

**EXHIBIT B**

**Form of Liquidating Trust Agreement Redline**

**LIQUIDATING TRUST AGREEMENT OF**

**DFC LIQUIDATING TRUST**

**DATED AS OF [●], 2021**

**BY AND AMONG**

**[●] AS LIQUIDATING TRUSTEE,**

**[●] AS RESIDENT TRUSTEE,**

**and**

**THE DEBTOR PARTIES HERETO**

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## LIQUIDATING TRUST AGREEMENT OF DFC LIQUIDATING TRUST

THIS LIQUIDATING TRUST AGREEMENT OF DFC LIQUIDATING TRUST, dated as of [●], 2021 (this “**Trust Agreement**”), is by and among Southern Foods Group, LLC; Dean Foods Company; Alta-Dena Certified Dairy, LLC; Berkeley Farms, LLC; Cascade Equity Realty, LLC; Country Fresh, LLC; Dairy Information Systems Holdings, LLC; Dairy Information Systems, LLC; Dean Dairy Holdings, LLC; Dean East II, LLC; Dean East, LLC; Dean Foods North Central, LLC; Dean Foods of Wisconsin, LLC; Dean Holding Company; Dean Intellectual Property Services II, Inc.; Dean International Holding Company; Dean Management, LLC; Dean Puerto Rico Holdings, LLC; Dean Services, LLC; Dean Transportation, Inc.; Dean West II, LLC; Dean West, LLC; DFC Aviation Services, LLC; DFC Energy Partners, LLC; DFC Ventures, LLC; DGI Ventures, Inc.; DIPS Limited Partner II; Franklin Holdings, Inc.; Fresh Dairy Delivery, LLC; Friendly’s Ice Cream Holdings Corp.; Friendly’s Manufacturing and Retail, LLC; Garelick Farms, LLC; Mayfield Dairy Farms, LLC; Midwest Ice Cream Company, LLC; Model Dairy, LLC; Reiter Dairy, LLC; Sampson Ventures, LLC; Shenandoah’s Pride, LLC; Steve’s Ice Cream, LLC; Suiza Dairy Group, LLC; Tuscan/Lehigh Dairies, Inc.; Uncle Matt’s Organic, Inc.; and Verifine Dairy Products of Sheboygan, LLC (collectively, the “**Debtors**”), as debtors and debtors-in-possession, [●], as liquidating trustee (together with any successor or additional trustee appointed under the terms of this Trust Agreement, including Section 6.1 of this Trust Agreement, the “**Liquidating Trustee**”), and [●] as the Delaware resident trustee (together with any successor Delaware resident trustee appointed under the terms of this Trust Agreement, the “**Resident Trustee**”), for the purpose of forming a statutory trust under and pursuant to the provisions of the Delaware Statutory Trust Act, 12 Del. C. §§ 3801, et seq. (as the same may from time to time be amended, or any successor statute, the “**Trust Act**”) as contemplated by the Plan (the “**Liquidating Trust**”).<sup>1</sup>

### BACKGROUND

A. On November 12, 2019 (the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”) in the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”);

B. On November 30, 2020, the Debtors filed the Plan [D.I. 3230] and the Disclosure Statement relating to the Plan [D.I. 3231] with the Bankruptcy Court (as the same may be further amended, modified, or supplemented thereafter in accordance with its terms and applicable law);

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the *Joint Chapter 11 Plan of Liquidation Of Southern Foods Group, LLC, Dean Foods Company, and their Debtor Affiliates*, dated November 30, 2020 [D.I. 3230], as confirmed (including all exhibits thereto, as the same may be further amended, modified, or supplemented from time to time, the “**Plan**”).

C. On [●], 2021, the Bankruptcy Court entered an order confirming the Plan [D. I. [●]] (the “**Confirmation Order**”);

D. The Plan provides for, among other things, the creation of a liquidating trust on the Effective Date for the sole purpose of liquidating and administering the Liquidating Trust Assets and making distributions on account thereof (the “**Distributions**”) in accordance with section 301.7701-4(d) of the regulations promulgated under the Tax Code (the “**Treasury Regulations**”), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust, as provided for under the Plan and this Trust Agreement, and shall be structured to qualify as a “liquidating trust” within the meaning of Treasury Regulations section 301.7701-4(d) and generally in compliance with Revenue Procedure 94-45, 1994-2 C.B. 684, and thus, as a “grantor trust” within the meaning of sections 671 through 679 of the Tax Code, consistent with the terms of the Plan, with the Liquidating Trust Beneficiaries treated as the grantors and owners of the Liquidating Trust (other than with respect to any assets allocable to, or retained on account of, disputed claims as a “disputed ownership fund” which shall be governed by Treas. Reg. § 1.468B-9 and Section 4.2(e) of this Trust Agreement);

E. The Liquidating Trust was established and is effective for the benefit of the Liquidating Trust Beneficiaries; and

F. The duties and powers of the Liquidating Trust Advisory Board and Liquidating Trustee, with the approval and/or at the direction of the Liquidating Trust Advisory Board, shall include all powers necessary to implement the Plan and to administer and monetize the Liquidating Trust Assets, including, without limitation, the duties and powers listed in the Plan.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the promises and the mutual covenants contained herein, the parties hereto hereby agree as follows:

## Article I

### DECLARATION OF TRUST

1.1. Creation of Trust. The Debtors and the Liquidating Trustee, pursuant to the Plan and the Confirmation Order, and in accordance with the applicable provisions of chapter 11 of the Bankruptcy Code, hereby continue and create the Liquidating Trust, which shall bear the name “DFC Liquidating Trust.” In connection with the exercise of the Liquidating Trustee’s power hereunder, the Liquidating Trustee may use this name or such variation thereof (with the approval and/or at the direction of the Liquidating Trust Advisory Board) as the Liquidating Trustee sees fit.

1.2. Purpose of Liquidating Trust. The sole purpose of the Liquidating Trust is to implement the Plan on behalf, and for the benefit, of the Liquidating Trust Beneficiaries, and to serve as a mechanism for liquidating, converting to Cash and distributing the Liquidating Trust Assets in accordance with Treasury Regulations section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidating Trust. The Liquidating Trust shall not be deemed a successor in interest of the Debtors for any purpose other than as specifically set forth in the Plan or this Trust Agreement.

1.3. Transfer of Liquidating Trust Assets.

(a) On the Effective Date, and in accordance with sections 1123 and 1141 of the Bankruptcy Code and pursuant to the terms of the Plan and the Confirmation Order, the Debtors and their Estates shall transfer, and shall be deemed to have irrevocably transferred, to the Liquidating Trust for the benefit of the Liquidating Trust Beneficiaries all title and interest in all of the Liquidating Trust Assets, which transfer shall be free and clear of Claims, Liens, encumbrances, charges, other interests, and contractually imposed restrictions except as otherwise provided herein. All Claims, Liens, encumbrances, charges, and other interests shall be deemed fully released and discharged as of the Effective Date, except as otherwise provided in the Plan or the Confirmation Order. The Debtors, the Liquidating Trustee, the Liquidating Trust Beneficiaries, and any party under the control of such parties will execute any documents or other instruments and shall take all other steps as necessary to cause title to the Liquidating Trust Assets to be transferred to the Liquidating Trust. Upon the transfer of the Liquidating Trust Assets to the Liquidating Trust, the Debtors shall have no interest in or with respect to the Liquidating Trust Assets or the Liquidating Trust. Upon delivery of the Liquidating Trust Assets to the Liquidating Trust, the Debtors and their predecessors, successors, and assigns shall be released from all liability with respect to the delivery thereof and shall have no reversionary or further interest in or with respect to the Liquidating Trust Assets or the Liquidating Trust in accordance with Article IV.A of the Plan. Notwithstanding the foregoing, for purposes of section 553 of the Bankruptcy Code, the transfer of the Liquidating Trust Assets to the Liquidating Trust shall not affect



the mutuality of obligations that otherwise may have existed prior to the effectuation of such transfer.

(b) Notwithstanding anything in this Trust Agreement to the contrary, nothing herein shall preclude the Liquidating Trust Advisory Board from seeking additional financing from sources other than the Liquidating Trust Assets in the discharge of its responsibilities under the Plan, the Confirmation Order, and this Trust Agreement.

(c) The transfer of the Liquidating Trust Assets shall be exempt from any stamp, real estate transfer, mortgage reporting, sales, use, or other similar tax, pursuant to section 1146(a) of the Bankruptcy Code.

(d) The Liquidating Trust Assets and all other property held from time to time by the Liquidating Trust under this Trust Agreement and any earnings, including interest, on any of the foregoing shall be held and be applied by the Liquidating Trustee in accordance with the terms of this Trust Agreement, the Plan and the Confirmation Order for the benefit of the Liquidating Trust Beneficiaries, and for no other party, subject to the further covenants, conditions and terms set forth in this Trust Agreement. The Liquidating Trust Assets shall be held in the Liquidating Trust for the benefit of the Liquidating Trust Beneficiaries, subject to the terms of the Plan, the Confirmation Order, and this Trust Agreement.

(e) The Debtors, the Liquidating Trustee and the Liquidating Trust Advisory Board, and any party under the control of such parties, hereby agree to execute any documents or other instruments and shall take all other steps as necessary to cause title to the Liquidating Trust Assets to be transferred to the Liquidating Trust in accordance with the Plan, the Confirmation Order and this Trust Agreement.

1.4. Appointment and Acceptance of Liquidating Trustee. Immediately upon the occurrence of the Confirmation Date, the Liquidating Trustee shall be appointed to serve as the sole officer, director, or manager of each of the Liquidating Debtors. Upon the occurrence of the Effective Date, the Liquidating Trustee shall also be deemed appointed to serve as the trustee and administrator of the Liquidating Trust established pursuant to Article IV.A. of the Plan and this Trust Agreement. The Liquidating Trustee, subject to the terms and conditions of the Plan, the Confirmation Order, and this Trust Agreement, shall be authorized to execute, deliver, file, or record such documents, contracts, instruments, releases, and other agreements, and to take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Liquidating Trustee shall act at the direction of the Liquidating Trust Advisory Board. The Debtors shall file a notice prior to the Confirmation Hearing designating the Person selected as the Liquidating Trustee. The appointment of the Liquidating Trustee shall be approved in the Confirmation Order and such appointment shall be effective in accordance with the terms of Article V.A of the Plan. The Liquidating Trustee shall have and perform all of the duties, responsibilities, rights, and obligations set forth in the Plan and this Trust Agreement, as applicable. The initial Liquidating Trustee shall serve in such capacities, pursuant to this Trust Agreement and the Plan, until the resignation or discharge and the appointment of a successor Liquidating Trustee in accordance with this Trust Agreement and the Plan.

1.5. The Liquidating Trustee shall be deemed to be appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The Liquidating Trustee accepts the Liquidating Trust created by this Trust Agreement in accordance with the terms of the Plan, the Confirmation Order and this Trust Agreement and the grant, assignment, transfer, conveyance and delivery to the Liquidating Trust, on behalf, and for the benefit, of the Liquidating Trust Beneficiaries, by the Debtors of all of their respective right, title and interest in the Liquidating Trust Assets, upon and subject to the terms and conditions set forth herein, in the Plan and in the Confirmation Order. The Liquidating Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purpose of the Liquidating Trust and not otherwise. The Liquidating Trustee, with the approval and/or at the direction of the Liquidating Trust Advisory Board, shall have the authority to bind the Liquidating Trust within the limitations set forth in this Trust Agreement, but shall for all purposes hereunder be acting in the capacity as Liquidating Trustee, and not individually.

1.6. Liquidation of Liquidating Trust Assets. The Liquidating Trustee shall, in an expeditious but commercially reasonable manner and subject to the provisions of the Plan, the Confirmation Order and the other provisions of this Trust Agreement, liquidate and convert to Cash the Liquidating Trust Assets, make timely Distributions in accordance with the terms of this Trust Agreement, the Plan and the Confirmation Order and not unduly prolong the existence of the Liquidating Trust. The Liquidating Trustee shall, with the approval and/or at the direction of the Liquidating Trust Advisory Board, liquidate the Liquidating Trust Assets in an effort to maximize net recoveries, and the Liquidating Trust Advisory Board and the Liquidating Trustee shall be entitled to take into consideration the risks, timing, and costs of potential actions in making determinations as to the maximization of recoveries and the determinations and actions of the Liquidating Trust Advisory Board and the Liquidating Trustee shall in all cases be subject to the limitations provided in this Trust Agreement. Subject to the terms of this Trust Agreement, such liquidations may be accomplished through the prosecution, compromise and settlement, abandonment or dismissal of any or all claims, rights or Causes of Action or through the sale or other disposition of the Liquidating Trust Assets (in whole or in combination, and including the sale of any claims, rights or Causes of Action). The Liquidating Trustee, with the approval and/or at the direction of the Liquidating Trust Advisory Board, may incur any reasonable and necessary expenses in connection with the liquidation and conversion of the Liquidating Trust Assets into Cash or in connection with the administration of the Liquidating Trust.

1.7. Creation of Wind-Down Account. Following the satisfaction of all DIP Claims, Securitization Facility Claims, and the Opt-In Settled Administrative Claims and the funding of the Professional Fee Escrow Account and the Convenience Claims Pool, each in accordance with the terms and conditions set forth in the Plan, the Liquidating Debtors or the Liquidating Trustee shall create, and fund with Cash from the Liquidating Trust Assets, the Wind-Down Account to (a) fund the Wind-Down Budget, including the fees and expenses of the Liquidating Trust Professionals and (b) pay Allowed Non-Settled Administrative Claims, Allowed Priority Claims, Allowed Other Secured Claims, Allowed Senior Notes Claims, Allowed Control Group Liability Pension Claims, and Allowed General Unsecured Claims in accordance with the terms and conditions set forth in the Plan, as well as, if the Liquidating Trustee determines in its sole discretion to do so, fund the Disputed Claims Reserve. Any recovery of proceeds from the Liquidating Trust Assets, including any Retained Causes of Action, shall be deposited by the Liquidating Trustee into the Wind-Down Account. From time to time, the Liquidating Trustee shall determine whether the Cash in the Wind-Down Account exceeds the amount of Cash needed to fund the Wind-Down Budget and, at such time and in its sole discretion, may distribute on a Distribution Date any such excess Cash in accordance with the priorities set forth in Article III of the Plan.

1.8. Wind-Down Budget. The Debtors, and subject to the consent of the Creditors' Committee, shall prepare a budget which may be amended from time to time following the Effective Date by the Liquidating Trustee and which shall estimate the funds necessary to administer the Plan and wind down the Debtors' affairs, including, but not limited to, the costs of holding and liquidating the Estates' remaining property, objecting to Claims, paying the fees and expenses of the Liquidating Trust Professionals, making distributions, prosecuting Claims and Causes of Action held by the Estates against third parties that are not released, waived, or transferred pursuant to the Plan (including pursuant to Article IX of the Plan) or otherwise, defending or estimating Claims or costs against the Estates, paying taxes, filing tax returns, funding payroll, and other employee costs, providing for the purchase of errors and omissions insurance and/or other forms of indemnification for the Liquidating Trustee, in each case, to the extent applicable, and for all such items and other costs of administering the Plan, the Estates, and the Liquidating Debtors.

