Order Approving the Disclosure Statement