

Exhibit A to the Disclosure Statement:

Joint Plan of Liquidation

UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
M. FABRIKANT & SONS, INC., et al., : Case Nos. 06-12737 (SMB)
Debtors. : and 06-12739 (SMB)
: (Jointly Administered)
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**JOINT PLAN OF LIQUIDATION UNDER CHAPTER 11
OF THE BANKRUPTCY CODE OF THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS, THE DEBTORS' CURRENT LENDERS, WILMINGTON
TRUST COMPANY, AS AGENT TO THE CURRENT LENDERS, AND THE DEBTORS**

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Dated: New York, New York
November 7, 2007

PLAN INTRODUCTION AND SUMMARY

The Official Committee of Unsecured Creditors appointed in the Cases, the Current Lenders (as defined herein), Wilmington, as agent to the Current Lenders (who are successors to the Debtors' prepetition secured lenders), the Current Lenders, and the Debtors jointly propose this Joint Plan of Liquidation for M. Fabrikant & Sons, Inc. and Fabrikant-Leer International, Ltd. pursuant to Chapter 11 of the Code. Certain capitalized terms that are used in this Plan shall have the meanings set forth in Article I below. Reference is made to the Disclosure Statement for a discussion of the Debtors' history, businesses and assets, the Cases, risk factors, a summary and analysis of the Plan, and certain other related matters. All parties entitled to vote on the Plan should review the Disclosure Statement and the terms of the Plan before voting to accept or reject the Plan. No solicitation materials, other than the Disclosure Statement and related materials transmitted therewith and approved by the Court, have been authorized by the Court for use in soliciting acceptances or rejections of the Plan.

The Plan provides for the liquidation of the assets of the Estates, including the investigation and prosecution of certain Causes of Action, by two liquidating trusts to be formed pursuant to the Plan and related liquidating trust agreements. The first of these trusts is the Shared Assets Trust, which shall contain the Trust Assets. The second of these trusts is the GUC Trust, which shall contain the GUC Trust Assets. The beneficiaries of the Shared Assets Trust are the Current Lenders and the GUC Trust. The beneficiaries of the GUC Trust are the GUC Trust Beneficiaries, who are holders of the GUC Trust Interests.

The Shared Assets Trust is charged with liquidating the Trust Assets. The proceeds of the Trust Assets shall be distributed to the holders of Allowed Class 2 Claims and the GUC Trust (the ultimate beneficiaries of which are holders of Allowed Class 4 Claims and Allowed Class 5 Claims on account of their Claims against MFS and FLI, respectively) in the manner set forth herein. The Shared Assets Trust shall also make distributions on account of Allowed Administrative/Priority Claims and be charged with reconciling Disputed Administrative/Priority Claims. The Shared Assets Trust shall be managed by the Shared Assets Trustee, as well as a five-member Shared Assets Trust Beneficiary Committee, three of whose members shall be selected by the Current Lenders and two of whose members shall be selected by the Committee. The GUC Trust is charged with (i) liquidating the Original Lender Litigation Claims, (ii) receiving distributions on account of the Shared Assets Trust Class B Interests, and (iii) making distributions in respect of (a) any distributions to the GUC Trust on account of the Shared Assets Trust Class B Interests and (b) proceeds, if any, of the Original Lender Litigation Claims to the holders of Allowed Class 4 Claims on account of their Unsecured Claims against MFS and the holders of Allowed Class 5 Claims on account of their Unsecured Claims against FLI. The GUC Trust shall also be responsible for objecting to and reconciling Disputed Class 4 Claims and Disputed Class 5 Claims.

ARTICLE I

DEFINITIONS

Section 1.01 Scope of Definitions. For purposes of this Plan, except as expressly otherwise provided or unless the context otherwise requires, all capitalized terms not otherwise defined herein shall have the respective meanings assigned to them in this Article I.

“*363 Sale*” means the sale of property and assets of the Debtors on or about July 12, 2007 to Wilmington pursuant to section 363 of the Code, the 363 Sale Asset Purchase Agreement, and the 363 Sale Order.

“*363 Sale Asset Purchase Agreement*” means the Asset Purchase Agreement by and between Wilmington and the Debtors, dated as of July 12, 2007, as amended or modified from time to time.

“*363 Sale Assets*” means any assets (or proceeds thereof) purchased by Wilmington in the 363 Sale, including without limitation the 363 Sale Remaining Assets.

“*363 Sale Order*” means the “Order Pursuant to Sections 105(a), 363(b), (f), (k), and (m), and 1146(a) of the Code and Bankruptcy Rules 2002, 6004, 6006, and 9014 Approving (I) Sale of Certain of the Debtors’ Assets Free and Clear of Lien, Claim, Encumbrances, and Other Interests; (II) Assumption of Certain Executory Contracts; and (III) Exemption of the Sale from All Transfer Taxes,” entered by the Court on May 29, 2007 (Docket No. 312).

“*363 Sale Remaining Assets*” means the 363 Sale Assets listed on Schedule 2.02(a) of the 363 Sale Asset Purchase Agreement, which were subject to the 363 Sale but were designated to be retained by the Estates in accordance with the 363 Sale Asset Purchase Agreement and the 363 Sale Order.

“*363 Surya Sale Asset Purchase Agreement*” means the Asset Purchase Agreement by and between Surya and the Debtors, dated as of June 1, 2007, as amended or modified from time to time.

“*363 Surya Sale Assets*” means any assets (or proceeds thereof) purchased by Surya in the 363 Surya Sale pursuant to the 363 Surya Sale Asset Purchase Agreement and 363 Surya Sale Order.

“*363 Surya Sale Order*” means the “Order Pursuant to Sections 363(b), (f) and (m) of the Bankruptcy Code Approving Sale of Certain Assets to Surya Capital LLC Free and Clear of Liens, Claims, Encumbrances and Other Interest,” signed by the Court on May 29, 2007 (Docket No. 313).

“*Adequate Protection Claim*” means that portion of the Current Lender Claims in respect of the diminution after the Petition Date of the value of the collateral that secures the Lender Claims. The Adequate Protection Claim of the Current Lenders is hereby allowed in the amount of Twelve Million, Five Hundred Thousand (\$12,500,000) Dollars.

“*Administrative Claim*” means a Claim against the Debtors for payment of an administrative expense of the kind specified in section 503(b) of the Code and referred to in section 507(a)(1) of the Code, including, without limitation, the actual, necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the Debtors’ businesses; provided, however, that the term “*Administrative Claim*” shall not include any Professional Fee Claims.

“*Administrative/Priority Claims*” means all Professional Fee Claims, Administrative Claims, Other Secured Claims, Other Priority Claims, Priority Tax Claims, and U.S. Trustee Fees.

“*Affiliate Receivables*” means the receivable Claims of either or both of the Debtors against the Non-Debtor Affiliates.