1.9. No Reversion to Debtors. In no event shall any part of the Liquidating Trust Assets revert to or be distributed to any Debtor.

1.10. Incidents of Ownership. Except as provided in Section 1.5 of this Trust Agreement, the Liquidating Trust Beneficiaries shall be the sole beneficiaries of the Liquidating Trust and the Liquidating Trust Assets, and the Liquidating Trustee shall retain only such incidents of ownership as are necessary to undertake the actions and transactions authorized herein, in the Plan and in the Confirmation Order, including those powers set forth in Section 6.2 of this Trust Agreement.

1.11. Privileges.

(a) All attorney-client privileges, work product protections and other privileges, immunities or protections from disclosure (the "**Privileges**") held by any one or more of the Debtors (including any pre-petition or post-petition committee or subcommittee of the board of directors or equivalent governing body of any of the Debtors and their predecessors) and the Creditors' Committee (together the "**Privilege Transfer Parties**") related in any way to the Liquidating Trust Assets and the purpose of the Liquidating Trust (the "**Transferred Privileged Information**") are hereby transferred and assigned to the Liquidating Trust. The Transferred Privileged Information shall include documents and information of all manner, whether oral, written, or digital, and whether or not previously disclosed or discussed. For the avoidance of doubt, the Privileges shall include any right to preserve or enforce a privilege that arises from any joint defense, common interest, or similar agreement involving any of the Privilege Transfer Parties.

(b) The foregoing transfer and assignment shall vest the Privileges concerning the Transferred Privileged Information exclusively in the Liquidating Trust, consistent with sections 1123(a)(5)(B) and 1123(b)(3)(B) of the Bankruptcy Code, for the sole benefit of the Liquidating Trust and the Liquidating Trust Beneficiaries. The Liquidating Trust shall have the exclusive authority and sole discretion to maintain the Privileges and keep the Transferred Privileged Information confidential, or waive any

Privileges and/or disclose and/or use in litigation or any proceeding any or all of the Transferred Privileged Information.

(c) The Privilege Transfer Parties agree to take all necessary actions to effectuate the transfer of such Privileges, and to provide to the Liquidating Trust without the necessity of a subpoena all Transferred Privileged Information in their respective possession, custody, or control. The Liquidating Trust is further expressly authorized to formally or informally request or subpoena documents, testimony or other information that would constitute Transferred Privileged Information from any persons, including attorneys, professionals, consultants and experts, and no such person may object to the production to the Liquidating Trust of such Transferred Privileged Information on the basis of a Privilege. Until and unless the Liquidating Trust makes a determination to waive any Privilege, Transferred Privileged Information shall be produced solely to the Liquidating Trust or as required by law. For the avoidance of doubt, this Subsection is subject in all respects to Section 1.10(a) of this Trust Agreement.

(d) Pursuant to, *inter alia*, Federal Rule of Evidence 502(d), no Privileges shall be waived by the transfer and assignment of the Privileges or the production of any Transferred Privileged Information to the Liquidating Trust or any of its respective employees, professionals or representatives, or by disclosure of such Transferred Privileged Information between the Privilege Transfer Parties, on the one hand, and the Liquidating Trust, on the other hand, or any of their respective employees, professionals or representatives.

(e) If a Privilege Transfer Party, the Liquidating Trust, any of their respective employees, professionals or representatives or any other person inadvertently produces or discloses Transferred Privileged Information to any third party, such production shall not be deemed to destroy any of the Privileges, or be deemed a waiver of any confidentiality protections afforded to such Transferred Privileged Information. In such circumstances, the disclosing party shall promptly upon discovery of the production notify the Liquidating Trust of the production and shall demand of all recipients of the inadvertently disclosed Transferred Privileged Information that they return or confirm the destruction of such materials.

## Article II

### LIQUIDATING TRUST BENEFICIARIES

2.1. Conflicting Claims. If any conflicting claims or demands are made or asserted with respect to a Liquidating Trust Interest, the Liquidating Trustee shall, with the approval and/or at the direction of the Liquidating Trust Advisory Board, be entitled to refuse to comply with any such conflicting claims or demands. In so refusing, the Liquidating Trustee, with the approval and/or at the direction of the Liquidating Trust Advisory Board, may elect to make no payment or Distribution with respect to the Liquidating Trust Interest subject to the claims or demands involved, or any part thereof, and the Liquidating Trustee shall promptly refer such conflicting claims or demands to the Bankruptcy Court, which shall have exclusive jurisdiction over resolution of such conflicting claims or demands. In so doing, the Liquidating Trustee shall not be or become liable to any party for its refusal to comply with any of such conflicting claims or demands. The Liquidating Trustee shall be entitled to refuse to act until either (a) the rights of the adverse claimants have been adjudicated by a Final Order of the Bankruptcy Court or such other court of proper jurisdiction or (b) all differences have been resolved by a written agreement among all of such parties and the Liquidating Trustee (with the approval and/or at the direction of the Liquidating Trust Advisory Board), which agreement shall include a complete release of the Liquidating Trust, the Liquidating Trustee and the Liquidating Trust Advisory Board (the occurrence of either (a) or (b) in this Section 2.1 of this Trust Agreement being referred to as a “**Dispute Resolution**”). Promptly after a Dispute Resolution is reached, the Liquidating Trustee shall transfer the payments and Distributions, if any, in accordance with the terms of such Dispute Resolution. Any payment of any interest or income should be net of any taxes attributable thereto in accordance with Section 5.5 of this Trust Agreement.

2.2. Rights of Liquidating Trust Beneficiaries. Each Liquidating Trust Beneficiary shall be entitled to participate in the rights and benefits due to a Liquidating Trust Beneficiary hereunder according to the terms of its Liquidating Trust Interests. The Liquidating Trust Interests shall not have consent or voting rights or otherwise confer on the Liquidating Trust Beneficiaries any rights similar to the rights of a shareholder of a corporation in respect of any actions taken or to be taken by the Liquidating Trust Advisory Board and/or the Liquidating Trustee in connection with the Liquidating Trust. The interests of a Liquidating Trust Beneficiary are hereby declared and shall be in all respects personal property. Except as expressly provided hereunder, a Liquidating Trust Beneficiary shall have no title to, right to, possession of, management of or control of the Liquidating Trust or the Liquidating Trust Assets or to any right to call for a partition or division of such assets or to require an accounting. No surviving spouse, heir or devisee of any deceased Liquidating Trust Beneficiary shall have any right of dower, homestead or inheritance, or of partition, or any other right, statutory or otherwise, in the Liquidating Trust Assets, but the whole title to the Liquidating Trust Assets shall be vested in the Liquidating Trust and the sole interest of the Liquidating Trust Beneficiaries shall be the rights and benefits given to such person under this Trust Agreement, the Confirmation Order and the Plan.

2.3. Evidence of Liquidating Trust Interest. Ownership of a Liquidating Trust Interest will be evidenced by the recording of such ownership in an electronic book-entry system (the “**Book Entry System**”) maintained either by the Liquidating Trust or an agent of the Liquidating Trust. A Liquidating Trust Beneficiary shall be deemed the “**holder of record**” (hereinafter “**holder**”) of such Liquidating Trust Beneficiary’s Liquidating Trust Interest(s) for purposes of all applicable United States federal and state laws, rules and regulations. The Liquidating Trustee shall, upon the written request of a holder of a Liquidating Trust Interest, provide reasonably adequate documentary evidence of such holder’s Liquidating Trust Interest, as indicated in the Book Entry System. The expense of providing such documentation shall be borne by the requesting holder. For the avoidance of doubt, ownership of a Liquidating Trust Interest will not be evidenced by any certificate, security, or receipt or in any other form or manner whatsoever, except the Book Entry System.

2.4. Transfers of Liquidating Trust Interests.

(a) General. Liquidating Trust Interests shall not be transferable or assignable except by will, intestate succession or otherwise by operation of law.

(b) Book Entry System. Pursuant to the Book Entry System, the Liquidating Trust shall maintain, or cause an agent of the Liquidating Trust (which agent may be the Liquidating Trustee) to maintain, a register (which may be electronic) setting forth the names and addresses of the Liquidating Trust Beneficiaries, and the amount and class (if any) of their Liquidating Trust Interests from time to time. Any transfer or assignment of a Liquidating Trust Interest by will, intestate succession or otherwise by operation of law shall not be effective against or binding upon the Liquidating Trust unless and until such transfer or assignment is recorded in the Book Entry System, which shall be completed as soon as practicable. Subject to Section 2.4(d) of this Trust

Agreement, the entries in the Book Entry System shall be conclusive absent manifest error, and the Liquidating Trust and the Liquidating Trustee shall treat each person whose name is recorded in the Book Entry System pursuant to the terms of this Trust Agreement as the owner of Liquidating Trust Interests indicated therein for all purposes of this Trust Agreement, notwithstanding notice to the contrary.

(c) Registration. If the Liquidating Trustee, with the approval of the Liquidating Trust Advisory Board and upon advice of counsel, determines that any class of Liquidating Trust Interests may be (i) subject to registration pursuant to section 12 of the Securities Exchange Act or (ii) subject to reporting pursuant to section 15(d) of the Securities Exchange Act, the Liquidating Trustee may pursue relief from such registration by obtaining either an exemptive order, a no-action letter or an interpretive letter from the Securities and Exchange Commission or its staff or, absent its ability to achieve that objective or in lieu thereof, shall register such class pursuant to section 12 of the Securities Exchange Act (it being understood and agreed that the Liquidating Trustee with the approval of the Liquidating Trust Advisory Board shall be authorized, among other things, to register such class and to seek relief from one or more of the requirements then applicable subsequent to such registration and to de-register such class).

(d) Further Limitations on Transfer. Notwithstanding any other provision in this Trust Agreement to the contrary, the Liquidating Trustee, with the approval of the Liquidating Trust Advisory Board, may disregard any purported transfer or assignment of Liquidating Trust Interests by will, intestate succession or otherwise by operation of law if sufficient necessary information (as reasonably determined by the Liquidating Trustee), including applicable tax-related information, is not provided by such purported transferee or assignee to the Liquidating Trustee.



2.5. Limited Liability. No provision of this Trust Agreement, the Plan or the Confirmation Order, and no mere enumeration herein of the rights or privileges of any Liquidating Trust Beneficiary, shall give rise to any liability of such Liquidating Trust Beneficiary solely in its capacity as such, whether such liability is asserted by any Debtor, creditors, successors, representatives, employees, or equity interest holders of any Debtor, or by any other person. Liquidating Trust Beneficiaries are deemed to receive the Liquidating Trust Assets in accordance with the provisions of this Trust Agreement, the Plan, and the Confirmation Order in exchange for their Allowed Claims without further obligation or liability of any kind, but subject to the provisions of this Trust Agreement.

### Article III

#### DURATION AND TERMINATION OF LIQUIDATING TRUST

3.1. Duration. The Liquidating Trust was formed as of the execution and filing of a Certificate of Trust with the Delaware Secretary of State on [●], 2021 and its existence is intended to continue until such time as its Certificate of Trust has been cancelled by the filing of a certificate of cancellation in accordance with Section 3.3 of this Trust Agreement.

3.2. Dissolution of the Liquidating Trust.

(a) The Liquidating Trust shall be dissolved at such time as (i) all of the Liquidating Trust Assets have been distributed pursuant to the Plan and this Trust Agreement, (ii) the Liquidating Trustee (with any required approvals and with the approval and/or at the direction of the Liquidating Trust Advisory Board) determines that the administration of any remaining Liquidating Trust Assets is not likely to yield sufficient additional Liquidating Trust proceeds to justify further pursuit, or (iii) all distributions required to be made by the Liquidating Trustee under the Plan and this Trust Agreement have been made; *provided*, that in no event shall the Liquidating Trust be dissolved later than five years from the creation of such Liquidating Trust pursuant to Article IV.A of the Plan unless the Bankruptcy Court, upon motion within the six-month period prior to the fifth anniversary of such creation (or within the six-month period prior to the end of any extension period), determines that a fixed period extension (not to exceed three years, together with any prior extensions, without a favorable private letter ruling from the IRS or an opinion of counsel satisfactory to the Liquidating Trustee that any further extension would not adversely affect the status of the trust as a Liquidating Trust for United States federal income tax purposes) is necessary to facilitate or complete the recovery and liquidation of the Liquidating Trust Assets. Notwithstanding the foregoing proviso, in the event that the Liquidating Trustee fails to satisfy all conditions of the proviso prior to the expiration of the initial five year period or any extension, it may cure and avoid dissolution of the Liquidating Trust retroactively as of such date if (y) the Bankruptcy Court determines that such relief is appropriate to satisfy the purposes of the Liquidating Trust and (z) the Liquidating Trustee has continued to satisfy the requirements of Section 6.3(a) of this Trust Agreement; *provided, however*, in no case shall the term of the Liquidating Trust extend more than three years beyond the original

term without a favorable private letter ruling from the IRS or an opinion of counsel satisfactory to the Liquidating Trustee that any further extension would not adversely affect the status of the trust as a Liquidating Trust for United States federal income tax purposes.

(b) If at any time the Liquidating Trustee (with any required approvals and with the approval and/or at the direction of the Liquidating Trust Advisory Board) determines, in reliance upon such professionals as the Liquidating Trust may retain, that the expense of administering the Liquidating Trust so as to make a final distribution to Liquidating Trust Beneficiaries is likely to exceed the value of the assets remaining in such Liquidating Trust, the Liquidating Trustee may apply to the Bankruptcy Court for authority to (i) reserve any amount necessary to dissolve such Liquidating Trust, (ii) donate any balance to a charitable organization (A) described in section 501(c)(3) of the Tax Code, (B) exempt from United States federal income tax under section 501(a) of the Tax Code, (C) not a “private foundation,” as defined in section 509(a) of the Tax Code, and (D) that is unrelated to the Debtors, the Liquidating Trust, and any insider of the Liquidating Trust, and (iii) dissolve the Liquidating Trust.

3.3. Continuance of Liquidating Trust for Winding Up. After the dissolution of the Liquidating Trust and solely for the purpose of liquidating and winding up the affairs of the Liquidating Trust, the Liquidating Trustee, or the Liquidating Trust Advisory Board shall continue to act as such until their duties have been fully performed. As soon as practicable after the Liquidating Trustee exhausts substantially all of the Liquidating Trust Assets by making the final distribution of Cash under the Plan (and in accordance with Article IV.A.7 of the Plan), the Liquidating Trustee shall, at the expense of the Estates, provide for the retention and storage of the Debtors' and Liquidating Debtors' books and records that shall have been delivered to or created by the Liquidating Trustee until such time as all such books and records are no longer required to be retained under applicable law, and file a certificate informing the Bankruptcy Court of the location at which such books and records are being stored, file a motion for entry of a final decree closing Liquidating DFC's Chapter 11 Case and any other Chapter 11 Case that has not been already closed and stating that the assets of the Estates and the Liquidating Trust have been exhausted and final distributions of Cash have been made under the Plan, notify the Liquidating Trust Beneficiaries, file a certificate of cancellation with the Secretary of State of the State of Delaware to terminate the Liquidating Trust, provide a copy of the evidence of such cancellation to the Resident Trustee (pursuant to Section 3811(a)(3) of the Trust Act and this Section 3.3, such certificate of cancellation may be signed by the Liquidating Trustee and need not be signed by the Resident Trustee or any other trustee of the Liquidating Trust), and resign as the sole officer, director, and manager, as applicable, of the Liquidating Debtors. Upon the Bankruptcy Court entry of an order granting the motion described in clause (b) of the preceding sentence, the Liquidating Debtors and the Liquidating Trust shall be deemed dissolved for all purposes without the necessity for any other or further actions to be taken by or on behalf of the Liquidating Debtors or payments to be made in connection therewith, and Liquidating DFC's Chapter 11 Case shall be closed on the day in which the Bankruptcy Court has entered such order.