“*Allowed Claim*” means (I) a Claim against one or both of the Debtors that is Allowed under the Plan and, therefore, is not subject to disallowance, defense, reduction, avoidance, setoff, recoupment, or subordination of any kind, and (II) any Claim against the Debtors to the extent: (a) such Claim is scheduled by a Debtor pursuant to the Code and Bankruptcy Rules in a liquidated amount and not listed as contingent, unliquidated, zero, undetermined or disputed, or (b) a proof of such Claim was timely filed, or deemed timely filed, with the Court pursuant to the Code, the Bankruptcy Rules, and/or any applicable Final Order, or late filed with leave of the Court; and, in either case, (i) is not objected to within the period fixed by the Code, the Bankruptcy Rules, and/or applicable Final Orders of the Court, or (ii) has otherwise been allowed by a Final Order. An “*Allowed Claim*”: (x) includes a previously Disputed Claim to the extent such Disputed Claim becomes Allowed when the context so requires; and (y) shall be net of any valid setoff or recoupment amount based on a valid setoff or recoupment right. Except as otherwise expressly provided herein, the term “*Allowed Claim*” shall not, for the purposes of computation of distributions under the Plan, include (i) any non-compensatory penalties, fines, punitive damages, exemplary damages, multiple damages, treble damages, or any other claims or obligations that do not compensate for actual losses incurred or (ii) any other amounts not allowable under the Code or applicable law.

“*Assets*” means (a) all assets and properties of every kind, nature, character and description (whether real, personal, or mixed, whether tangible and intangible (including contract rights), wherever situated and by whomever possessed), including the goodwill related thereto, operated, owned, or leased by the Debtors that constitute property of the Estates within the purview of section 541 of the Code, including without limitation any and all Claims, Causes of Action, or rights of the Debtors under federal, state, or foreign law, letters of credit issued for or on behalf of any Debtor and the monies deposited to secure the performance of any contract or lease by any Debtor or any affiliate thereof; and (b) the proceeds, products, rents, and/or profits of any of the foregoing.

“*Avoidance Actions*” means any Claims, rights, defenses, or other Causes of Action arising under any section of chapter 5 of the Code, including without limitation sections 502, 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, and 553 of the Code, or under similar or related state or federal statutes and common law, including state fraudulent transfer laws, whether or not prosecution of such actions has commenced as of the Confirmation Date or the Effective Date.

“*Ballot*” means the form distributed to each holder of an impaired Claim against the Debtors that is entitled to vote to accept or reject the Plan on which is to be indicated, among other things, acceptance or rejection of the Plan.

“*Bankruptcy Rule*” means the Federal Rules of Bankruptcy Procedure, the Official Bankruptcy Forms, and the local rules and general orders of the Court, as each has been, or may be, amended from time to time, to the extent that any such amendment is applicable to the Cases.

“*Business Day*” means any day other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

“*Cases*” means the Debtors’ jointly administered cases under Chapter 11 pending before the Court, and “*Case*” means any one of the Cases.

“*Cash*” means legal tender of the United States of America.

“*Causes of Action*” means any and all Claims, rights, defenses, offsets, recoupments, actions in law or equity or otherwise, causes of action, choses in action, suits, damages, rights to legal or equitable remedies, judgments, third-party claims, counterclaims and cross-claims against any Person, whether arising under the Code or federal, state, common, or other law, regardless of whether the subject of pending litigation or proceedings on the Confirmation Date, the Effective Date, or thereafter, including without limitation, as to Causes of Action of the Debtors: (a) all Avoidance Actions; (b) all other Claims in avoidance, recovery, and/or subordination; and (c) all other actions described in the Disclosure Statement, the Schedules, or the Plan.

“*Chapter 11*” means chapter 11 of the Code.

“*Charles Fortgang Guaranty*” means all of the personal guaranties of Mr. Charles Fortgang of the Obligations of the Debtors under the Loan Agreements.

“*Claim*” means any claim as defined in section 101(5) of the Code, whether or not asserted.

“*Claims Reconciliation Reserve*” shall have the meaning ascribed to it in Section 5.09 of the Plan.

“*Claims Reconciliation Reserve Reimbursement Obligation*” shall have the meaning ascribed to it in Section 5.09 of the Plan.

“*Class*” means a class of Claims against the Debtors or Interests described in Article III of the Plan.

“*Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as such title has been, or may be, amended from time to time, to the extent that any such amendment is applicable to the Cases.

“*Committee*” means the Official Committee of Unsecured Creditors appointed by the U.S. Trustee in the Cases, as constituted from time to time, in its official capacity and as representative (i) of the Estates with respect to certain causes of action against the Original Lenders and the Current Lenders under the Final C/C Order and (ii) of holders of Unsecured Claims with respect to all other matters in the Cases, but does not mean the members of the Committee in their individual capacities.

“*Confirmation Date*” means the date of entry of the Confirmation Order on the docket maintained by the Court.

“*Confirmation Hearing*” means the hearing held by the Court to consider the confirmation of the Plan pursuant to section 1129 of the Code, as such hearing may be adjourned or continued from time to time.

“*Confirmation Order*” means the Order of the Court confirming the Plan pursuant to section 1129 of the Code.

“*Court*” means the United States Bankruptcy Court for the Southern District of New York and any court having competent jurisdiction to hear appeals or certiorari proceedings therefrom, or any successor thereto that may be established by any act of Congress, or otherwise, and which has competent jurisdiction over the Cases or this Plan.

“*Credit Documents*” means the Loan Agreements, all security agreements relating thereto, the Fortgang Guaranties, and the Nantucket Mortgage.

“*Creditor Proponents*” means Wilmington, the Current Lenders, and the Committee. To the extent that any provision herein requires the consent of the Creditor Proponents, such consent shall require the approval of the Committee and Wilmington (as directed by those Current Lenders who hold in the aggregate a majority in principal amount of claims under the Loan Agreements).

“*Current Lender Claims*” means all Claims and Causes of Action arising under, in connection with, or otherwise relating to (i) the Loan Agreements, (ii) the liens and security interests granted to secure amounts outstanding under the Loan Agreements, (iii) the Intercreditor Agreement, (iv) the Final C/C Order, (v) the Nantucket Property Mortgage, and (vi) the Fortgang Guaranties.

“*Current Lenders*” means the holders of the Current Lender Claims, who are successors in interest to the Original Lenders under the Intercreditor Agreement, and all of their respective successors, transferees, and/or assigns.

“*Debtors*” means MFS and FLI, whether as debtors or as debtors-in-possession, and “*Debtor*” means either one of them.

“*Disallowed*” means a Claim against the Debtors or any portion thereof that: (i) has been disallowed or expunged by a Final Order; (ii) has been withdrawn, in whole or in part,

by the holder thereof or by agreement with the Debtors, the Shared Assets Trust, or GUC Trust, as applicable; (iii) is scheduled at zero or as contingent, disputed or unliquidated and as to which no proof of Claim has been filed by the applicable bar date or deemed timely filed with the Court pursuant to either the Code or any Final Order; or (iv) is not listed in the Schedules and as to which no proof of Claim has been timely filed by the applicable bar date or deemed timely filed with the Court pursuant to either the Code or any Final Order.

“*Disclosure Statement*” means the disclosure statement filed with the Court by the Plan Proponents pursuant to section 1125 of the Code with respect to the Plan, including all exhibits and schedules thereto, which was approved by the Court pursuant to section 1125 of the Code, as it may be altered, amended, supplemented or modified from time to time.

“*Disputed Claim*” means any Claim against the Debtors that is not an Allowed Claim or a Disallowed Claim.

“*Effective Date*” means the first (1st) Business Day upon which each of the conditions in Section 10.02 has been satisfied or waived as provided in such section, or such later day as may be reasonably agreed to by the Required Plan Proponents.

“*Estates*” means the jointly administered Chapter 11 estates of the Debtors created by section 541 of the Code, and “*Estate*” means the Chapter 11 estate of either Debtor.

“*Final C/C Order*” means the “Final Order Authorizing Debtors' Use of Cash Collateral and Granting Adequate Protection Claim and Lien” entered by the Court on December 18, 2006 (Docket No. 93) (as such order has been amended, supplemented, and/or modified from time to time).

“*Final Order*” means an order or judgment of the Court that has not been reversed, stayed, modified, or amended and as to which the time to appeal or seek review, rehearing, reargument, or certiorari has expired and as to which no appeal or petition for review, rehearing, reargument, stay, or certiorari is pending, or as to which any right to appeal or to seek certiorari, review, or rehearing has been waived, or if an appeal, reargument, petition for review, certiorari, or rehearing has been sought, the order or judgment of the Court has been affirmed by the highest court to which the order was appealed or from which the reargument, review, or rehearing was sought, or certiorari has been denied, and as to which the time to take any further appeal, or seek further reargument, review, certiorari, or rehearing has expired.

“*FLI*” means Fabrikant-Leer International, Ltd.

“*Fortgang Guaranties*” means the Matthew Fortgang Guaranty and the Charles Fortgang Guaranty.

“*GUC Trust*” means the trust created pursuant to Article VI of the Plan and the GUC Trust Agreement, which trust shall contain the GUC Trust Assets, which shall be administered by the GUC Trustee and governed by the GUC Trust Beneficiary Committee.

“*GUC Trust Agreement*” means the agreement to be dated as of the Effective Date establishing and setting forth the provisions of the GUC Trust, substantially in the form contained in the Plan Supplement.

“*GUC Trust Assets*” means the Shared Assets Trust Class B Interests and the Original Lender Litigation Claims.

“*GUC Trust Beneficiaries*” means holders of Allowed Class 4 Claims and the holders of Allowed Class 5 Claims.

“*GUC Trust Interests*” means the beneficial interests in the GUC Trust that are issued to GUC Trust Beneficiaries.

“*GUC Trust Beneficiary Committee*” shall have the meaning ascribed to it in Section 6.07 of the Plan.

“*GUC Trustee*” means the person or entity designated prior to the Effective Date by the Committee, and thereafter by the GUC Trust Beneficiary Committee, to administer the GUC Trust.

“*Intercompany Claims*” means all Claims of one Debtor against the other Debtor. For the avoidance of doubt, Intercompany Claims shall not include any Affiliate Receivables or any other Claims of either or both of the Debtors against the Non-Debtor Affiliates.

“*Intercreditor Agreement*” means the Second Amended and Restated Intercreditor Agreement dated as of January 13, 2006 among the Original Lenders and JPMorgan Chase Bank, N.A. as collateral agent for the Original Lenders, as amended from time to time.

“*Interests*” means all equity interests in the Debtors, including without limitation common and preferred stock, membership interests, options to purchase such stock or interests, or any unpaid dividends or distributions thereon or any agreements or contracts to purchase or acquire the same or any Claims subordinated to Unsecured Claims whether pursuant to section 510(b) of the Bankruptcy Code or otherwise.

“*Loan Agreements*” shall have the meaning ascribed to it in the Intercreditor Agreement.

“*Matthew Fortgang Guaranty*” means all of the personal guaranties of Mr. Matthew Fortgang of the Obligations of the Debtors under the Loan Agreements.

“*MFS*” means M. Fabrikant & Sons, Inc.

“*Nantucket Property*” means that certain piece of real property located at 120 Main Street, Nantucket, Massachusetts 02554-2122, owned by Ms. Susan Fortgang and upon which the Current Lenders have the Nantucket Property Mortgage.

“*Nantucket Property Mortgage*” means the Three Million (\$3,000,000) Dollar Mortgage by Ms. Susan Fortgang to JPMorgan Chase Bank, N.A. (as collateral agent to the Original Lenders), dated April 16, 2006, granted to secure the Obligations.

“*Net Proceeds*” means the proceeds of any Shared Assets, GUC Trust Assets, or Other Lender Assets, as the case may be, minus Cash necessary to fund pending or future obligations in respect of Administrative/Priority Claims, the costs of collection, the Shared Assets Trust Funding Amount, the Trust Funding Replenishment(s), if any, and the repayment of any amounts borrowed by the Shared Assets Trust to fund the Causes of Action or expenses of the Shared Assets Trust (and related interest, fees, and expenses) and the Claims Reconciliation Reserve, as applicable, in connection therewith.

“*Non-Debtor Affiliates*” means the Persons listed on Schedule 1 hereto.

“*Obligations*” shall have the meaning ascribed to it in the Intercreditor Agreement.

“*Original Lenders*” means ABN Amro Bank N.V., Antwerpse Diamantbank N.V., Bank of America, N.A. (successor by merger to Fleet National Bank, which, in turn, was successor by merger to Fleet Bank, National Association), HSBC Bank USA, National Association, JPMorgan Chase Bank, Sovereign Precious Metals, LLC, Bank Leumi USA, and Israel Discount Bank of New York.

“*Original Lender Litigation Claims*” means Claims and Causes of Action of the Debtors, the Estates, or the Committee against the Original Lenders or their affiliates arising from their actions or failures to act prior to the Petition Date in connection with the Debtors or the Non-Debtor Affiliates. For the avoidance of doubt, the Original Lender Litigation Claims shall not include any Claims or Causes of Action of the Debtors, the Estates, or the Committee against the Current Lenders in their capacity as such.

“*Other Lender Assets*” means the Nantucket Property Mortgage, the 363 Sale Remaining Assets, and all Claims and Causes of Action of the Current Lenders, Wilmington, or any of their respective predecessors in interest arising from or relating to any of the foregoing.

“*Other Lender Collateral*” means the Affiliate Receivables, the Subsidiary Equity, and any other properties or assets held by the Debtors that secure the Current Lender Claims.

“*Other Priority Claim*” means a Claim against the Debtors entitled to priority in payment pursuant to section 507(a) of the Code other than a Claim entitled to priority in payment pursuant to section 507(a)(1), 507(a)(2), or 507(a)(8) of the Code.

“*Other Secured Claims*” means a Secured Claim other than the Current Lender Claims.

“*Person*” means an individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, estate, unincorporated organization, government (or agency or political subdivision thereof), or other entity.

“*Petition Date*” means November 17, 2006.

“*Plan*” means this plan of liquidation (including all exhibits and schedules hereto), as it may be modified, amended, or supplemented from time to time.

“*Plan Proponents*” means the Committee, the Current Lenders, Wilmington, and the Debtors, in each case in their capacity as proponents of this Plan; *provided, however*, that after the Effective Date, such term shall mean the Shared Assets Trustee and the GUC Trustee.

“*Plan Settlement*” means the allocation of the value of the assets of the Estates among, and other treatment relating to, the holders of Allowed Claims in Classes 2, 4, and 5 as set forth in the Plan.

“*Plan Supplement*” means the document that contains the forms of documents specified in Section 13.08 of the Plan.

“*Priority Tax Claim*” means an Unsecured Claim against the Debtors of a governmental unit entitled to priority under section 507(a)(8) of the Code. Priority Tax Claims shall include only such Claims for penalties that are related to a Claim specified in section 507(a)(8) of the Code and that seek compensation for actual pecuniary loss.

“*Professional Fee Claims*” means Claims against the Debtors of Professional Persons or any other Person for compensation and/or reimbursement of expenses pursuant to section 327, 328, 330, 331, or 503(b) of the Code.

“*Professional Fee Claims Bar Date*” means 4:00 p.m. (Eastern) on the date that is sixty (60) days after the Effective Date.

“*Professional Persons*” means all attorneys, accountants, financial advisors, investment bankers, appraisers, consultants, and other professionals retained or to be compensated pursuant to an order of the Court entered under section 327, 328, 330, 331, 503(b), or 1103 of the Code.