#### **Article IV**

#### **ADMINISTRATION OF THE LIQUIDATING TRUST**

4.1. Payment of Claims, Expenses, and Liabilities. Subject to the Wind-Down Budget, which may be amended from time to time following the Effective Date by the Liquidating Trustee (with the approval and/or at the direction of the Liquidating Trust Advisory Board), the Liquidating Trustee shall use the Liquidating Trust Assets to administer the Plan and wind-down the Debtors' affairs, including, but not limited to, the costs of holding and liquidating the Estates' remaining property, objecting to Claims, paying the fees and expenses of the Liquidating Trust Professionals, making distributions, prosecuting Claims and Causes of Action held by the Estates against third parties that are not released, waived, or transferred pursuant to the Plan (including pursuant to Article IX of the Plan) or otherwise, defending or estimating Claims or costs against the Estates, paying taxes, filing tax returns, funding payroll, and other employee costs, providing for the purchase of errors and omissions insurance and/or other forms of indemnification for the Liquidating Trustee, in each case, to the extent applicable, and for all such items and other costs of administering the Plan, the Estates, and the Liquidating Debtors. The Liquidating Trustee may establish and administer any other necessary reserves that may be required under the Plan or this Trust Agreement. Notwithstanding anything to the contrary contained in the Plan or this Trust Agreement, the Liquidating Trustee may make transfers of Cash between the accounts and reserves established under the Plan to satisfy Claims and other obligations in accordance with the Plan and the Wind-Down Budget.

4.2. Distributions.

(a) Generally. On or after the Effective Date, the Liquidating Trust (with the assistance of the Disbursing Agent(s) as necessary) shall make Distributions only in accordance with the terms of the Plan, the Confirmation Order and this Trust Agreement to holders of Allowed Claims, net of the Disputed Claims Reserve(s), and only to the extent that the Liquidating Trust has sufficient Liquidating Trust Assets (or income and/or proceeds realized from Liquidating Trust Assets) to make such payments in accordance with and to the extent provided for in the Plan, the Confirmation Order and this Trust Agreement. On at least an annual basis, the Liquidating Trust Advisory Board shall make a determination of the amount of Cash available for distribution, which shall include the amount of unrestricted Cash then on hand (including any Cash received from the Debtors on the Effective Date, and treating any permissible investment as Cash for purposes of this Section 4.2 of this Trust Agreement), reduced by any such amounts that (i) are reasonably necessary to meet contingent liabilities and to maintain the value of the Liquidating Trust Assets pending their liquidation during the term of the Liquidating Trust, (ii) are determined to be necessary to pay or reserve for reasonably incurred or anticipated expenses (including, but not limited to, any Taxes imposed on or payable by the Debtors or the Liquidating Trust or in respect of the Liquidating Trust Assets), or (iii) are necessary to satisfy or reserve for other liabilities incurred or anticipated by the Liquidating Trust in accordance with the Plan and this Trust Agreement (it being understood that the operation of this proviso could result in there being insufficient funds available to fund an annual distribution). The Liquidating Trustee, at the direction of and with the approval of the Liquidating Trust Advisory Board, but at least annually, shall

then distribute available Cash, if any, to the holders of Liquidating Trust Interests in accordance with the Plan.

(b) Payment of Distributions. Each Liquidating Trust Beneficiary's share of the Liquidating Trust Interests as determined pursuant to the Plan shall be allocated and distributed, and the Liquidating Trust Assets shall be allocated and distributed, in accordance with Article VI of the Plan.

(c) Holders of Allowed Senior Notes Claims. Subject to the provisions of Article VII.B of the Plan, all distributions to Holders of Allowed Senior Notes Claims shall be deemed completed when made to the Senior Notes Indenture Trustee or if agreed to by the Debtors and the Senior Notes Indenture Trustee, through the facilities of DTC. The Senior Notes Indenture Trustee or DTC, as applicable, shall hold or direct such distributions for the benefit of the Holders of Senior Notes to the extent such Senior Notes give rise to Allowed Notes Claims. As soon as practicable in accordance with the requirements set forth in Article VI.B.4 of the Plan, the Senior Notes Indenture Trustee or DTC, as applicable, shall arrange for the delivery of such distributions to or on behalf of such Holders. For the avoidance of doubt, the Senior Notes Indenture Trustee shall not bear any responsibility or liability for any distributions made hereunder by the Disbursing Agent or DTC. The Liquidating Debtors shall reimburse the Senior Notes Indenture Trustee for any reasonable and documented fees and expenses (including the reasonable and documented fees and expenses of its counsel and agents) incurred prior to or after the Effective Date; *provided* that the Liquidating Debtors shall reimburse the Senior Notes Indenture Trustee for reasonable and documented fees and expenses incurred after the Effective Date solely in connection with the implementation of the Plan, including, but not limited to, making distributions pursuant to and in accordance with the Plan.

(d) Date of Distributions. Subject to any reserves or holdbacks established pursuant to the Plan, and taking into account the matters set forth in Article VI.C and Article III of the Plan, on the appropriate Distribution Date or as soon as practicable thereafter, Holders of Allowed Claims shall receive the distributions from the Liquidating Trust provided for Allowed Claims in the applicable Classes as of such date. The Initial Distribution Date shall be a date selected by the Liquidating Trustee that is on, or as soon as reasonably practicable after, the Effective Date, which shall be the date on which initial distributions from the Liquidating Trust under the Plan are made other than distributions made on account of Settled Administrative Claims Payouts. Subsequent distributions shall be made on an Interim Distribution Date, which shall mean the date that is no later than 180 calendar days after the Initial Distribution Date or the most recent Interim Distribution Date thereafter, which shall be the date on which interim distributions from the Liquidating Trust under the Plan are made, with such periodic Interim Distribution Dates occurring until the Final Distribution Date has occurred, it being understood that the Liquidating Trustee may increase the frequency of Interim Distribution Dates in its sole discretion as circumstances warrant. The Final Distribution Date will be the date for a final distribution from the Liquidating Trust selected by the Liquidating Trustee, that is no earlier than 20 calendar days after the date on which all Disputed Claims have become either Allowed Claims or Disallowed Claims. In the event

that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

(e) Disputed Claims Reserve.

(i) On the Initial Distribution Date or as soon thereafter as is reasonably practicable, the Liquidating Trustee shall be authorized, but not directed, to establish, fund with Cash, and manage a Disputed Claims Reserve, which shall be administered by the Liquidating Trustee.

(ii) The Liquidating Trustee shall hold Cash in the Disputed Claims Reserve in trust for the benefit of Holders of Claims ultimately determined to be Allowed after the Effective Date. The Disbursing Agent shall distribute such amounts (net of any expenses, including any taxes relating thereto), as provided in the Plan, as such Claims are resolved by a Final Order or agreed to by settlement, and such amounts will be distributable on account of such Claims as such amounts would have been distributable had such Claims been Allowed Claims as of the Effective Date under Article III of the Plan solely to the extent of the amounts available in the applicable Disputed Claims Reserve.

(iii) The Liquidating Trustee may adjust the Disputed Claims Reserve to reflect all earnings thereon (net of any expenses relating thereto, such expenses including any taxes imposed thereon or otherwise payable by the reserve), to be distributed on the Interim Distribution Dates, as required by the Plan. The Disbursing Agent shall hold in the Disputed Claims Reserve all dividends, payments, and other distributions made on account of, as well as any obligations arising from, the property held in the Disputed Claims Reserve, to the extent that such property continues to be so held at the time such distributions are made or such obligations arise. The taxes imposed on the Disputed Claims Reserve (if any) shall be paid by the Disbursing Agent from the property held in the Disputed Claims Reserve, and the Debtors, the Liquidating Debtors, and the Liquidating Trustee shall have no liability for such taxes.

(iv) After any reasonable determination by the Liquidating Trustee that the Disputed Claims Reserve should be adjusted downward in accordance with Article VII.D of the Plan, the Disbursing Agent shall either, at the direction of the Liquidating Trustee, effect a distribution in the amount of such adjustment as required by the Plan and any date of such distribution shall be an Interim Distribution Date or transfer Cash in the amount of such adjustment to the Wind-Down Account.

(v) After all Disputed Claims have become either Allowed Claims or Disallowed Claims, and all distributions required pursuant to Article VII.D of

the Plan have been made, the Disbursing Agent shall, at the direction of the Liquidating Trustee, either effect a final distribution of the Cash remaining (if any) in the Disputed Claims Reserve in accordance with the priorities set forth in Article III of the Plan or transfer the remaining Cash to the Wind-Down Account.

(vi) To the extent that a Disputed Claim becomes an Allowed Claim after the Effective Date, the Disbursing Agent will, out of the Disputed Claims Reserve, distribute to the Holder thereof the distribution, if any, to which such Holder is entitled under the Plan in accordance with Article VI.B.1 of the Plan. Subject to Article VII.F of the Plan, all distributions made under Article VII.D.3 of the Plan on account of Allowed Claims will be made together with any dividends, payments, or other distributions made on account of, as well as any obligations arising from, the distributed property, then held in the Disputed Claims Reserve as if such Allowed Claim had been an Allowed Claim on the dates distributions were previously made to Allowed Claim Holders included in the applicable class under the Plan.

(vii) The Liquidating Trustee may make an election pursuant to United States Treasury Regulations section 1.468B-9 to treat the Disputed Claims Reserve as a “disputed ownership fund” within the meaning of that section and allocate taxable income or loss to the Disputed Claims Reserve with respect to any taxable year that would have been allocated to the Holders of Disputed Claims had such Claims been Allowed on the Effective Date (but only for the portion of the taxable year with respect to which such Claims are Disputed Claims). The affected Holders of the Disputed Claims shall be bound by such election, if made by the Liquidating Trustee. For federal income tax purposes and, to the extent permitted by applicable law, state, and local income tax purposes, absent definitive guidance from the IRS or a contrary determination by a court of competent jurisdiction, the Liquidating Trustee shall report consistently with the foregoing characterization. All affected Holders of Disputed Claims shall report, for income tax purposes, consistently with the foregoing.

(f) Delivery of Distributions.

(i) Distributions shall only be made to the record Holders of Allowed Claims as of the Distribution Record Date. On the Distribution Record Date, at the close of business for the relevant register, all registers maintained by the Debtors, the Liquidating Debtors, the Liquidating Trustee, any Servicers, the Disbursing Agent, the Senior Notes Indenture Trustee, and each of the foregoing’s respective agents, successors, and assigns shall be deemed closed for purposes of determining whether a Holder of such a Claim is a record Holder entitled to distributions under the Plan. The Debtors, the Liquidating Debtors, the Liquidating Trustee, any Servicer, the Disbursing Agent, the Senior Notes Indenture Trustee, and each of the foregoing’s respective agents, successors, and assigns shall have no obligation to recognize, for purposes of

distributions pursuant to or in any way arising from the Plan (or for any other purpose), any Claims that are transferred after the Distribution Record Date. Instead, the foregoing parties shall be entitled to recognize only those record Holders set forth in the registers as of the Distribution Record Date, irrespective of the number of distributions made under the Plan or the date of such distributions. Furthermore, if a Claim is transferred 20 or fewer calendar days before the Distribution Record Date, the Disbursing Agent or applicable Servicer, as applicable, shall make distributions to the transferee only if the transfer form contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor.

(ii) If any dispute arises as to the identity of a Holder of an Allowed Claim that is entitled to receive a distribution pursuant to the Plan, the Disbursing Agent or applicable Servicer may, in lieu of making such distribution to such person, make the distribution into an escrow account until the disposition thereof is determined by Final Order or by written agreement among the interested parties to such dispute.

(iii) Subject to Bankruptcy Rule 9010, a distribution to a Holder of an Allowed Claim may be made by the Disbursing Agent in its sole discretion to the address set forth on the first page of the Proof of Claim Filed by such Holder (or at the last known address of such Holder if no Proof of Claim is Filed or if the Debtors have been notified in writing of a change of address), the last known address of such Holder on the books and records of the Debtors or their agents after the date of any related Proof of Claim, the address set forth in any written notice of an address change delivered to the Disbursing Agent, the address set forth on the Schedules, if no Proof of Claim has been Filed and the Disbursing Agent has not received a written notice of an address change, in the case of a Holder whose Claim is governed by an agreement and administered by a Servicer or other agent, the address contained in the official records of such Entity, or the address of any counsel that has appeared in the Chapter 11 Cases on such Holder's behalf. In the case of a Holder whose Claim is governed by an agreement and administered by a Servicer, the applicable Servicer shall make the distribution to the address contained in the official records of such Servicer.

(g) Disbursing Agent.

(i) The Liquidating Trustee may retain and direct a Disbursing Agent to assist with the distributions to be made under the Plan. The Disbursing Agent shall make all distributions required under the Plan, except as to a Holder of a Claim whose distribution is to be administered by a Servicer, which distributions shall be deposited with the appropriate Servicer for distribution to such Holder of a Claim in accordance with the provisions of the Plan and the terms of the governing agreement. Distributions on account of such Claims shall be deemed completed upon delivery to the appropriate Servicer; *provided*, that if any Servicer is unable to make or consents to the



Disbursing Agent making such distributions, the Disbursing Agent, with such Servicer's cooperation, shall make such distributions to the extent reasonably practicable. The Senior Notes Indenture Trustee will be considered a Servicer for the applicable Senior Notes Claims; *provided, however*, that for the avoidance of doubt, the Senior Notes Indenture Trustee will not be considered a Servicer for or be responsible for any non-DTC eligible distributions.

(ii) Except as otherwise set forth herein, the Liquidating Debtors shall be authorized, without further Bankruptcy Court approval, to reimburse any Servicer for its reasonable, documented, actual, and customary out-of-pocket expenses incurred in providing post-Confirmation services directly related to distributions pursuant to the Plan.

(iii) If the Disbursing Agent is an independent third party designated to serve in such capacity, the Liquidating Trustee shall be permitted to provide to such Disbursing Agent from the Wind-Down Account, without further Bankruptcy Court approval, reasonable compensation for distribution services rendered pursuant to the Plan and reimbursement of reasonable, actual, and documented out-of-pocket expenses incurred in providing post-Confirmation services directly related to distributions pursuant to the Plan.

(h) Rights and Powers of Disbursing Agent.