“*Releasees*” means Wilmington and any and all current, former or future Current Lenders that have not voted against or objected to the Plan, and each of their respective affiliates, parents, subsidiaries, officers, directors, employees, shareholders, partners, attorneys, representatives, agents, heirs, successors, assigns and/or transferees.

“*Remaining Cash*” means all Cash held by or for the benefit of the Estates upon entry of the Confirmation Order.

“*Required Plan Proponents*” means the Plan Proponents provided, however, that to the extent that any provision requires the consent of the Required Plan Proponents, such consent shall require the approval of either (i) the Plan Proponents or (ii) the Creditor Proponents.

“*Schedules*” means the Schedules of Assets and Liabilities filed with the Court in each of the Cases, as amended from time to time in accordance with Bankruptcy Rule 1009.

“*Secured Claim*” means a Claim against the Debtors, including without limitation the Current Lender Claims, to the extent such Claim is secured by a valid lien, security interest, or other interest in property in which a Debtor has an interest, that has been perfected properly as required by applicable law and is not otherwise avoidable by the Debtors as debtors-in-possession or any other Person, but only to the extent of the value of the Debtors’ interests in such property, determined in accordance with section 506(a) of the Code.

“*Securities Act*” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“*Settlement Notice Parties*” shall have the meaning ascribed to it in Section 9.05 of the Plan.

“*Shared Assets*” means the following: (i) any and all Claims or Causes of Action of the Debtors, the Estates, or the Committee, against third parties, excluding (a) the Original Lender Litigation Claims and (b) Claims and Causes of Action against the Current Lenders or Wilmington; (ii) any and all Claims or Causes of Action of the Current Lenders, Wilmington, or any of their respective predecessors in interest arising from the Fortgang Guaranties; (iii) the Other Lender Collateral; (iv) any unencumbered assets of the Estates not otherwise identified in this definition; and (v) the Remaining Cash; *provided, however*, that the Shared Assets shall not include the Other Lender Assets.

“*Shared Assets Trust*” means the trust created pursuant to Article V of the Plan and the Shared Assets Trust Agreement, which trust shall contain the Trust Assets and shall be administered by the Shared Assets Trustee and governed by the Shared Assets Trust Beneficiary Committee.

“*Shared Assets Trust Agreement*” means the agreement to be dated as of the Effective Date establishing and setting forth the provisions of the Shared Assets Trust, substantially in the form contained in the Plan Supplement.

“*Shared Assets Trust Beneficiaries*” means the holders of Shared Assets Trust Class A Interests and the holder of Shared Assets Trust Class B Interests.

“*Shared Assets Trust Beneficiary Committee*” shall have the meaning ascribed to it in Section 5.08 of the Plan.

“*Shared Assets Trust Class A Designees*” means those members of the Shared Assets Trust Beneficiary Committee who have been designated or selected on or prior to the Confirmation Date by the Current Lenders or, thereafter, by the holders of the Shared Assets Trust Class A Interests.

“*Shared Assets Trust Class B Designees*” means those members of the Shared Assets Trust Beneficiary Committee who have been designated or selected on or prior to the Confirmation Date by the Committee or, thereafter, by the GUC Trust Beneficiary Committee.

“*Shared Assets Trust Class A Interests*” means the beneficial interests in the Shared Assets Trust that are issued to the holders of Allowed Class 2 Claims pursuant to Section 5.02 of the Plan and the Shared Assets Trust Agreement.

“*Shared Assets Trust Class B Interests*” means the beneficial interests in the Shared Assets Trust that are issued to the GUC Trust for the benefit of the holders of Allowed Class 4 Claims and Allowed Class 5 Claims pursuant to Section 5.02 of the Plan and the Shared Assets Trust Agreement.

“*Shared Assets Trust Funding Amount*” shall have the meaning ascribed to it in Section 5.09 of the Plan.

“*Shared Assets Trustee*” means the person or entity designated on or prior to the Effective Date by the Current Lenders in consultation with the Committee, and thereafter by the Shared Assets Trust Beneficiary Committee to administer the Shared Assets Trust.

“*Subsidiaries*” means every Person in which any Debtor is the direct or indirect record or beneficial holder of any equity security.

“*Subsidiary Equity*” means all of the Debtors’ right, title and interest in and to all equity interests in the Subsidiaries.

“*Surya*” means Surya Capital LLC in its capacity as purchaser of the 363 Surya Sale Assets.

“*Trust Assets*” means the Shared Assets, the Other Lender Assets, and property that comes into the possession of the Shared Assets Trust.

“*Trust Funding Replenishment*” shall have the meaning ascribed to it in Section 5.09 of the Plan.

“*Unsecured Claim*” means a Claim against the Debtors other than Administrative Claims, Other Priority Claims, Priority Tax Claims, Secured Claims, and Intercompany Claims.

“*U.S. Trustee*” means the United States Trustee for the Southern District of New York.

“*U.S. Trustee Fees*” means all fees and charges assessed against the Estates under section 1930 of title 28 of the United States Code, and interest, if any, for delinquent quarterly fees pursuant to section 3717 of title 31 of the United States Code.

“*Voting Deadline*” means 4 p.m. (prevailing Eastern Time) on December 7, 2007, which is the deadline for holders of Class 2, Class 4, and Class 5 Claims to submit a Ballot to accept or reject the Plan.

“*Wilmington*” means Wilmington Trust Company, as agent to the Current Lenders, and its successors and assigns.

Section 1.02 Rules of Interpretation. For purposes of the Plan: (i) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (ii) any reference in the Plan to an existing document or an exhibit filed or to be filed (in connection with the Disclosure Statement, the Plan, or the Plan Supplement) means such document or exhibit, as it may have been or may be amended, modified, or supplemented; (iii) unless otherwise specified, all references in the Plan to articles, sections, clauses, and exhibits are references to articles, sections, clauses, and exhibits of or to the Plan; (iv) the words “herein” and “hereto,” and other words of similar import, refer to this Plan in its entirety rather than to a particular portion of the Plan; (v) captions and headings to articles and sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (vi) any reference to a Person as a holder of a Claim or Interest includes that Person’s successors, assigns, and affiliates; (vii) the rules of construction set forth in section 102 of the Code shall apply to the extent such rules are not inconsistent with any other provision in this Section; (viii) any term used herein that is not defined herein shall have the meaning ascribed to that term in the Code and/or the Bankruptcy Rules, if used therein; (ix) wherever the Plan provides that a payment or distribution shall occur “on” any date, it shall mean “on or as soon as reasonably practicable after” such date; (x) any reference to the “Shared Assets Trustee” shall be deemed to include a reference to the “Shared Assets Trust” and any reference to the “Shared Assets Trust” shall be deemed to include a reference to the “Shared Assets Trustee” unless the context otherwise requires; and (xi) any reference to the “GUC Trustee” shall be deemed to include a reference to the “GUC Trust” and any reference to the “GUC Trust” shall be deemed to include a reference to the GUC Trustee unless the context otherwise requires.

Section 1.03 Computation of Time. In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

ARTICLE II

TREATMENT OF UNCLASSIFIED CLAIMS

Section 2.01 Administrative Claims.

(a) *Treatment*. Each holder of an Allowed Administrative Claim shall receive Cash from the Remaining Cash or the Shared Assets Trust in an amount equal to such Allowed

Administrative Claim on or as soon as reasonably practicable after the later of the Effective Date and the date on which such Claim becomes Allowed, unless such holder shall agree to a different treatment of such Claim. After the Effective Date, the Shared Assets Trust may satisfy, in the ordinary course of business, any liabilities, expenses, and other Claims incurred by the Shared Assets Trust in the ordinary course of business.

Section 2.02 Priority Tax Claims.

(a) *Treatment.* Unless the holder thereof shall agree to a different treatment, each holder of an Allowed Priority Tax Claim shall receive, at the option of the Shared Assets Trust, (i) payment in Cash from the Remaining Cash or the Shared Assets Trust in an amount equal to such Allowed Priority Tax Claim on or as soon as reasonably practicable after the later of the Effective Date and the date on which such Claim becomes Allowed, or (ii) deferred Cash payments from the Remaining Cash or the Shared Assets Trust in an aggregate principal amount equal to the amount of the Allowed Claim plus interest on the unpaid portion thereof at the applicable rate under non-bankruptcy law from the Effective Date through the date of payment thereof, which payments shall be made in equal annual installments through the fifth (5th) anniversary of the Petition Date. Any Claim or demand for penalty relating to any Priority Tax Claim (other than a penalty of the type specified in section 507(a)(8)(G) of the Code) shall be Disallowed, and the holder of an Allowed Priority Tax Claim shall not assess or attempt to collect such penalty from the Estates, the Shared Assets Trust, the GUC Trust, or any of their respective property or assets.

Section 2.03 Professional Fee Claims.

(a) *Professional Fee Claims Bar Date.* All final applications for payment of Professional Fee Claims shall be filed with the Court and served on the Plan Proponents and the Shared Assets Trustee on or before the Professional Fee Claims Bar Date, or such later date as may be agreed to by the Shared Assets Trustee. Any Professional Fee Claim that is not asserted in accordance with this Section 2.03 shall be deemed Disallowed under this Plan and the holder thereof shall be enjoined from commencing or continuing any Cause of Action, employment of process or act to collect, offset, recoup or recover such Claim against any of the Estates, the Shared Assets Trust, the GUC Trust, or any of their respective assets or property.

(b) *Treatment.* Each holder of an Allowed Professional Fee Claim shall be paid in Cash from the Remaining Cash or the Shared Assets Trust in an amount equal to such Allowed Professional Fee Claim on or as soon as reasonably practicable after the first Business Day following the date upon which such Claim becomes Allowed by Final Order, unless such holder shall agree to a different treatment of such Claim.

Section 2.04 U.S. Trustee Fees.

(a) *Treatment.* U.S. Trustee Fees incurred by the U.S. Trustee prior to the Effective Date shall be paid by the Shared Assets Trust on the Effective Date in accordance with the applicable schedule for payment of such fees. Until each of the Cases is closed by entry of a final decree of the Court, the Shared Asset Trust and the GUC Trust shall pay all additional U.S. Trustee Fees incurred in accordance with the applicable schedule for the payment of such fees.

ARTICLE III

CLASSIFICATION

For purposes of the Plan, Claims against the Debtors and Interests are classified as provided below. A Claim against the Debtors or Interest is classified in a particular Class only to the extent that such Claim or Interest qualifies within the description of that Class and is classified in a different Class to the extent that such Claim or Interest qualifies within the description of such different Class.

Section 3.01 Class 1: Other Priority Claims. Class 1 consists of Other Priority Claims. Class 1 is unimpaired by the Plan and, therefore, each holder of an Allowed Class 1 Claim is deemed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

Section 3.02 Class 2: Current Lender Claims. Class 2 consists of Current Lender Claims. Class 2 is impaired by the Plan and, therefore, each holder of an Allowed Class 2 Claim is entitled to vote to accept or reject the Plan.

Section 3.03 Class 3: Other Secured Claims. Class 3 consists of Other Secured Claims. Class 3 is unimpaired by the Plan and, therefore, each holder of an Allowed Class 3 Claim is deemed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

Section 3.04 Class 4: Unsecured Claims Against MFS. Class 4 consists of Unsecured Claims against MFS. Class 4 is impaired by the Plan and, therefore, each holder of an Allowed Class 4 Claim is entitled to vote to accept or reject the Plan.

Section 3.05 Class 5: Unsecured Claims Against FLI. Class 5 consists of Unsecured Claims against FLI. Class 5 is impaired by the Plan and, therefore, each holder of an Allowed Class 5 Claim is entitled to vote to accept or reject the Plan.

Section 3.06 Class 6: Interests. Class 6 consists of all Interests, and all Claims arising from rescission of a purchase or sale of such Interests, or for damages arising from such a purchase or sale. Each holder of Claims and/or Interests in Class 6 shall not receive or retain any property under the Plan and, therefore, is deemed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

Section 3.07 Non-Consensual Confirmation. To the extent necessary, the Plan Proponents hereby request that the Court confirm the Plan in accordance with section 1129(b) of the Code. At the Confirmation Hearing, the Plan Proponents will seek a ruling that if no holder of a Claim or Interest eligible to vote in a particular Class timely votes to accept or reject the Plan, the Plan will be deemed accepted by the holders of such Claims or Interests in such Class for the purposes of 1129(b). Subject to section 1127 of the Code and Bankruptcy Rule 3019, the Plan Proponents reserve the right to modify the Plan to the extent that confirmation pursuant to section 1129(b) of the Code requires modification, provided such modifications are consistent with Section 11.01 of the Plan.

ARTICLE IV

TREATMENT OF CLAIMS AND INTERESTS

Section 4.01 Class 1 (Other Priority Claims). Each holder of an Allowed Class 1 Claim shall be paid in full in Cash from the Remaining Cash or the Shared Assets Trust in an amount equal to its Allowed Class 1 Claim on or as soon as reasonably practicable after the later of the Effective Date and the date on which such Claim becomes Allowed, unless such holder shall agree to a different treatment of such Claim (including without limitation any different treatment that may be provided for in the documentation governing such Claim).

Section 4.02 Class 2 (Current Lender Claims). All Class 2 Current Lender Claims shall be deemed Allowed under this Plan. Each holder of an Allowed Class 2 Claim shall receive its pro rata share of the Shared Assets Trust Class A Interests, which shall entitle such holder to distributions from the Shared Assets Trust as and to the extent set forth in the Plan and in the Shared Assets Trust Agreement.

Section 4.03 Class 3 (Other Secured Claims). Unless the holder thereof shall agree to a different treatment of such Claim, each holder of an Allowed Class 3 Claim shall receive one of the following alternative treatments, at the election of the Shared Assets Trustee:

(a) such Claim shall be paid in full in Cash from the Remaining Cash or the Shared Assets Trust on or as soon as reasonably practicable after the later of the Effective Date and the date on which such Claim becomes Allowed;

(b) the legal, equitable and contractual rights to which such Claim entitles the holder thereof shall be unaltered by the Plan;

(c) such Claim shall receive the treatment described in section 1124(2) of the Code;
or

(d) all collateral securing such Claim shall be transferred and surrendered to such holder, without representation or warranty by or recourse against the Debtors, the Shared Assets Trust, or the GUC Trust.

With respect to any Class 3 Claim which receives the treatment described in clause “b” or “c” above, the failure of the Debtors, the Committee, or the Shared Assets Trust to object to such Claim shall be without prejudice to the Shared Assets Trust’s right to contest or otherwise defend against such Claim in an applicable non-bankruptcy forum when and if such Claim is sought to be enforced by the holder thereof after the Effective Date.