(i) From and after the Effective Date, the Disbursing Agent, solely in its capacity as Disbursing Agent, shall be exculpated by all Entities, including holders of Claims against the Debtors, Liquidating Trust Beneficiaries, and other parties in interest, from any and all Claims, Causes of Action, and other assertions of liability arising out of the discharge of the powers and duties conferred upon such Disbursing Agent by the Plan or any order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, or applicable law, except for actions or omissions to act arising out of the gross negligence or willful misconduct, fraud, malpractice, criminal conduct, or *ultra vires* acts of such Disbursing Agent. No holder of a Claim, a Liquidating Trust Beneficiary or other party in interest shall have or pursue any claim or Cause of Action against the Disbursing Agent, solely in its capacity as Disbursing Agent, for making Distributions in accordance with the Plan or for implementing provisions of the Plan, except for actions or omissions to act arising out of the gross negligence or willful misconduct, fraud, malpractice, criminal conduct, or *ultra vires* acts of such Disbursing Agent.

(ii) The Disbursing Agent shall be empowered to (A) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties hereunder, (B) make all Distributions contemplated hereby, and (C) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the

Disbursing Agent to be necessary and proper to implement the provisions of the Plan and this Trust Agreement.

(i) Expenses of Disbursing Agent. Except as otherwise ordered by the Bankruptcy Court, any reasonable and documented fees and expenses incurred by the Disbursing Agent acting in such capacity (including reasonable documented attorneys' fees and expenses) on or after the Effective Date shall be paid in Cash by the Liquidating Trust in the ordinary course of business.

(j) Expenses of Estate Professionals. Liquidating Trust Professionals shall be entitled to reasonable compensation for services rendered and reimbursement of expenses incurred from the Wind-Down Account subject to the Wind-Down Budget. The payment of the fees and expenses of the Liquidating Trustee and the Liquidating Trust Professionals shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court; *provided*, that any disputes related to such fees and expenses shall be brought before the Bankruptcy Court.

(k) No Post-petition Interest on Claims. Except as otherwise provided in the Plan, the Confirmation Order or another order of the Bankruptcy Court or required by the Bankruptcy Code (including post-petition interest in accordance with sections 506(b) and 726(a)(5) of the Bankruptcy Code), interest shall not accrue or be paid on any Claims on or after the Petition Date; *provided*, that if interest is payable pursuant to this sentence, interest shall accrue at the federal judgment rate pursuant to 28 U.S.C. § 1961 on a non-compounded basis from the date the obligation underlying the Claim becomes due and is not timely paid through the date of payment.

(l) Distributions after Effective Date. Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

(m) Undeliverable or Non-Negotiated Distributions. If any distribution is returned as undeliverable or is otherwise unclaimed, no further distributions to the applicable Holder of an Allowed Claim shall be made unless and until the Disbursing Agent or appropriate Servicer is notified in writing of such Holder's then-current address, at which time the undelivered distribution shall be made to such Holder without interest or dividends. Undeliverable distributions shall be returned to Liquidating Dean Food Company until such distributions are claimed. Any Holder of an Allowed Claim that does not claim an undeliverable or unclaimed distribution within 90 calendar days after the date such distribution was returned undeliverable shall be deemed to have forfeited its Claim for such undeliverable or unclaimed distribution and shall be forever barred and enjoined from asserting any such claim for an undeliverable or unclaimed distribution against the Debtors and their Estates, the Liquidating Debtors, the Liquidating Trustee, the Disbursing Agent, and each of the foregoing's respective agents, attorneys, representatives, employees, or independent contractors and/or any of its or their property. All title to and all beneficial interests in the Cash relating to such undeliverable or unclaimed distribution, including any dividends or interest attributable thereto, shall

revert to the Liquidating ~~Debtors~~Trust and such Cash shall be deposited in the Wind-Down Account for distribution in accordance with the Plan. The reversion of such Cash shall be free of any restrictions thereon notwithstanding any federal or state escheat laws to the contrary. Nothing contained in the Plan or this Trust Agreement shall require the Debtors, the Liquidating Debtors, the Liquidating Trustee, or any Disbursing Agent to attempt to locate any Holder of an Allowed Claim.

(n) Time Bar to Cash Payments. Checks issued on account of Allowed Claims shall be null and void if not negotiated within 120 calendar days from and after the date of issuance thereof. Requests for reissuance of any check must be made directly and in writing to the Disbursing Agent by the Holder of the relevant Allowed Claim within such 120-calendar-day period. Nothing contained in the Plan or this Trust Agreement shall require the Debtors, the Liquidating Debtors, the Liquidating Trustee, or any Disbursing Agent to attempt to issue a new check following such 120-calendar-day period. After such 120-calendar-day period, the relevant Allowed Claim (and any Claim for reissuance of the original check) shall be automatically discharged and forever barred, and all title to and all beneficial interests in the Cash represented by any such non-negotiated check, including any dividends or interest attributable thereto, shall revert to the Liquidating Debtors and such Cash shall be deposited in the Wind-Down Account for distribution in accordance with the Plan. The reversion of such Cash shall be free of any restrictions thereon notwithstanding any federal or state escheat laws to the contrary.

(o) Manner of Payment under Plan. At the Disbursing Agent's option, any Cash payment may be made by check, wire transfer, or any other customary payment method. In the case of foreign creditors, Cash payments may be made, at the option of the Disbursing Agent, in such funds and by such means as are necessary or customary in a particular jurisdiction.

(p) Fractional Dollars. Pursuant to Article VI.G of the Plan, and notwithstanding any other provision of the Plan, the Disbursing Agent shall not be required to make distributions or payments of fractions of dollars. Whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment shall reflect a rounding of such fraction down to the nearest whole dollar.

(q) Satisfaction of Claims. Except as otherwise specifically provided in the Plan, Distributions and deliveries to be made on account of Allowed Claims under the Plan shall be in complete and final satisfaction, settlement, and discharge of and exchange for such Allowed Claims.

(r) *De Minimis* Distributions.

(i) Pursuant to Article VI.B.2 of the Plan and notwithstanding any other provision of the Plan, none of the Liquidating Trustee, any Servicer, nor any Disbursing Agent shall be required to make any distributions to Holders of Allowed Claims aggregating less than \$100.00. Cash that otherwise would be payable under the Plan to Holders of Allowed Claims but for Article

VI.B.2 of the Plan shall be available for distributions to Holders of other Allowed Claims.

(ii) Notwithstanding any other provision of the Plan, none of the Liquidating Trustee, any Servicer, nor any Disbursing Agent shall have any obligation to make any distributions on any Interim Distribution Date unless the sum of all distributions authorized to be made to all Holders of Allowed Claims on such Interim Distribution Date exceeds \$10,000 in value.

(s) Setoffs and Recoupments. The Liquidating Trust, or its designee (including the Disbursing Agent) may, but shall not be required to, set off or recoup against any Claim, and any Distribution to be made on account of such Claim, any and all claims, rights, and Causes of Action of any nature whatsoever that the Debtors or the Liquidating Trust may have against the holder of such Claim pursuant to the Bankruptcy Code or applicable non-bankruptcy law; *provided*, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by a Debtor or the Liquidating Trust or its successor of any claims, rights, or Causes of Action that a Debtor or the Liquidating Trust or its successor or assign may possess against the holder of such Claim.

(t) Allocation of Distributions between Principal and Interest. To the extent that any Claim entitled to a distribution under the Plan is based upon any obligation or instrument that is treated for U.S. federal income tax purposes as indebtedness of any Debtor and accrued but unpaid interest thereon, such distribution shall be allocated first to the principal amount of the Claim (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claim, to accrued but unpaid interest.

(u) No Distribution in Excess of Amount of Allowed Claim. Except as provided in Section 4.2(k) of this Trust Agreement, no holder of an Allowed Claim shall receive, on account of such Allowed Claim, Distributions in excess of the Allowed amount of such Claim.

(v) Distributions Free and Clear. Except as otherwise provided herein, any Distributions under the Plan shall be free and clear of any Liens, Claims, and encumbrances, and no other entity, including the Debtors or the Liquidating Trust shall have any interest, legal, beneficial, or otherwise, in Assets transferred pursuant to the Plan.

(w) Claims Register. The register of Claims maintained by the Debtors shall remain open after the Effective Date and the Liquidating Trust shall recognize any transfer of Claims at any time thereafter, *provided* that for purposes of each Distribution, the Liquidating Trust will not recognize any transfer of Claims for such Distribution after the Distribution Record Date relating to such Distribution; and, *provided, further*, for the avoidance of doubt, all Liquidating Trust Interests shall be non-transferable except as provided in Section 2.4 of this Trust Agreement. Except as otherwise provided in the Plan, any transfer of a Claim, whether occurring prior to or after the Confirmation Date,

shall not affect or alter the classification and treatment of such Claim under the Plan and any such transferred Claim shall be subject to classification and treatment under the Plan as if such Claim was held by the transferor who held such Claim on the Petition Date.

4.3. Compliance with Laws. Any and all Distributions of the Liquidating Trust Assets shall be in compliance with applicable laws, including applicable federal and state tax and securities laws.

4.4. Fiscal Year. Except for the first and last years of the term of the Liquidating Trust, the fiscal year of the Liquidating Trust shall be the calendar year. For the first and last years of the term of the Liquidating Trust, the fiscal year of the Liquidating Trust shall be such portion of the calendar year that the Liquidating Trust is in existence.

4.5. Books and Records. The Liquidating Trust shall retain and preserve the Debtors' books, records, and files that shall have been delivered to or created by the Liquidating Trust. Subject to Section 3.3 of this Trust Agreement, the Liquidating Trustee shall maintain, in respect of the Liquidating Trust and the Liquidating Trust Beneficiaries and all others to receive Distributions under this Trust Agreement, books and records relating to the assets and the income of the Liquidating Trust and the payment of expenses of, liabilities of, and claims against or assumed by, the Liquidating Trust and the Liquidating Trustee, in such detail and for such period of time as may be necessary to enable it to make full and proper reports in respect thereof in accordance with the provisions of this Trust Agreement and applicable provisions of law, including applicable tax, securities and other federal and state laws. Except as otherwise provided herein or in the Plan, nothing in this Trust Agreement requires the Liquidating Trustee to file any accounting or seek approval of any court with respect to the administration of the Liquidating Trust, or as a condition for making any payment or Distribution out of the Liquidating Trust Assets. The Liquidating Trustee shall provide any~~either~~ member of the Liquidating Trust Advisory Board with access to such books and records during normal business hours as may be requested with reasonable advance notice. The Liquidating Trust Beneficiaries shall have the right upon 30 days' prior written notice delivered to the Liquidating Trustee to inspect such books and records during normal business hours; *provided*, that, if so requested, all costs associated with such inspection shall be paid in advance by such requesting Liquidating Trust Beneficiary and such Liquidating Trust Beneficiary shall have entered into a confidentiality agreement reasonably satisfactory in form and substance to the Liquidating Trust Advisory Board.

4.6. Insurance. The Liquidating Trustee shall be authorized to obtain and pay for, out of the Debtors' Assets and, after the effective Date, out of the Wind-Down Account, all reasonably necessary insurance coverage for itself and the Liquidating Trust Advisory Board, their agents, representatives, employees, or independent contractors, and the Liquidating Debtors, including, but not limited to, coverage with respect to (a) any property that is or may in the future become the property of the Liquidating Debtors or their Estates and (b) the liabilities, duties, and obligations of the Liquidating Trustee and the Liquidating Trust Advisory Board and their agents, representatives, employees, or independent contractors under this Trust Agreement (in the form of an errors and omissions policy or otherwise), the latter of which insurance coverage may remain in effect for a reasonable period of time as determined by the Liquidating Trustee after the termination of this Trust Agreement.

4.7. Reports.

(a) The Liquidating Trustee shall deliver reports to the members of the Liquidating Trust Advisory Board not later than 45 days following the end of each fiscal quarter during the term of the Liquidating Trust. Such reports shall specify in reasonable detail (i) the status of any Causes of Action, Claims and litigation involving the Liquidating Trust or the Liquidating Trust Assets, (ii) the costs and expenses of the Liquidating Trust that are incurred (including any taxes imposed on the Liquidating Trust or actual reasonable out-of-pocket fees and expenses incurred by Liquidating Trust Professionals in connection with the administration and liquidation of the Liquidating Trust Assets and preservation of books and records as provided in Section 4.5 of this Trust Agreement) during the preceding fiscal quarter and the remaining amount (if any) of the Wind-Down Account, (iii) the amounts listed in clause (ii) incurred since the Effective Date, (iv) the amount of Cash and other assets received by the Liquidating Trust during the prior fiscal quarter, (v) the aggregate amount of Cash and other assets received by the Liquidating Trust since the Effective Date, (vi) the calculation of the estimated amount of the Cash and other assets to be distributed on the next Distribution Date, (vii) the aggregate amount of Distributions from the Liquidating Trust to the Liquidating Trust Beneficiaries since the Effective Date, and (viii) such other information as the Liquidating Trust Advisory Board may request from time to time. The Liquidating Trustee shall also timely prepare, file, and distribute such additional statements, reports, and submissions (i) as may be necessary to cause the Liquidating Trust and the Liquidating Trustee to be in compliance with applicable law or (ii) as may be otherwise requested from time to time by the Liquidating Trust Advisory Board.

(b) Until such time as the Liquidating Trust is dissolved in accordance with this Trust Agreement, the Liquidating Trustee shall file with, or furnish to, as the case may be, the Bankruptcy Court and the Securities and Exchange Commission periodic public reports on the status of claims reconciliation and Distributions, which reports may be included in the quarterly reporting required by the U.S. Trustee.

## Article V

### TAX MATTERS

#### 5.1. Liquidating Trustee's Tax Power for Debtors.

(a) For all taxable periods ended on or before the dissolution of the Debtors, the Liquidating Trustee shall have the same authority and responsibility in respect of all taxes of the Debtors (including as the common parent or other agent of any consolidated, combined, or unitary tax group of which the Debtors were the agent) and, to the same extent, as if the Liquidating Trustee were the Debtors.

(b) In furtherance of the transfer of the Liquidating Trust Assets to the Liquidating Trust on the Effective Date, the Liquidating Trust shall be entitled to all tax refunds of the Debtors (and the Liquidating Trust shall bear responsibility for all tax liabilities of the Debtors for taxable periods ended on or before the dissolution of the Debtors, to the extent not discharged by the Plan or provided for payment or otherwise satisfied in the Plan).

(c) Following the Confirmation Date, (with respect to the Debtors and Liquidating Debtors) and following the Effective Date (with respect to the Liquidating Trust), the Liquidating Trustee shall pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, prepare and file (or cause to be prepared and filed), on behalf of the Debtors, the Liquidating Debtors and the Liquidating Trust, all tax returns, reports and statements required to be filed or that the Liquidating Trustee otherwise deems appropriate, including the filing of amended tax returns or requests for refunds for all taxable periods ended on or before the dissolution of the Debtors, and handle all of the Debtors', Liquidating Debtors' and Liquidating Trust's tax matters, including, without limitation, the handling of tax audits, claims, defenses and proceedings.