Section 4.04 Class 4 (Unsecured Claims Against MFS). Each holder of an Allowed Class 4 Claim shall receive its pro rata share of the GUC Trust Interests in accordance with Section 6.02 hereof on account of such holder’s Unsecured Claim(s) against MFS, which shall entitle such holder to distributions from the GUC Trust as and to the extent set forth in this Plan and in the GUC Trust Agreement; *provided, however*, that in partial consideration for the release provided to them in Section 7.08 hereof, the Current Lenders shall waive any right to receive GUC Trust Interests pursuant to this Section 4.04 of the Plan and any distributions from the GUC Trust.

Section 4.05 Class 5 (Unsecured Claims Against FLI). Each holder of an Allowed Class 5 Claim shall receive its pro rata share of the GUC Trust Interests in accordance with

Section 6.02 hereof on account of such holder's Unsecured Claim(s) against FLI, which shall entitle such holder to distributions from the GUC Trust as and to the extent set forth in this Plan and in the GUC Trust Agreement; *provided, however*, that in partial consideration for the release provided to them in Section 7.08 hereof, the Current Lenders shall waive any right to receive GUC Trust Interests pursuant to this Section 4.05 of the Plan and any distributions from the GUC Trust.

Section 4.06 Class 6 (Interests). No distributions shall be made in respect of any Interests. All Claims and Interests in Class 6 shall be discharged and cancelled.

ARTICLE V

SHARED ASSETS TRUST AND SHARED ASSETS TRUSTEE

Section 5.01 Establishment of the Shared Assets Trust.

(a) On the Effective Date: (i) in partial consideration for the releases being provided to them under this Plan, the Current Lenders and Wilmington shall be deemed to (x) release all of their security interests and liens in and on the Shared Assets and (y) transfer, assign, and deliver to the Shared Assets Trust all of their respective right, title, and interest in and to the Other Lender Assets and the Fortgang Guaranties (and all Causes of Action of the Current Lenders, Wilmington, or any of their respective predecessors in interest arising therefrom or relating thereto); (ii) the Debtors shall transfer, assign, and deliver (or, to the extent necessary, be deemed to transfer, assign, or deliver) to the Shared Assets Trust all of their respective right, title, and interest in and to the Shared Assets, in each case free and clear of any interest in such Assets of any other Person; (iii) the Shared Assets Trust shall be deemed created and effective pursuant to the terms of the Shared Assets Trust Agreement without any further action by the Court or any Person; and (iv) the Shared Assets Trustee will begin serving in accordance with the Shared Assets Trust Agreement. Each of the foregoing transfers and releases shall be deemed to have occurred without any further action.

(b) For federal income tax purposes, it is intended that the Shared Assets Trust be classified as a liquidating trust under Section 301.7701-4 of the Treasury regulations and that the Shared Assets Trust be owned by the Shared Assets Trust Beneficiaries. Accordingly, for federal income tax purposes, the Debtors, the Shared Assets Trustee, and the Shared Assets Trust Beneficiaries agree to treat the Shared Assets Trust Beneficiaries as the grantors of the Shared Assets Trust (other than the Fortgang Guaranties and the related Claims and Causes of Action), and the transfer of such Shared Assets to the Shared Assets Trust will be treated as a deemed distribution by the Debtors to the Shared Assets Trust Beneficiaries of an undivided interest in each of such Shared Assets followed by a deemed transfer of such Shared Assets by the Shared Assets Trust Beneficiaries to the Shared Assets Trust.

Section 5.02 Interests in the Shared Assets Trust.

(a) There shall be two classes of interests in the Shared Assets Trust. The Shared Assets Trust Class A Interests shall be issued to the holders of the Allowed Class 2 Claims pro rata by Claim amount by the Shared Assets Trust. The holders of all Allowed Class 4 Claims and Allowed Class 5 Claims shall be the beneficiaries of Shared Assets Trust Class B Interests,

which shall be transferred by the Shared Assets Trust to the GUC Trust and held by the GUC Trust for the benefit of the holders of Allowed Class 4 Claims and Allowed Class 5 Claims.

(b) On or before the Effective Date, Wilmington shall deliver to the Shared Assets Trustee a list of each Person to receive Shared Assets Trust Class A Interests as of the Effective Date pursuant to the Plan and the Shared Assets Trust Agreement and the amount of such Shared Assets Trust Class A Interests to be issued to each such Person.

(c) Shared Assets Class A Interests and Shared Assets Class B Interests shall be uncertificated. The Shared Assets Trust Beneficiaries shall be bound by the Shared Assets Trust Agreement.

Section 5.03 Distributions of Net Proceeds of the Shared Assets by the Shared Assets Trust. The Net Proceeds of the Shared Assets shall be distributed as follows:

(a) the first Five Million (\$5,000,000) Dollars of any Net Proceeds of the Shared Assets shall be first used to satisfy any Claims Reconciliation Reserve Reimbursement Obligation, and then distributed to the GUC Trust for the benefit of the GUC Trust Beneficiaries;

(b) after satisfaction of clause (a) of this Section 5.03, the next Twelve Million, Five Hundred Thousand (\$12,500,000) Dollars of Net Proceeds of the Shared Assets shall be distributed to the holders of Shared Assets Trust Class A Interests on account of the Adequate Protection Claim;

(c) after satisfaction of clauses (a) and (b) of this Section 5.03, the next Fifteen Million (\$15,000,000) Dollars of Net Proceeds of the Shared Assets shall be allocated as follows: (i) 90% to the holders of Shared Assets Trust Class A Interests; and (ii) 10% to the GUC Trust for the benefit of the GUC Trust Beneficiaries;

(d) after satisfaction of clauses (a) through (c) of this Section 5.03, the next Ten Million (\$10,000,000) Dollars of Net Proceeds of the Shared Assets shall be allocated as follows: (i) 80% to the holders of Shared Assets Trust Class A Interests; and (ii) 20% to the GUC Trust for the benefit of the GUC Trust Beneficiaries; and

(e) after satisfaction of clauses (a) through (d) of this Section 5.03, any additional Net Proceeds of the Shared Assets shall be allocated as follows: (i) 70% to the holders of Shared Assets Trust Class A Interests; and (ii) 30% to the GUC Trust for the benefit of the GUC Trust Beneficiaries.

Section 5.04 Distribution of Other Lender Assets by the Shared Assets Trust. All of the Net Proceeds of the Other Lender Assets shall be distributed to the holders of Shared Assets Trust Class A Interests.

Section 5.05 Purposes of the Shared Assets Trust. The Shared Assets Trust shall be established for the sole purposes of (i) liquidating the Trust Assets; (ii) making distributions to holders of Administrative/Priority Claims; and (iii) making distributions to the Shared Assets Trust Beneficiaries, with no objective or authority to continue or engage in the conduct of a trade or business.

Section 5.06 Powers and Obligations of the Shared Assets Trust.

(a) The Shared Assets Trust shall: (i) issue Shared Assets Trust Class A Interests and Shared Assets Trust Class B Interests to holders of Allowed Class 2 Claims and the GUC Trust, respectively, as provided herein; (ii) investigate, enforce, abandon, prosecute, and resolve (by litigation, settlement, or otherwise) all Claims against the Debtors and all Claims and Causes of Action of the Estates and/or the Current Lenders against non-Debtor third parties vested in or transferred to the Shared Assets Trust, except for Disputed Class 4 Claims and Disputed Class 5 Claims and all objections related thereto; (iii) maintain, sell, abandon, liquidate, collect, and reduce to Cash the Trust Assets; (iv) distribute Cash to the Shared Assets Trust Beneficiaries in accordance with the terms of the Plan and the Shared Assets Trust Agreement; (v) reconcile and resolve all Administrative/Priority Claims, and make distributions to holders of Allowed Administrative/Priority Claims; and (vi) take such steps as are reasonably necessary or appropriate to accomplish such purposes, all as more fully provided in, and subject to the terms and provisions of, the Plan and the Shared Assets Trust Agreement.