5.2. Liquidating Trust Assets Treated as Owned by Liquidating Trust Beneficiaries. Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidating Trustee), and except to the extent that an election is made to treat a portion of the Liquidating Trust as a disputed ownership fund, the Debtors, the Liquidating Debtors, the Liquidating Trustee, and Holders of Administrative Claims, Priority Claims, Other Secured Claims, Senior Notes Claims, Control Group Liability Pension Claims, and General Unsecured Claims shall treat, for United States federal income tax purposes, the transfer of assets to the Liquidating Trust as (a) a transfer of the Assets (subject to any obligations relating to those Assets) directly to such Holders of Claims, followed by (b) the transfer by such Holders to the Liquidating Trust of the Assets in exchange for interests in the Liquidating Trust. Accordingly, such Holders shall be treated for U.S. federal income tax purposes (y) as direct recipients of an undivided interest in the Assets transferred to the Liquidating Trust and as having immediately contributed such Assets to the Liquidating Trust and, thereafter, and (z) as the grantors and deemed owners of the Liquidating Trust and, thus, the direct owners of an undivided interest in the Assets held by the Liquidating Trust. The foregoing treatment shall also apply, to the extent permitted by applicable law, for state and local income tax purposes.

5.3. Liquidating Trust Tax Status. For United States federal income tax purposes (and for tax purposes of all state, local and other jurisdictions to the extent applicable), the Liquidating Trust is intended to be treated as a “liquidating trust” under Treasury Regulations section 301.7701-4(d) and, thus, as a grantor trust pursuant to sections 671-677 of the Tax Code, or any successor provisions thereof of which such Liquidating Trust becomes the grantor (other than in respect of the Disputed Claims Reserve). The Liquidating Trust shall at all times be administered so as to constitute a domestic trust for United States federal income tax purposes.

5.4. Tax Reporting.

(a) The Liquidating Trustee shall file tax returns for the Liquidating Trust treating the Liquidating Trust as a grantor trust pursuant to Treasury Regulation section 1.671-4(a) and in accordance with this Article V. The Liquidating Trustee also will annually send to each holder of a Liquidating Trust Interest a separate statement regarding the receipts and expenditures of the Liquidating Trust as relevant for United States federal income tax purposes and will instruct all such holders to use such information in preparing their United States federal income tax returns or to forward the appropriate information to such holder’s underlying beneficial holders with instructions to utilize such information in preparing their United States federal income tax returns. The Liquidating Trustee shall also file (or cause to be filed) any other statement, return or disclosure relating to the Liquidating Trust that is required by any governmental unit.

(b) As soon as reasonably practicable after the Liquidating Trust Assets are transferred to the Liquidating Trust, but in no event later than 120 days thereafter, the Liquidating Trust shall make a good faith valuation of the Liquidating Trust Assets and such valuation shall be used consistently by all parties for all U.S.

federal income tax purposes. The Liquidating Trust shall also file (or cause to be filed) any other statements, returns, or disclosures relating to the Liquidating Trust that are required by any Government Unit. In connection with the preparation of the valuation contemplated hereby and by the Plan, the Liquidating Trust shall be entitled to retain such professionals and advisors as the Liquidating Trust shall determine to be appropriate or necessary, and the Liquidating Trustee shall take such other actions in connection therewith as it determines to be appropriate or necessary, subject to the approval of the Liquidating Trust Advisory Board. Such valuation shall be used consistently by such parties for all United States federal income tax purposes.

(c) Assets deemed transferred to Liquidating Trust Beneficiaries pursuant to Article IV.A.3 and Article IV.A.5(c) of the Plan, and allocations of any Liquidating Trust taxable income among Liquidating Trust Beneficiaries (except to the extent that an election is made to treat a portion of the Liquidating Trust as a disputed ownership fund), shall be determined by reference to the manner in which an amount of Cash representing such Assets or taxable income, as the case may be, would be distributed (were such Cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the Liquidating Trust had distributed all of the Liquidating Trust Assets (valued at their tax book value, except to the extent that an election is made to treat a portion of the Liquidating Trust as a disputed ownership fund) to the Liquidating Trust Beneficiaries, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Liquidating Trust. Similarly, any taxable loss of the Liquidating Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a hypothetical liquidating distribution of the remaining Liquidating Trust Assets. The tax book value of the Liquidating Trust Assets for purpose of this paragraph shall equal their fair market value on the date the Liquidating Trust Assets are transferred to the Liquidating Trust, adjusted in accordance with tax accounting principles prescribed by the Tax Code, the applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

(d) Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt by the Liquidating Trustee of a private letter ruling if the Liquidating Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidating Trustee), the Liquidating Trustee (i) with the approval and/or at the direction of the Liquidating Trust Advisory Board, may timely elect to treat the Disputed Claims Reserve as a “disputed ownership fund” governed by Treasury Regulation section 1.468B-9, and file such tax returns and pay such taxes as may be required consistent with such treatment, and (ii) to the extent permitted by applicable law, shall report consistently with the foregoing for state and local income tax purposes. If a “disputed ownership fund” election is made, all parties (including the Liquidating Trustee and the Liquidating Trust Beneficiaries) shall report for United States federal, state and local income tax purposes consistently with the foregoing.

(e) The Liquidating Trustee shall be responsible for payment, out of the Liquidating Trust Assets, of any taxes imposed on the Liquidating Trust or its assets,

including the Disputed Claims Reserve. More particularly, any taxes imposed on any Disputed Claims Reserve or its assets will be paid out of the assets of the Disputed Claims Reserve (including any Liquidating Trust Assets allocable to Disputed Claims), and netted against any subsequent distributions in respect of the allowance or disallowance of such Claims. In the event, and to the extent, any Cash in any Disputed Claims Reserve is insufficient to pay the portion of any taxes attributable to taxable income arising from assets of the Disputed Claims Reserve (including any income that may arise upon an actual or constructive distribution of the assets of the reserve in respect of the resolution of Disputed Claims), assets of the Disputed Claims Reserve (including those otherwise distributable) may be sold to pay such taxes.

(f) The Liquidating Trustee may request an expedited determination of taxes of the Liquidating Trust or of the Debtors or Liquidating Debtors, under section 505(b) of the Bankruptcy Code, for all tax returns filed for, or on behalf of, such Liquidating Trust or the Debtors or Liquidating Debtors for all taxable periods through the dissolution of such Liquidating Trust. Without limiting the foregoing, each of the Debtors shall execute, on or prior to the Effective Date, a power of attorney authorizing the Liquidating Trustee to correspond with any tax authority on behalf of such Debtor and to sign, collect, negotiate, settle, and administer tax payments and tax returns.

5.5. Tax Withholdings by Liquidating Trustee. The Liquidating Trustee may withhold and pay to the appropriate tax authority all amounts required to be withheld pursuant to the Tax Code or any provision of any foreign, state, or local tax law with respect to any payment or Distribution to the holders of Liquidating Trust Interests. All such amounts withheld and paid to the appropriate tax authority (or placed in escrow pending resolution of the need to withhold) shall be treated as amounts distributed to such holders of Liquidating Trust Interests for all purposes of this Trust Agreement. The Liquidating Trustee shall be authorized to collect such tax information from the holders of Liquidating Trust Interests (including social security numbers or other tax identification numbers) as in its sole discretion the Liquidating Trustee deems necessary to effectuate the Plan, the Confirmation Order, and this Trust Agreement. In order to receive Distributions under the Plan, all holders of Liquidating Trust Interests shall be required to identify themselves to the Liquidating Trustee and provide tax information and the specifics of their holdings, to the extent the Liquidating Trustee deems appropriate in the manner and in accordance with the procedures from time to time established by the Liquidating Trustee for these purposes. This identification requirement generally applies to all holders, including those who hold their Claims in “street name.” The Liquidating Trustee may refuse to make a Distribution to any holder of a Liquidating Trust Interest that fails to furnish such information in a timely fashion, and until such information is delivered may treat such holder’s Liquidating Trust Interests as disputed; *provided, however*, that, upon the delivery of such information by a holder of a Liquidating Trust Interest, the Liquidating Trustee shall make such Distribution to which the holder of the Liquidating Trust Interest is entitled, without additional interest occasioned by such holder’s delay in providing tax information; *provided, further*, that, if such information is not furnished to the Liquidating Trustee within 12 months of the original request to furnish such information, no further Distributions shall be made to the holder of such Liquidating Trust Interest; *provided, further*, that, if the Liquidating Trustee fails to withhold in respect of amounts received or distributable with respect to any such holder and the Liquidating Trustee is later held liable for the amount of such withholding, such holder shall reimburse the Liquidating Trustee for such liability (to the extent such amounts were actually distributed to such holder).

## Article VI

### POWERS OF AND LIMITATIONS ON THE LIQUIDATING TRUSTEE AND THE LIQUIDATING TRUST ADVISORY BOARD

#### 6.1. Liquidating Trustee.

(a) The initial Liquidating Trustee will be approved by the Bankruptcy Court pursuant to the Confirmation Order to administer the Plan in accordance with the terms of the Plan and this Trust Agreement. Subject to Article VII of this Trust Agreement and Article V of the Plan, the Liquidating Trustee shall hold office until the termination of the Liquidating Trust in accordance with the terms set forth in this Trust Agreement and the Plan. References herein to the Liquidating Trustee shall refer to the

individual or individuals serving as the Liquidating Trustee solely in its or their capacity as trustees hereunder.

(b) The Liquidating Trustee will serve on and after the Effective Date in accordance with this Trust Agreement and the Plan, reporting to the Liquidating Trust Advisory Board to the extent required by this Trust Agreement and the Plan. The Liquidating Trustee shall be appointed as the representative of each of the Debtors' Estates pursuant to sections 1123(a)(5), (a)(7), and (b)(3)(B) of the Bankruptcy Code, subject to the terms of the Plan, the Confirmation Order, and this Trust Agreement. Notwithstanding anything in the Plan or this Trust Agreement to the contrary, the Liquidating Trustee shall always act consistently with, and not contrary to, the purpose of the Liquidating Trust as set forth in the Plan.

6.2. Powers of the Liquidating Trustee.

(a) Pursuant to the terms of the Plan, the Confirmation Order and this Trust Agreement, the Liquidating Trustee shall have all powers necessary to implement the Plan and to administer and monetize the Liquidating Trust Assets at the direction, under the supervision or with the approval of the Liquidating Trust Advisory Board, including the duties and powers set forth in Article V.C of the Plan. The Liquidating Trustee will administer the Liquidating Trust in accordance with this Trust Agreement, the Plan, and the Confirmation Order. The Liquidating Trustee shall, in an expeditious but orderly manner, liquidate and convert to Cash the assets of the Liquidating Trust, make timely distributions, and not unduly prolong the duration of the Liquidating Trust. More specifically, the Liquidating Trustee shall have the authority and the right, without the need for Bankruptcy Court approval (unless otherwise indicated), to carry out and implement all provisions of the Plan, including:

- (i) except to the extent Claims have been previously Allowed, control and effectuate the Claims reconciliation process, including to object to, seek to subordinate, compromise or settle any and all Claims;
- (ii) make Distributions to Holders of Allowed Claims as set forth in, and implement the wind-down pursuant to, the Plan;
- (iii) determine Distribution Dates, in accordance with the Plan;
- (iv) exercise its reasonable business judgment to direct and control the wind-down, liquidation, sale and/or abandoning of the remaining Assets of the Debtors under the Plan and in accordance with applicable law as necessary to maximize Distributions to holders of Allowed Claims;
- (v) prosecute any remaining Causes of Action, including Retained Causes of Action, on behalf of the Liquidating Trust, elect not to pursue any Causes of Action, and determine whether and when to compromise, settle, abandon, dismiss, or otherwise dispose of any such Causes of Action;

(vi) retain professionals to assist in performing its duties under the Plan;

(vii) maintain the books and records and accounts of the Liquidating Trust;

(viii) invest Cash of the Liquidating Trust including any Cash from net proceeds realized from the liquidation of any Assets of the Liquidating Trust, including any Retained Causes of Action, and any income earned thereon, only to the extent reasonably necessary to maintain the value of the Assets of the Liquidating Trust and to further the purpose of the Liquidating Trust as set forth in the Plan or only in cash, cash equivalents, U.S. Treasury securities, money market investments, and similar investments; provided, however, that the scope of any such permissible investments shall be limited to include only those investments, or shall be expanded to include any additional investments, as the case may be, that a liquidating trust within the meaning of Treasury Regulation Section 301.7701-4(d) may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the guidelines of the IRS, whether set forth in IRS rulings, other IRS pronouncements or otherwise;

(ix) incur and pay reasonable and necessary expenses in connection with the performance of duties under the Plan, including the reasonable fees and expenses of professionals retained by the Liquidating Trustee and the Liquidating Trust Professionals, which shall be subject to approval by the Liquidating Trust Advisory Board in accordance with Section 4.2(k) of this Trust Agreement;

(x) administer each Debtor's tax obligations, including (A) filing tax returns, reports, and statements and paying tax obligations, (B) requesting, if necessary, an expedited determination of any unpaid tax liability of each Debtor or its estate under section 505(b) of the Bankruptcy Code for all taxable periods of such Debtor ending after the Petition Date through the liquidation of such Debtor as determined under applicable tax laws, and (C) representing the interest and account of each Debtor or its estate before any taxing authority in all matters including any claim, defense, action, suit, proceeding or audit;

(xi) administer the Liquidating Trust's tax obligations, including (A) filing tax returns and paying tax obligations, (B) requesting, if necessary, an expedited determination of any unpaid tax liability of the Liquidating Trust for all taxable periods of the Liquidating Trust through the dissolution of the Liquidating Trust as determined under applicable tax laws, and (C) representing the interest and account of the Liquidating Trust before any taxing authority in all matters including any claim, defense, action, suit, proceeding or audit;

(xii) prepare and file any and all returns, reports, statements, or disclosures relating to the Debtors and the Liquidating Trust that are required under the Plan, by any governmental unit or applicable law;

(xiii) prepare and file on behalf of the Debtors and any non-Debtor subsidiaries, certificates of dissolution and any and all other corporate and company documents necessary to effectuate the wind-down of the Estates without further action under applicable law, regulation, order, or rule, including any action by the stockholders, members, the board of directors, or board of directors or similar governing body of the Debtors;

(xiv) maintain appropriate liability insurance for the Liquidating Trustee and the Liquidating Trust Advisory Board;

(xv) pay statutory fees; and

(xvi) perform other duties and functions that are consistent with the implementation of the Plan and this Trust Agreement and otherwise approved by the Liquidating Trust Advisory Board.

(b) Subject to the approval of the Liquidating Trust Advisory Board, the Liquidating Trustee may serve on the board of directors of any subsidiary of the Liquidating Trust, *provided* the subsidiary's objective is consistent with that of the Liquidating Trust (i.e., to sell its assets and distribute the proceeds in liquidation).

(c) Except as otherwise provided in this Trust Agreement, the Liquidating Trustee will not be required to obtain the order or approval of the Bankruptcy Court, or any other court of competent jurisdiction in, or account to the Bankruptcy Court or any other court of competent jurisdiction for, the exercise of any right, power or privilege conferred hereunder. Pursuant to the Plan, the Bankruptcy Court has retained jurisdiction for such purposes and may approve or disapprove any such proposed action upon motion by the Liquidating Trustee.

### 6.3. Limitations on Liquidating Trustee.

(a) The Liquidating Trustee shall, on behalf of the Liquidating Trust, hold the Liquidating Trust out as a trust in the process of liquidation and not as an investment company. The Liquidating Trustee shall be restricted to the liquidation of the Liquidating Trust Assets on behalf, and for the benefit, of the Liquidating Trust Beneficiaries and the Distribution and application of the Liquidating Trust Assets for the purposes set forth in, and the conservation and protection of the Liquidating Trust Assets and the administration thereof in accordance with, the provisions of this Trust Agreement, the Plan and the Confirmation Order, and shall not take any action that would jeopardize treatment of the Liquidating Trust as a "liquidating trust" that is a grantor trust for United States federal income tax purposes.

(b) Notwithstanding anything in this Trust Agreement to the contrary, the Liquidating Trustee shall submit to the Liquidating Trust Advisory Board for

approval all non-ministerial decisions, including, without limitation, the matters set forth in Section 6.5(a) of this Trust Agreement, the following matters and any other matters that require the approval of the Liquidating Trust Advisory Board pursuant to the other terms of this Trust Agreement:

(i) any transaction involving the sale, assignment, transfer or abandonment of any Liquidating Trust Asset(s);

(ii) any incurrence of any cost, expense or fee in excess of \$50,000 (covering services to be rendered or products utilized by the Liquidating Trustee within a one month period);

(iii) subject to Section 6.7 of this Trust Agreement, any determination to retain Liquidating Trust Professionals and any compensation arrangements for such Liquidating Trust Professionals, it being understood that the Liquidating Trust initially intends to engage [ ] (“      ”) as primary trust litigation counsel (“**Primary Trust Litigation Counsel**”);

(iv) determination of the amount and timing of any Distribution to the Liquidating Trust Beneficiaries;

(v) any determination to initiate, settle or otherwise dispose of lawsuits or proceedings;

(vi) the management of preference and claim reconciliation matters;

(vii) at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, pursuant to Article XII of the Plan;

(viii) the dissolution of the Liquidating Trust; and

(ix) submission to the Bankruptcy Court by the Liquidating Trustee of any question or questions regarding any specific action proposed to be taken by the Liquidating Trustee with respect to this Trust Agreement, the Liquidating Trust, or the Liquidating Trust Assets, including the administration and Distribution of the Liquidating Trust Assets and the termination of the Liquidating Trust.

The foregoing shall not limit the Liquidating Trustee’s ability to make determinations and take actions regarding compliance with tax withholding requirements (including remittances).



6.4. Compensation and Expenses of the Liquidating Trustee.

(a) During the period from the Confirmation Date to the Effective Date, the Liquidating Trustee shall submit its fee and expense statements or invoices, in summary form, which shall not be required to contain time entries but shall include a summary statement of services provided and the expenses incurred (which summary may be redacted or modified to the extent necessary to delete any information subject to the attorney-client or other privilege, any information constituting attorney work product, or any other confidential or otherwise sensitive information, and the provision of such invoices shall not constitute any waiver of the attorney-client privilege or of any benefits of the attorney work product doctrine) to each the counsel to the Debtors and the counsel to the Creditors' Committee. The Debtors shall (without any further notice to, action by, or order or approval of the Bankruptcy Court or any other party) pay in Cash all such fees and expenses of the Liquidating Trustee, within ten days of presentment of such statements or invoices, if no written objections to the reasonableness of the fees and expenses charged in any such statement or invoice (or portion thereof) is made by either the counsel to the Debtors or the counsel to the Creditors' Committee. Any objection raised by the counsel to the Debtors or the counsel to the Creditors' Committee with respect to such fee and expense statements or invoices may be made only on the basis of "reasonableness" and shall specify in writing the amount of the contested fees and expenses and the detailed basis for such objection. To the extent an objection only contests a portion of an invoice, the undisputed portion thereof shall be promptly paid. If any such objection to payment of an invoice (or any portion thereof) is not otherwise resolved between the Liquidating Trustee, the counsel to the Debtors, and the counsel to the Creditors' Committee, either party may submit such dispute to the Bankruptcy Court for a determination as to the reasonableness of the relevant disputed fees and expenses set forth in the invoice.

(b) From and after the Effective Date, the Liquidating Trustee shall be paid in accordance with the terms and conditions of this Trust Agreement and solely from the Wind-Down Account (with no recourse to any Released Party). Liquidating Trust Professionals shall be entitled to reasonable compensation for services rendered and reimbursement of expenses incurred from the Wind-Down Account subject to the Wind-Down Budget. The payment of the fees and expenses of the Liquidating Trustee and the Liquidating Trust Professionals shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court; *provided*, that any disputes related to such fees and expenses shall be brought before the Bankruptcy Court. The compensation of the Liquidating Trustee may be modified from time to time by the Liquidating Trust Advisory Board; *provided* that any modification to the compensation of the Liquidating Trustee shall only be made upon the provision of reasonable prior notice and the opportunity to object to the Liquidating Trust Beneficiaries through the filing of a notice of such proposed modifications with the Bankruptcy Court.

6.5. Establishment of Liquidating Trust Advisory Board.

(a) The Liquidating Trust Advisory Board shall be appointed on the Effective Date in accordance with the Plan and this Trust Agreement, and shall exercise

the duties set forth in the Plan, the Confirmation Order and this Trust Agreement, which duties shall be (i) instructing and supervising the Liquidating Trustee with respect to its responsibilities under the Plan and reviewing and approving decisions of the Liquidating Trustee as set forth in this Trust Agreement, (ii) reviewing and approving the prosecution of adversary and other proceedings, including approving proposed settlements thereof, (iii) reviewing and approving objections to and proposed settlements of Disputed Claims, and (iv) performing such other duties as the Liquidating Trust Advisory Board determines may be necessary and proper to assist the Liquidating Trustee and the Liquidating Trust Professionals. In its discretion, following the Effective Date, the Liquidating Trust Advisory Board may delegate any duties assigned to the Liquidating Trustee to any other committee, entity, or individual. Notwithstanding anything in the Plan or this Trust Agreement to the contrary, the Liquidating Trust Advisory Board shall always act consistently with, and not contrary to, the purpose of the Liquidating Trust as set forth in the Plan.

(b) On or prior to the Plan Supplement Date, the Debtors shall have filed a list of the proposed initial members of the Liquidating Trust Advisory Board. Each proposed member of the Liquidating Trust Advisory Board shall complete and file with the Bankruptcy Court, by no later than the Effective Date, a sworn affidavit stating that such member does not have any conflict of interest in connection with serving on the Liquidating Trust Advisory Board and is not party to any separate formal or informal agreement or arrangement regarding the Liquidating Trust Advisory Board's selection of advisors. On the Effective Date, the Liquidating Trust Advisory Board will be appointed in accordance with the terms of this Trust Agreement. Notwithstanding anything contained in the Plan or this Trust Agreement, the Liquidating Trust Advisory Board shall always act consistently with, and not contrary to, the purpose of the Liquidating Trust as set forth in the Plan.

(c) The initial members of the Liquidating Trust Advisory Board are as set forth on Annex A hereto. For the avoidance of doubt, ~~no~~neither member of the Liquidating Trust Advisory Board shall be the Liquidating Trustee.

(d) The authority of the members of the Liquidating Trust Advisory Board shall be effective as of the Effective Date and shall remain and continue in full force and effect until the Liquidating Trust is dissolved in accordance with this Trust Agreement. The service of the members of the Liquidating Trust Advisory Board shall be subject to the following:

(i) the members of the Liquidating Trust Advisory Board shall serve until death or resignation pursuant to clause (ii) below, or removal pursuant to clause (iii) below;

(ii) a member of the Liquidating Trust Advisory Board may resign at any time by providing a written notice of resignation to the remaining ~~members~~member of the Liquidating Trust Advisory Board. Such resignation shall be effective when a successor is appointed as provided herein;

(iii) a member of the Liquidating Trust Advisory Board may be removed for Cause<sup>2</sup> by ~~a majority~~unanimous vote of the other ~~members~~member of the Liquidating Trust Advisory Board and the Liquidating Trustee. Such removal shall be effective immediately upon such vote;

(iv) in the event of a vacancy on the Liquidating Trust Advisory Board (whether by removal, death or resignation), a new member of the Liquidating Trust Advisory Board shall be appointed to fill such position by ~~a majority~~unanimous vote of the remaining ~~members~~member of the Liquidating Trust Advisory Board and the Liquidating Trustee. The appointment of a successor member of the Liquidating Trust Advisory Board shall be evidenced by the filing with the Bankruptcy Court by the Liquidating Trustee of a notice of appointment, which notice shall include the name, address, and telephone number of the successor member of the Liquidating Trust Advisory Board; and

(v) immediately upon appointment of any successor member of the Liquidating Trust Advisory Board, all rights, powers, duties, authority, and privileges of the predecessor member of the Liquidating Trust Advisory Board hereunder shall be vested in and undertaken by the successor member of the Liquidating Trust Advisory Board without any further act; and the successor member of the Liquidating Trust Advisory Board shall not be liable personally for any act or omission of the predecessor member of the Liquidating Trust Advisory Board.

(e) Notwithstanding anything in this Trust Agreement to the contrary, the Liquidating Trust Advisory Board shall act in furtherance of the purpose of the Liquidating Trust, and shall not take any action that would cause the Liquidating Trust to fail to qualify as a “liquidating trust” for United States federal income tax purposes.

(f) The Liquidating Trust Advisory Board shall hold regular meetings, in person or telephonically, at such time and at such place as shall, from time to time, be determined by the Liquidating Trust Advisory Board. A meeting of the Liquidating Trust Advisory Board may be called by ~~any~~either member of the Liquidating Trust Advisory Board. Written notice of the time and place of meetings of the Liquidating Trust Advisory Board shall be given to each member of the Liquidating Trust Advisory Board by electronic communication at least two Business Days prior to such meeting.

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<sup>2</sup> “Cause” shall mean (a) the commission of a crime under the laws of the United States or any State thereof involving fraud, theft, false statements or other similar acts, or the commission of any crime that is a felony (or a comparable classification in a jurisdiction that does not use such terms) under such laws, (b) the willful or grossly negligent failure to perform employment-related duties for the Liquidating Trust Advisory Board, or (c) the willful or grossly negligent violation of any substantive and material written policy adopted by the Liquidating Trust Advisory Board as may be in effect from time to time.

(g) A quorum for meetings of the Liquidating Trust Advisory Board shall consist of ~~all three~~both members of the Liquidating Trust Advisory Board. In the event that ~~any~~either member ~~or members~~ of the Liquidating Trust Advisory Board ~~are~~is recused in accordance with the terms of this Trust Agreement, a quorum for meetings of the Liquidating Trust Advisory Board shall be the remaining ~~members~~member of the Liquidating Trust Advisory Board and the Liquidating Trustee. In the event that fewer than ~~three~~two members are serving on the Liquidating Trust Advisory Board due to vacancy, a quorum for meetings of the Liquidating Trust Advisory Board shall be the remaining ~~members~~member of the Liquidating Trust Advisory Board and the Liquidating Trustee.

(h) Except as expressly provided herein, the affirmative vote of a majority of the Liquidating Trust Advisory Board present at a duly called meeting at which a quorum is present shall be the act of the Liquidating Trust Advisory Board with respect to any matter that requires the determination, consent, approval, or agreement of such board. If an equal number of the ~~non-recused~~-voting members of the Liquidating Trust Advisory Board vote for and against a particular matter, or in the event that fewer than two members of the Liquidating Trust Advisory Board are voting on a particular matter, the Liquidating Trustee shall, only in such circumstances, have the authority to cast a vote with respect to such matter. ~~Any or all~~Either of the members of the Liquidating Trust Advisory Board may participate in a meeting by, or conduct the meeting through the use of, conference telephone or similar communications equipment by means of which all persons participating in the meeting may hear each other, in which case any required notice of such meeting may generally describe the arrangements (rather than or in addition to the place) for the holding thereof. ~~Any~~Either member of the Liquidating Trust Advisory Board participating in a meeting by this means is deemed to be present in person at the meeting. In all matters submitted to a vote of the Liquidating Trust Advisory Board, each Liquidating Trust Advisory Board member shall be entitled to cast one vote, which vote shall be cast personally by such Liquidating Trust Advisory Board member. In a matter in which the Liquidating Trustee cannot obtain direction or authority from the Liquidating Trust Advisory Board, the Liquidating Trustee may file a motion requesting such direction or authority from the Bankruptcy Court.

(i) Prior to the taking of a vote on any matter or issue or the taking of any action with respect to any matter or issue, each member of the Liquidating Trust Advisory Board shall report to the Liquidating Trust Advisory Board any conflict of interest such member has or may have with respect to the matter or issue at hand and fully disclose the nature of such conflict or potential conflict (including, without limitation, disclosing any and all financial or other pecuniary interests that such member may have with respect to or in connection with such matter or issue). A member who, with respect to a matter or issue, has or who may have a conflict of interest whereby such member's interests are adverse to the interests of the Liquidating Trust (i) shall be deemed to be a "**Conflicted Member**" who shall not be entitled to vote or take part in any action with respect to such matter or issue, (ii) the vote or action with respect to such matter or issue shall be undertaken only by ~~members~~the remaining member of the Liquidating Trust Advisory Board ~~who are not Conflicted Members~~and the Liquidating Trustee, and (iii) notwithstanding anything contained herein to the contrary, the

affirmative vote of only ~~a majority~~ the remaining member of the ~~members of the~~ Liquidating Trust Advisory Board who ~~are~~ is not a Conflicted Member ~~and the Liquidating Trustee~~ shall be required to approve of such matter or issue and the same shall be the act of the Liquidating Trust Advisory Board.

(j) Any action required or permitted to be taken by the Liquidating Trust Advisory Board at a meeting may be taken without a meeting if the action is taken by unanimous written consent of the Liquidating Trust Advisory Board as evidenced by one or more written consents describing the action taken, signed by the Liquidating Trust Advisory Board and filed with the minutes or proceedings of the Liquidating Trust Advisory Board.

(k) ~~Any~~ Each member of the Liquidating Trust Advisory Board shall be reimbursed by the Liquidating Trust from the Liquidating Trust Assets for its actual, reasonable, and documented out-of-pocket expenses incurred for serving on such board. Except as provided for in this Section 6.5 of this Trust Agreement, the members of the Liquidating Trust Advisory Board shall not be entitled to receive any other form of compensation for their services provided as such members.

6.6. Actions Taken on Other Than a Business Day. In the event that any payment or act under the Plan or this Trust Agreement is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

6.7. Agents, Employees, and Professionals.

(a) The Liquidating Trust may, but shall not be required to, from time to time enter into contracts with, consult with and retain Liquidating Trust Professionals determined by the Liquidating Trustee, in consultation with the Liquidating Trust Advisory Board, to have qualifications necessary or desirable to assist in the proper administration of the Liquidating Trust; *provided, however*, that the selection of the initial Liquidating Trustee shall be determined in accordance with Article V.A of the Plan and [it being understood that the Liquidating Trust intends to initially engage [ ] as Primary Trust Litigation Counsel.] The terms of engagement (including fee arrangements) of any Liquidating Trust Professionals may not be amended without the prior approval of the Liquidating Trust Advisory Board. None of the professionals that represented parties in interest in the Chapter 11 Cases shall be precluded from being engaged by the Liquidating Trust solely on account of their service as a professional for such parties-in-interest prior to the Effective Date. Following the Effective Date, any Liquidating Trust Professional may be removed with or without Cause.