(b) On the Effective Date, the Shared Assets Trust shall succeed to all of the rights of the Debtors and the Committee with respect to the Trust Assets, the Other Lender Assets, and those Shared Assets that are contributed to the Shared Assets Trust by the Current Lenders and Wilmington, as necessary to protect, conserve, and liquidate all Trust Assets as quickly as reasonably practicable, which liquidation shall conclude prior to the fifth anniversary of the Effective Date unless extended by the Court for cause. The Shared Assets Trust shall have the exclusive power, on behalf and in the name of the Estates, to prosecute, defend, compromise, settle, and otherwise deal with all Trust Assets subject to the restrictions of the Plan and the Shared Assets Trust Agreement, including that the Shared Assets Trustee shall have no right to use the Trust Assets to conduct a trade or business.

Section 5.07 Shared Assets Trustee.

(a) On or prior to the Effective Date, the Current Lenders, in consultation with the Committee, and thereafter, the Shared Assets Trust Beneficiary Committee, shall designate a Shared Assets Trustee. In the event that the Shared Assets Trustee resigns or is removed, the Shared Assets Trust Beneficiary Committee shall select a new Shared Assets Trustee in accordance with the Shared Assets Trust Agreement.

(b) The Shared Assets Trustee shall be the exclusive trustee of the Trust Assets and shall administer the Shared Assets Trust in accordance with the Plan and the Shared Assets Trust Agreement. The powers, rights, and responsibilities of the Shared Assets Trustee shall be specified in the Shared Assets Trust Agreement and, subject to the supervision of the Shared Assets Trust Beneficiary Committee, shall include the authority and responsibility to: (a) receive, manage, invest, supervise, and protect the Trust Assets; (b) pay taxes or other obligations incurred by the Shared Assets; (c) retain and compensate, without further order of the Court, employees, professionals, and consultants to advise and assist in the administration, prosecution, and distribution of Trust Assets; (d) calculate and implement distributions of Trust Assets and the proceeds thereof pursuant to the terms of the Plan and the Shared Assets Trust Agreement; (e) prosecute, compromise, and settle, in accordance with the specific terms of the Shared Assets Trust Agreement, all Claims against the Debtors and all Claims and Causes of Action vested in

or otherwise transferred to the Shared Assets Trust, except for Disputed Class 4 Claims and Disputed Class 5 Claims and all objections related thereto; (f) resolve issues involving Claims against the Debtors pursuant to Section 9.03 of this Plan; and (g) undertake all administrative functions of the Cases, including the ultimate closing of the Cases.

Section 5.08 Shared Assets Trust Beneficiary Committee.

(a) On or before the Effective Date, the Shared Assets Trust Beneficiary Committee shall be formed pursuant to the Shared Assets Trust Agreement. The Shared Assets Trust Beneficiary Committee shall be comprised of five members, three of whom shall be selected by the Current Lenders and shall be Shared Assets Trust Class A Designees, and two of whom shall be selected by the Committee and shall be Shared Assets Trust Class B Designees. As set forth in the Shared Assets Trust Agreement, if (a) a Shared Assets Trust Class A Designee resigns or is removed, a replacement shall be appointed by the remaining Shared Assets Trust Class A Designees and (b) a Shared Assets Trust Class B Designee resigns or is removed, a replacement shall be appointed based upon a vote of the majority of the Committee or, after the Committee has been dissolved, a majority of the GUC Trust Beneficiary Committee.

(b) As and to the extent set forth in the Shared Assets Trust Agreement, the Shared Assets Trust Beneficiary Committee shall report all material matters to and seek approval for all material decisions from the Shared Assets Trust Beneficiary Committee. Without limiting the foregoing, and as set forth in the Shared Assets Trust Agreement, the Shared Assets Trust Beneficiary Committee may not commence, abandon, settle, or elect not to pursue, any litigation, without the approval of the Shared Assets Trust Beneficiary Committee. The Shared Assets Trust Beneficiary Committee shall be deemed to have given its approval if any such commencement, abandonment, settlement, or election is approved by a majority vote of the Shared Assets Trust Beneficiary Committee, except with regard to the Other Lender Assets, in respect of which a majority of the Shared Assets Trust Class A Designees shall have the sole discretion to approve any such commencement, abandonment, settlement, or election.

Section 5.09 Funding of the Shared Assets Trust.

(a) The amount of the initial funding for the administration of the Shared Assets Trust and the GUC Trust (the “Shared Assets Trust Funding Amount”) shall be determined by the Shared Assets Trust Beneficiary Committee. Twenty-five (25%) percent of the Shared Assets Trust Funding Amount (up to Five Hundred Thousand (\$500,000) Dollars) shall be distributed to the GUC Trust, which shall hold such funds in a segregated account and shall use such funds solely for the purpose of reconciling and resolving Class 4 and Class 5 Claims and for other administrative purposes (other than pursuing the Original Lender Litigation Claims) (the “Claims Reconciliation Reserve”). None of the Shared Assets Trust Funding Amount and no other funds or assets of the Shared Assets Trust may be used to fund any expenses incurred in connection with any Cause of Action against any Original Lender and the Shared Assets Trust is prohibited from incurring any such expenses on behalf of the Shared Assets Trust. In the event that the Claims Reconciliation Reserve is funded, in whole or in part, with funds borrowed by the Shared Assets Trust, the principal amount of any Claims Reconciliation Reserve funding in excess of \$250,000 that has been so borrowed shall be reimbursed to the Shared Assets Trust

by the GUC Trust as described in the Section 5.03 of the Plan (the “Claims Reconciliation Reserve Reimbursement Obligation”).

(b) The Shared Assets Trust Funding Amount may be replenished by the Shared Assets Trustee out of the Net Proceeds of the Shared Assets, as determined by the Shared Assets Trust Beneficiary Committee (a “Trust Funding Replenishment”); *provided, however*, that if the aggregate Shared Assets Trust Funding Amount (excluding any Claims Reconciliation Reserve funding) reaches Two Million, Five Hundred Thousand (\$2,500,000) Dollars, each subsequent Trust Funding Replenishment shall be limited to 50% of any Net Proceeds of the Shared Assets not yet distributed to holders of Shared Assets Trust Class A and Class B Interests, unless the Shared Assets Trust Beneficiary Committee shall determine otherwise by a consenting vote of no less than four (4) members. The GUC Trust may determine to reserve in the Claims Reconciliation Reserve additional amounts that would otherwise be distributed to the GUC Trust, or to use any such amounts to replenish the Claims Reconciliation Reserve.

Section 5.10 Remaining Cash.

(a) Upon the Effective Date, the Debtors shall transfer the Remaining Cash to the Shared Assets Trust to be allocated to the Shared Assets Trust Funding Amount, as determined by the Shared Assets Trust Beneficiary Committee, and thereafter to be distributed to the holders of Allowed Administrative/Priority Claims (except as provided in Section 2.04 herein) and the Shared Assets Trust Beneficiaries in accordance with Section 5.03 of this Plan.