(b) The Primary Trust Litigation Counsel that is appointed in accordance with the terms of the Plan shall be considered a Liquidating Trust Professional for the purposes of this Trust Agreement and the Plan. Notwithstanding Section 6.7(a) of this Trust Agreement, in the event of the resignation, removal, bankruptcy or insolvency of the Primary Trust Litigation Counsel, a vacancy shall be

deemed to exist and a successor shall be appointed by the Liquidating Trust Advisory Board; *provided*, that any opposing member of the Liquidating Trust Advisory Board may file an objection to the selection of Primary Trust Litigation Counsel with the Bankruptcy Court on the grounds that the selection of such Primary Trust Litigation Counsel is not in the best interests of the Liquidating Trust and Liquidating Trust Beneficiaries; *provided, further*, that any such objecting member of the Liquidating Trust Advisory Board shall be entitled to the reimbursement from the Liquidating Trust Assets of reasonable legal fees incurred in connection with the prosecution of any such objection only to the extent such objection is successful. For the avoidance of doubt, under no circumstance, shall the successor Primary Trust Litigation Counsel be a director or officer of any Affiliate of the Liquidating Trust.

(c) After the Effective Date, Liquidating Trust Professionals shall be required to submit reasonably detailed invoices on a monthly basis to the Liquidating Trustee and the Liquidating Trust Advisory Board, including in such invoices a description of the work performed, who performed such work, and if billing on an hourly basis, the hourly rate of such person, plus an itemized statement of expenses. In the event of any dispute concerning the entitlement to, or the reasonableness of any compensation and/or expenses of any Liquidating Trust Professionals, either the Liquidating Trustee or the affected party may ask the Bankruptcy Court to resolve the dispute. The Liquidating Trustee is authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Effective Date in the ordinary course and without the need for Bankruptcy Court approval, but subject to the approval and/or at the direction of the Liquidating Trust Advisory Board.

6.8. Investment of Liquidating Trust Monies. The Liquidating Trustee may, with the approval of, or at the direction of, the Liquidating Trust Advisory Board, invest Cash (including any earnings thereon or proceeds therefrom); *provided*, that such investments are investments permitted to be made by a “liquidating trust” within the meaning of Treasury Regulations section 301.7701-4(d), as reflected therein, or under applicable IRS guidelines, rulings or other controlling authorities. All monies and other assets received by the Liquidating Trustee as Liquidating Trust Assets (including the proceeds thereof as a result of investment in accordance with this Section 6.8 of this Trust Agreement) shall, until distributed or paid over as herein provided, be held in trust for the benefit of the Liquidating Trust Beneficiaries, and shall not be segregated from other Liquidating Trust Assets, unless and to the extent required by the Plan.

6.9. Termination. The duties, responsibilities and powers of the Liquidating Trustee and the Liquidating Trust Advisory Board shall terminate on the date the Liquidating Trust is wound up and dissolved in accordance with Delaware law pursuant to Section 3.2 of this Trust Agreement, under applicable law in accordance with the Plan, by an order of the Bankruptcy Court or by entry of a final decree closing the Chapter 11 Cases; *provided*, that Section 8.2 of this Trust Agreement, Section 8.4 of this Trust Agreement, Section 8.5 of this Trust Agreement and Section 8.6 of this Trust Agreement shall survive such termination, dissolution and entry.

6.10. Resident Trustee.

(a) The Resident Trustee has been appointed and hereby agrees to serve as the trustee of the Liquidating Trust solely for the purpose of complying with the requirement of Section 3807(a) of the Trust Act that the Liquidating Trust have one trustee, which, in the case of a natural person, is a resident of the State of Delaware, or which in all other cases, has its principal place of business in the State of Delaware. The duties and responsibilities of the Resident Trustee shall be limited solely to (i) accepting legal process served on the Liquidating Trust in the State of Delaware, (ii) the execution of any certificates required to be filed with the office of the Delaware Secretary of State that the Resident Trustee is required to execute under section 3811 of the Trust Act, and (iii) any other duties specifically allocated to the Resident Trustee in this Trust Agreement. Except as provided in the foregoing sentence, the Resident Trustee shall have no management responsibilities or owe any fiduciary duties to the Liquidating Trust, the Liquidating Trustee, the Liquidating Trust Advisory Board, or the Liquidating Trust Beneficiaries.

(b) By execution of this Agreement, the Resident Trustee accepts the Liquidating Trust created herein. Except as otherwise expressly required by Section 6.10(a) of this Trust Agreement, the Resident Trustee shall not have any duty or liability with respect to the administration of the Liquidating Trust, the investment of the Liquidating Trust Assets or the Distribution of the Liquidating Trust Assets to the Liquidating Trust Beneficiaries, and no such duties shall be implied. The Resident Trustee shall not be liable for the acts or omissions of the Liquidating Trustee or the Liquidating Trust Advisory Board, nor shall the Resident Trustee be liable for supervising or monitoring the performance of the duties and obligations of the

Liquidating Trustee or the Liquidating Trust Advisory Board under this Trust Agreement, except as expressly required by Section 6.10(a) of this Trust Agreement. The Resident Trustee shall not be obligated to give any bond or other security for the performance of any of its duties hereunder. The Resident Trustee shall not be personally liable under any circumstances, except for its own willful misconduct, bad faith, or gross negligence. Without limiting the foregoing:

(i) the Resident Trustee shall not be personally liable for any error of judgment made in good faith, except to the extent such error of judgment constitutes willful misconduct, bad faith or gross negligence;

(ii) no provision of this Trust Agreement shall require the Resident Trustee to expend or risk its personal funds or otherwise incur any financial liability in the performance of its rights or powers hereunder if the Resident Trustee has reasonable grounds to believe that the payment of such funds or adequate indemnity against such risk or liability is not reasonably assured or provided to it;

(iii) the Resident Trustee shall not be personally liable for the validity or sufficiency of this Trust Agreement or for the due execution of this Trust Agreement by the other parties to this Trust Agreement;

(iv) the Resident Trustee may accept a certified copy of a resolution of the board of directors or other governing body of any corporate party as conclusive evidence that such resolution has been duly adopted by such body and that the same is in full force and effect;

(v) the Resident Trustee may request the Liquidating Trustee to provide a certificate with regard to any fact or matter the manner of ascertainment of which is not specifically prescribed herein, and such certificate shall constitute full protection to the Resident Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon;

(vi) in the exercise or administration of the Liquidating Trust hereunder, the Resident Trustee (A) may act directly or through agents or attorneys pursuant to agreements entered into with any of them and (B) may consult with nationally recognized counsel selected by it in good faith and with due care and employed by it, and it shall not be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel; and

(vii) the Resident Trustee acts solely as Resident Trustee hereunder and not in its individual capacity, and all persons having any claim against the Resident Trustee by reason of the transactions contemplated by this Trust Agreement shall look only to the Liquidating Trust Assets for payment or satisfaction thereof.



(c) The Resident Trustee shall be entitled to receive compensation out of the Liquidating Trust Assets from the Liquidating Trust for the services that the Resident Trustee performs in accordance with this Trust Agreement in accordance with such fee schedules as shall be agreed from time to time by the Resident Trustee and the Liquidating Trust Advisory Board. The Resident Trustee may also consult with counsel (who may be counsel for the Liquidating Trust or for the Resident Trustee) with respect to those matters that relate to the Resident Trustee's role as the Delaware resident trustee of the Liquidating Trust, and the reasonable legal fees incurred in connection with such consultation shall be reimbursed out of the Liquidating Trust Assets to the Resident Trustee pursuant to this Section 6.10(c) of this Trust Agreement on terms acceptable to the Liquidating Trust Advisory Board; *provided* that no such fees shall be reimbursed to the extent that they are incurred as a result of the Resident Trustee's gross negligence, bad faith or willful misconduct.

(d) The Resident Trustee shall serve for the duration of the Liquidating Trust or until the earlier of (i) the effective date of the Resident Trustee's resignation, or (ii) the effective date of the removal of the Resident Trustee. The Resident Trustee may resign at any time by giving 30 days' written notice to the Liquidating Trustee and the Liquidating Trust Advisory Board; *provided, however*, that such resignation shall not be effective until such time as a successor Resident Trustee has accepted appointment. The Resident Trustee may be removed at any time by the Liquidating Trustee, with the approval and/or at the direction of the Liquidating Trust Advisory Board, by providing 30 days' written notice to the Resident Trustee; *provided, however*, such removal shall not be effective until such time as a successor Resident Trustee has accepted appointment. Upon the resignation or removal of the Resident Trustee, the Liquidating Trustee, with the approval and/or at the direction of the Liquidating Trust Advisory Board, shall appoint a successor Resident Trustee. If no successor Resident Trustee shall have been appointed and shall have accepted such appointment within 45 days after the giving of such notice of resignation or removal, the Resident Trustee may petition the Bankruptcy Court for the appointment of a successor Resident Trustee. Any successor Resident Trustee appointed pursuant to this Section 6.10(d) of this Trust Agreement shall be eligible to act in such capacity in accordance with this Trust Agreement and, following compliance with this Section 6.10(d) of this Trust Agreement, shall become fully vested with the rights, powers, duties, and obligations of its predecessor under this Trust Agreement, with like effect as if originally named as Resident Trustee. Any such successor Resident Trustee shall notify the Resident Trustee of its appointment by providing written notice to the Resident Trustee, and upon receipt of such notice, the Resident Trustee shall be discharged of its duties herein.

6.11. Fiduciary and Other Duties. Notwithstanding anything in the Plan or this Trust Agreement to the contrary, the Liquidating Trustee and the members of the Liquidating Trust Advisory Board shall always act in the best interests of the Liquidating Trust Beneficiaries and in furtherance of the purpose of the Liquidating Trust as set forth in Article IV.A.4 of the Plan. The Liquidating Trustee and the members of the Liquidating Trust Advisory Board shall have fiduciary duties to the Liquidating Trust Beneficiaries consistent with the fiduciary duties that a member of an official committee appointed pursuant to section 1102 of the Bankruptcy Code has to the creditor constituents represented by such committee and shall exercise his, her or its responsibilities accordingly; *provided, however*, that the Liquidating Trustee and the members of the Liquidating Trust Advisory Board shall not owe fiduciary obligations to any defendants or potential defendants of Retained Causes of Action in their capacities as such, it being the intent of such fiduciary duties to ensure that the Liquidating Trustee's and the members' of the Liquidating Trust Advisory Board obligations are to maximize the value of the Liquidating Trust Assets, including the Retained Causes of Action. Except for obligations expressly imposed on the Liquidating Trustee and the Liquidating Trust Advisory Board by this Trust Agreement, to the extent that, at law or in equity, the Liquidating Trustee or the Liquidating Trust Advisory Board has duties (including fiduciary duties) to the Liquidating Trust Beneficiaries or to any other person that is a party to or is otherwise bound by this Trust Agreement, such duties are hereby eliminated by this Trust Agreement to the fullest extent permitted by applicable law; *provided, however*, that this Trust Agreement does not eliminate the implied contractual covenant of good faith and fair dealing.

## Article VII

### SUCCESSOR LIQUIDATING TRUSTEE

7.1. Resignation. The Liquidating Trustee may resign from the Liquidating Trust by giving at least ~~60~~30 days prior written notice thereof to each member of the Liquidating Trust Advisory Board. Such resignation shall become effective on the later to occur of (a) the date specified in such written notice and (b) the effective date of the appointment of a successor Liquidating Trustee in accordance with Section 7.4 of this Trust Agreement and such successor's acceptance of such appointment in accordance with Section 7.5 of this Trust Agreement.

7.2. Removal. The Liquidating Trustee may be removed by the Liquidating Trust Advisory Board with or without Cause. Such removal shall become effective on the date specified in such action by the Liquidating Trust Advisory Board.

7.3. Effect of Resignation or Removal. The resignation, removal, incompetency, bankruptcy, or insolvency of the Liquidating Trustee shall not operate to terminate the Liquidating Trust or to revoke any existing agency created pursuant to the terms of this Trust Agreement, the Plan, or the Confirmation Order or invalidate any action theretofore taken by the Liquidating Trustee. All fees and expenses properly incurred by the Liquidating Trustee prior to the resignation, incompetency or removal of the Liquidating Trustee shall be paid from the Liquidating Trust Assets, unless such fees and expenses are disputed by the Liquidating Trust Advisory Board, in which case the Bankruptcy Court shall resolve the dispute and any disputed fees and expenses of the predecessor Liquidating Trustee that are subsequently allowed by the Bankruptcy Court shall be paid from the Liquidating Trust Assets. In the event of the resignation or removal of the Liquidating Trustee, such Liquidating Trustee shall (a) promptly execute and deliver such documents, instruments and other writings as may be reasonably requested by the Liquidating Trust Advisory Board or the successor Liquidating Trustee or directed by the Bankruptcy Court to effect the termination of such Liquidating Trustee's capacity under this Trust Agreement, (b) promptly deliver to the Liquidating Trust Advisory Board and the successor Liquidating Trustee all documents, instruments, records and other writings related to the Liquidating Trust as may be in the possession of such Liquidating Trustee, and (c) otherwise assist and cooperate in effecting the assumption of its obligations and functions by such successor Liquidating Trustee.

7.4. Appointment of Successor. In the event of the death, resignation, removal, bankruptcy or insolvency of the Liquidating Trustee, a vacancy shall be deemed to exist and a successor shall be appointed by the Liquidating Trust Advisory Board; *provided* that if any member of the Liquidating Trust Advisory Board does not vote for such Liquidating Trustee, then such opposing member may file an objection to the selection of such Liquidating Trustee with the Bankruptcy Court on the grounds that the selection of such Liquidating Trustee is not in the best interests of the Liquidating Trust and Liquidating Trust Beneficiaries; *provided, further*, that any such objecting member of the Liquidating Trust Advisory Board shall be entitled to the reimbursement from the Liquidating Trust Assets of reasonable legal fees incurred in connection with the prosecution of any such objection only to the extent such objection is successful. For the avoidance of doubt, except as set forth in Section 6.2(b) of this Trust Agreement, under no circumstance shall the successor Liquidating Trustee be a director or officer of any Affiliate of the Liquidating Trust.

7.5. Acceptance of Appointment by Successor Liquidating Trustee.

Any successor Liquidating Trustee appointed hereunder shall execute an instrument accepting its appointment and shall deliver one counterpart thereof to the Bankruptcy Court for filing and to the Liquidating Trust Advisory Board and, in case of the Liquidating Trustee's resignation, to the resigning Liquidating Trustee. Thereupon, such successor Liquidating Trustee shall, without any further act, become vested with all the liabilities, duties, powers, rights, title, discretion and privileges of its predecessor in the Liquidating Trust with like effect as if originally named Liquidating Trustee and shall be deemed appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The resigning or removed Liquidating Trustee shall duly assign, transfer and deliver to such successor Liquidating Trustee all property and money held by such resigning or removed Liquidating Trustee hereunder and shall, as directed by the Bankruptcy Court or reasonably requested by such successor Liquidating Trustee or the Liquidating Trust Advisory Board, execute and deliver an instrument or instruments conveying and transferring to such successor Liquidating Trustee upon the trusts herein expressed, all the liabilities, duties, powers, rights, title, discretion and privileges of such resigning or removed Liquidating Trustee.

**Article VIII**

**RELIANCE, LIABILITY AND INDEMNIFICATION**

8.1. Reliance by the Liquidating Trustee and the Members of the Liquidating Trust Advisory Board. Except as otherwise provided in this Trust Agreement, the Plan or the Confirmation Order, the Liquidating Trustee and the members of the Liquidating Trust Advisory Board may rely and shall be protected in acting upon [the advice of counsel and/or upon](#) any resolution, statement, instrument, opinion, report, notice, request, consent, order or other paper or document reasonably believed by the Liquidating Trustee and/or the Liquidating Trust Advisory Board to be genuine and to have been signed or presented by the proper party or parties.

8.2. Liability to Third Persons. No Liquidating Trust Beneficiary shall be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person in connection with the Liquidating Trust Assets or the affairs of the Liquidating Trustee. The Liquidating Trustee, the Liquidating Trust Professionals and the members of the Liquidating Trust Advisory Board shall not be subject to any personal liability whatsoever, in tort, contract or otherwise, to any person (including, in the case of the Liquidating Trustee and members of the Liquidating Trust Advisory Board, to any Liquidating Trust Professionals retained by the Liquidating Trustee in accordance with this Trust Agreement) in connection with the Liquidating Trust Assets or the affairs of the Liquidating Trust and shall not be liable with respect to any action taken or omitted to be taken in good faith, except for actions and omissions determined by a final order of the Bankruptcy Court to be due to their respective gross negligence, intentional fraud, criminal conduct or willful misconduct, and all such persons shall look solely to the Liquidating Trust Assets for satisfaction of claims of any nature arising in connection with affairs of the Liquidating Trust. Other than as set forth in the Plan or in the Confirmation Order, nothing in this Section 8.2 of this Trust Agreement shall be deemed to release any Liquidating Trust Beneficiary from any actions or omissions occurring prior to the Effective Date.

8.3. Nonliability of Liquidating Trustee and Liquidating Trust Advisory Board for Acts of Others. Except as provided herein, nothing contained in this Trust Agreement, the Plan or the Confirmation Order shall be deemed to be an assumption by the Liquidating Trustee, the Liquidating Trust Advisory Board (or its members) or the Liquidating Trust Professionals of any of the liabilities, obligations or duties of the Debtors or shall be deemed to be or contain a covenant or agreement by the Liquidating Trustee to assume or accept any such liability, obligation or duty. Any successor Liquidating Trustee or Liquidating Trust Advisory Board member may accept and rely upon any accounting made by or on behalf of any predecessor Liquidating Trustee hereunder, and any statement or representation made as to the assets comprising the Liquidating Trust Assets or as to any other fact bearing upon the prior administration of the Liquidating Trust, so long as it has a good faith basis to do so. The Liquidating Trustee and the Liquidating Trust Advisory Board members shall not be liable for having accepted and relied in good faith upon any such accounting, statement, or representation if it is later proved to be incomplete, inaccurate, or untrue. The Liquidating Trustee or any successor Liquidating Trustee and the Liquidating Trust Advisory Board members shall not be liable for any act or omission of any predecessor Liquidating Trustee or Liquidating Trust Advisory Board member, nor have a duty to enforce any claims against any predecessor Liquidating Trustee or Liquidating Trust Advisory Board member on account of any such act or omission, unless directed to do so by the Liquidating Trust Advisory Board. No provision of this Trust Agreement shall require the Liquidating Trustee to expend or risk his personal funds or otherwise incur any financial liability in the performance of his rights or powers hereunder if the Liquidating Trustee has reasonable grounds to believe that the payment of such funds or adequate indemnity against such risk or liability is not reasonably assured or provided to him.

8.4. Exculpation. As of the Effective Date, the Liquidating Trustee, the Liquidating Trust, the Liquidating Trust Professionals, and the members of the Liquidating Trust Advisory Board shall be and hereby are exculpated by all Entities, including Liquidating Trust Beneficiaries, holders of Claims, and other parties in interest, from any and all claims, Causes of Action and other assertions of liability arising out of or related to the discharge of their respective powers and duties conferred by the Plan, this Trust Agreement or any order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, or applicable law or otherwise, except for actions or omissions to act that are determined by final order of the Bankruptcy Court to have arisen out of their own respective intentional fraud, criminal conduct, gross negligence or willful misconduct. No Liquidating Trust Beneficiary, holder of a Claim or other party-in-interest shall have or be permitted to pursue any claim or Cause of Action against the Liquidating Trustee, the Liquidating Trust, the employees, professionals or representatives of either the Liquidating Trustee or the Liquidating Trust (including the Liquidating Trust Professionals) or the members of the Liquidating Trust Advisory Board, for making payments in accordance with, or for implementing, the provisions of the Plan, the Confirmation Order and this Trust Agreement. Any action taken or omitted to be taken with the express approval of the Bankruptcy Court, the Liquidating Trust Advisory Board shall conclusively be deemed not to constitute gross negligence or willful misconduct; *provided, however*, that, notwithstanding any provision herein to the contrary, the Liquidating Trustee shall not be obligated to comply with a direction of the Liquidating Trust Advisory Board, whether or not express, which would result in a change to the Distribution provisions of this Trust Agreement and the Plan.

8.5. Limitation of Liability. The Liquidating Trustee, the members of the Liquidating Trust Advisory Board, and the Liquidating Trust Professionals will not be liable for punitive, exemplary, consequential, special, or other damages for a breach of this Trust Agreement under any circumstances.

8.6. Indemnity. The Liquidating Debtors and Liquidating Trust shall indemnify and hold harmless (a) the Liquidating Trustee (solely in its capacity as such and in its capacity as officer and director of the Liquidating Debtors), (b) members of the Liquidating Trust Advisory Board, and (c) the Liquidating Trust Professionals ((a), (b), and (c) collectively, the “**Indemnified Parties**”), from and against and with respect to any and all liabilities, losses, damages, claims, costs, and expenses, including, but not limited to, attorneys’ fees arising out of or due to their actions or omissions, or consequences of such actions or omissions, other than actions or omissions resulting from such Indemnified Party’s bad faith, willful misconduct (including, without limitation, actual fraud), or gross negligence, with respect to the Liquidating Debtors or the implementation or administration of the Plan or this Trust Agreement. To the extent that an Indemnified Party asserts a claim for indemnification as provided above, (y) any payment on account of such claim shall be paid solely from the Wind-Down Account and (z) the legal fees and related costs incurred by counsel to the Liquidating Trustee in monitoring and participating in the defense of such claims giving rise to the asserted right of indemnification shall be advanced to such Indemnified Party (and such Indemnified Party undertakes to repay such amounts if it ultimately shall be determined that such Indemnified Party is not entitled to be indemnified therefore) out of the Wind-Down Account or any insurance purchased using the Wind-Down Account, and paid with priority over distributions to Liquidating Trust Beneficiaries. This indemnification provision shall remain available to and be binding upon any former Liquidating Trustee or the estate of any decedent of the Liquidating Trustee and shall survive the termination of this Trust Agreement.

## Article IX

### MISCELLANEOUS PROVISIONS

9.1. Governing Law. Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent that any document to be entered into in connection herewith provides otherwise, the rights, duties, and obligations arising under this Trust Agreement shall be governed by, and construed and enforced in accordance with, the Bankruptcy Code and, to the extent not inconsistent therewith, the laws of the State of Delaware, without giving effect to principles of conflicts of laws.

9.2. Jurisdiction. Subject to the proviso below, the parties agree that the Bankruptcy Court shall have exclusive jurisdiction over the Liquidating Trust, the Liquidating Trustee and the Liquidating Trust Advisory Board, including the administration and activities of the Liquidating Trust, the Liquidating Trustee and the Liquidating Trust Advisory Board, and, pursuant to the Plan, the Bankruptcy Court has retained such jurisdiction; *provided, however*, that notwithstanding the foregoing, the Liquidating Trustee shall (subject to the approval and/or at the direction of the Liquidating Trust Advisory Board) have power and authority to bring any action in any court of competent jurisdiction (including the Bankruptcy Court) to prosecute any Claims or Causes of Action assigned to the Liquidating Trust.

9.3. Severability. In the event any provision of this Trust Agreement or the application thereof to any person or circumstances shall be determined by a final, non-appealable judgment or order to be invalid or unenforceable to any extent, the remainder of this Trust Agreement or the application of such provision to persons or circumstances or in jurisdictions other than those as to or in which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Trust Agreement shall be valid and enforceable to the full extent permitted by law.

9.4. Notices. Any notice or other communication required or permitted to be made under this Trust Agreement shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if delivered personally, by email, sent by nationally recognized overnight delivery service or mailed by first-class mail:

(a) if to the Debtors:

[•]  
Email: [•]

(b) if to the Liquidating Trust, to:

[•]  
Email: [•]

with a copy to:

[•]  
Email: [•]

(c) if to the Resident Trustee, to:

[•]  
Email: [•]

with a copy to:

[•]  
Attention: [•]  
Email: [•]

(d) if to members of the Liquidating Trust Advisory Board, then to each of:

[•]  
Email: [•]

[•]



Email: [●]

[●]

Email: [●]

(e) if to any Liquidating Trust Beneficiary, to the last known address of such Liquidating Trust Beneficiary according to the Debtors' Schedules, such Liquidating Trust Beneficiary's proof of claim or the lists of record holders provided to the Liquidating Trustee.

9.5. Headings. The headings contained in this Trust Agreement are solely for convenience of reference and shall not affect the meaning or interpretation of this Trust Agreement or of any term or provision of this Trust Agreement.

9.6. Controlling Document. In the event of any conflict between the terms and provisions in the Plan and the terms and provisions in the Disclosure Statement, the Plan Supplement, any other instrument or document created or executed pursuant to the Plan, or any order (other than the Confirmation Order) referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing), the Plan shall govern and control; *provided* that, in the event of a conflict between this Trust Agreement, on the one hand, and any of the Plan, the Plan Supplement or the Definitive Documents, on the other hand, this Trust Agreement shall govern and control in all respects relating to the operation and/or administration of the Liquidating Trust.

9.7. Entire Trust Agreement. This Trust Agreement (including the recitals and annex hereto), the Plan, and the Confirmation Order constitute the entire agreement by and among the parties and supersede all prior and contemporaneous agreements or understandings by and among the parties with respect to the subject matter of this Trust Agreement.

9.8. Cooperation. Subject to Section 1.10 of this Trust Agreement, from and after the Effective Date, the Debtors shall promptly upon the request of the Liquidating Trustee and/or members of the Liquidating Trust Advisory Board (a) turn over or otherwise make available to the Liquidating Trust at no cost to the Liquidating Trust or the Liquidating Trustee, any books and records of the Debtors held by such professionals, and (b) subject to payment of reasonable and documented fees and expenses incurred by such professionals (i) make available information, including electronic records or documents, reasonably required by the Liquidating Trust to carry out its duties hereunder and (ii) otherwise reasonably cooperate with the Liquidating Trust in carrying out its duties hereunder, subject, in the case of (a) and (b), to the confidentiality provisions herein to preserve the confidential nature of the Debtors' books and records.

9.9. Amendment and Waiver. Any provision of this Trust Agreement, including the number of members of the Liquidating Trust Advisory Board as set forth in Section 6.5(b) of this Trust Agreement, may be amended or waived only with the consent of all voting, then-existing members of the Liquidating Trust Advisory Board; *provided* that any such amendment which alters the duties or liabilities of the Resident Trustee shall also require the consent of the Resident Trustee. Notwithstanding this Section 9.9 of this Trust Agreement, any amendment to this Trust Agreement shall not be inconsistent with the Plan and the Confirmation Order and shall be consistent with the purpose and intention of the Liquidating Trust to liquidate in an expeditious but orderly manner the Liquidating Trust Assets in accordance with Treasury Regulations section 301.7701-4(d) and Section 1.2 of this Trust Agreement.

9.10. Confidentiality. The Liquidating Trustee, each member of the Liquidating Trust Advisory Board and each of their respective employees, members, agents, professionals and advisors, including the Liquidating Trust Professionals (each a “**Confidential Party**” and, collectively, the “**Confidential Parties**”) shall hold strictly confidential and not use for personal gain any material, non-public information of which they have become aware in their capacity as a Confidential Party, of or pertaining to any Debtor to which any of the Liquidating Trust Assets relates; *provided, however*, that such information may be disclosed if (a) it is now or in the future becomes generally available to the public other than as a result of a disclosure by the Confidential Parties or (b) such disclosure is required of the Confidential Parties pursuant to legal process including subpoena or other court order or other applicable laws or regulations. In the event that any Confidential Party is requested to divulge confidential information pursuant to this clause (b), such Confidential Party shall promptly, in advance of making such disclosure, provide reasonable notice of such required disclosure to the Liquidating Trustee (or the Liquidating Trust Advisory Board in case the Liquidating Trustee or the Resident Trustee is the disclosing party) to allow sufficient time to object to or prevent such disclosure through judicial or other means and shall cooperate reasonably with the Liquidating Trustee (or the Liquidating Trust Advisory Board, as applicable) in making any such objection, including appearing in any judicial or administrative proceeding in support of any objection to such disclosure.

9.11. Meanings of Other Terms. Except where the context otherwise requires, words importing the masculine gender include the feminine and the neuter, if appropriate, words importing the singular number shall include the plural number and vice versa and words importing persons shall include firms, associations, corporations and other entities. The words herein and words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section, or subdivision of this Trust Agreement. The term “including” shall mean “including, without limitation.”

9.12. Counterparts. This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same instrument. A portable document file (PDF) signature of any party shall be considered to have the same binding legal effect as an original signature.

9.13. Intention of Parties to Establish Liquidating Trust. This Trust Agreement is intended to create a liquidating trust for United States federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Trust Agreement may be amended to comply with such United States federal income tax laws, which amendments may apply retroactively.

[Signature Page Follows]

**IN WITNESS WHEREOF**; the parties hereto have executed this Trust Agreement or caused this Trust Agreement to be duly executed by their respective officers, representatives or agents, effective as of the date first above written.

**[DEBTORS]**

By: \_\_\_\_\_  
Name:  
Title:

**[INSERT SIGNATURE BLOCKS FOR  
OTHER DEBTORS]**

**[LIQUIDATING TRUSTEE]**

By: \_\_\_\_\_  
Name:

[[•], not in its individual capacity, but solely  
as Resident Trustee

By: \_\_\_\_\_  
Name: ]

**ANNEX A**

**INITIAL MEMBERS OF THE LIQUIDATING TRUST ADVISORY BOARD**

	<b>Name</b>	<b>Member</b>
1.	[ ]	[ ]
2.	[ ]	[ ]
<del>3.</del>	<del>[ ]</del>	<del>[ ]</del>

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