(b) In the event that the Shared Assets Trust Beneficiary Committee determines that it is advisable to supplement the Shared Assets Trust Funding Amount, the Shared Assets Trust shall use commercially reasonable efforts on or after the Effective Date to obtain financing. Twenty-five (25%) percent of any such financing shall be applied to the Claims Reconciliation Reserve until such Reserve is funded in the aggregate with Five Hundred Thousand (\$500,000) Dollars.

Section 5.11 Shared Assets Trust Professionals.

(a) The Shared Assets Trustee may (but shall not be obligated to) retain the law firms of Moses & Singer LLP, Kramer Levin Naftalis & Frankel LLP, and/or Halperin Battaglia Raicht, LLP to advise on matters to be allocated among the firms on a basis acceptable to the Shared Assets Trust Beneficiary Committee. The Shared Assets Trustee may (but shall not be obligated to) retain the firms of FTI Consulting Inc. and/or Consensus Advisors to advise on matters to be allocated between such firms on a basis acceptable to the Shared Assets Trust Beneficiary Committee.

(b) The Shared Assets Trustee shall retain other professionals and/or advisors, including tax advisors, in his or her reasonable discretion; *provided, however*, that the Shared Assets Trustee shall seek approval from the Shared Assets Beneficiary Committee before retaining any such professional/advisor whose fees and expenses are expected to exceed \$50,000. The past or current retention of any firm listed above by any of the Committee, Wilmington and/or the Current Lenders or by either the Shared Assets Trust and/or the GUC Trust shall not

be asserted by any of the Committee, Wilmington, the Current Lenders, the Shared Assets Trust, or the GUC Trust as a basis to disqualify such firm from being retained by the other Trust.

Section 5.12 Abandoned Trust Assets. If the Shared Asset Beneficiary Committee determines to abandon any Claims included among the Trust Assets, the GUC Trust shall have the option to pursue such Claims at its own expense. Upon the election of the GUC Trust to pursue such abandoned Claims, such Claims shall cease to be Trust Assets and such abandoned Claims and one hundred (100%) percent of the recoveries from such abandoned Claims shall be GUC Trust Assets.

Section 5.13 Amendment of Shared Assets Trust Agreement. After the Effective Date, and without Court approval, the Shared Assets Trust Agreement may be amended in accordance with its terms; *provided, however*, that the Shared Assets Trust Agreement may not be amended in any way that would change the priority of Claims or distribution scheme of this Plan.

Section 5.14 Wind Up of the Shared Assets Trust. After repayment of any outstanding Claims Reconciliation Reserve Reimbursement Obligation, any additional funds in the Claims Reconciliation Reserve that are not spent in connection with the reconciliation of Class 4 Claims, Class 5 Claims and other administrative purposes (other than pursuing the Original Lender Litigation Claims) shall be distributed to the GUC Trust Beneficiaries by the GUC Trust. All other Shared Assets Trust Funding Amounts remaining in the Shared Assets Trust shall be distributed to the Shared Assets Trust Beneficiaries as set forth in Section 5.03 herein.

ARTICLE VI

GUC TRUST AND GUC TRUSTEE

Section 6.01 Establishment of the GUC Trust.

(a) On the Effective Date: (i) the Shared Assets Trust shall be deemed to transfer, assign, and deliver to the GUC Trust all of its respective right, title, and interest in and to the Shared Assets Trust Class B Interests; (ii) each Debtor (and the Committee as its representative) shall transfer, assign, and deliver (or, to the extent necessary, be deemed to transfer, assign, and deliver) to the GUC Trust all of its respective right, title, and interest in and to the Original Lender Litigation Claims, in each case free and clear of any interest in such Assets of any other Person in consideration of the agreement of the GUC Trust and the other Debtor to make the distributions to holders of Allowed Class 4 and Class 5 Claims as provided in herein; (iii) the GUC Trust shall be deemed created and effective pursuant to the terms of the GUC Trust Agreement without any further action by the Court or any Person; and (iv) the GUC Trustee will begin serving in accordance with the GUC Trust Agreement. Each of the foregoing transfers and releases shall be deemed to have occurred without any further action.

(b) For federal income tax purposes, it is intended that the GUC Trust be classified as a liquidating trust under Section 301.7701-4 of the Treasury regulations and that the GUC Trust be owned by the GUC Trust Beneficiaries. Accordingly, for federal income tax purposes, the Debtors, the GUC Trustee, and the GUC Trust Beneficiaries agree to treat the GUC Trust Beneficiaries as the grantors of the GUC Trust Assets, and the transfer of the GUC Assets to the GUC Trust will be treated as a deemed distribution by the Debtors to the GUC Trust

Beneficiaries of an undivided interest in each of such GUC Trust Assets followed by a deemed transfer of such GUC Trust Assets by the GUC Trust Beneficiaries to the GUC Trust.

Section 6.02 Interests in the GUC Trust.

(a) There shall be one class of interests in the GUC Trust. The GUC Trust Interests shall be issued to the holders of Allowed Class 4 Claims and Allowed Class 5 Claims by the GUC Trust so that each such holder shall receive a percentage interest in the GUC Trust equal to such holder's Allowed Claim divided by the sum of all Allowed Claims in Classes 4 and 5.

(b) GUC Trust Interests shall be uncertificated. The GUC Trust Beneficiaries shall be bound by the GUC Trust Agreement.

Section 6.03 Distributions of Net Proceeds of the GUC Trust Assets by the GUC Trust. The Net Proceeds of the GUC Trust shall be distributed ratably to the GUC Trust Beneficiaries on account of their GUC Trust Interests.

Section 6.04 Purposes of the GUC Trust. The GUC Trust shall be established for the sole purposes of (i) liquidating and distributing the GUC Trust Assets; and (ii) resolving Disputed Class 4 and Class 5 Claims, with no objective or authority to continue or engage in the conduct of a trade or business.

Section 6.05 Powers and Obligations of the GUC Trust.

(a) The GUC Trust shall: (i) issue GUC Trust Interests to the GUC Beneficiaries, as provided herein; (ii) investigate, enforce, abandon, prosecute, and resolve (by litigation, settlement, or otherwise) the Original Lender Litigation Claims; (iii) maintain, sell, abandon, liquidate, collect, and reduce to Cash the GUC Trust Assets; (iv) distribute Cash to the GUC Trust Beneficiaries in accordance with the terms of the Plan and the GUC Trust Agreement; (v) reconcile and resolve all Disputed Class 4 and Class 5 Claims, and make distributions to holders of Allowed Class 4 or Class 5 Claims; and (vi) take such steps and incur and pay such expenses as are reasonably necessary or appropriate to accomplish such purposes, all as more fully provided in, and subject to the terms and provisions of, the Plan and the GUC Trust Agreement.

(b) On the Effective Date, the GUC Trust shall succeed to all of the rights of the Debtors and the Committee with respect to the GUC Trust Assets necessary to protect, conserve, and liquidate all GUC Trust Assets as quickly as reasonably practicable, which liquidation shall conclude prior to the fifth (5th) anniversary of the Effective Date unless extended by the Court for cause. The GUC Trust shall have the exclusive power, on behalf and in the name of the Estates, to prosecute, defend, compromise, settle, and otherwise deal with all GUC Trust Assets subject to the restrictions of the Plan and the GUC Trust Agreement, including that the GUC Trustee shall have no right to use the GUC Trust Assets to conduct a trade or business.

Section 6.06 GUC Trustee.

(a) On or prior to the Effective Date, the Committee, and thereafter, the GUC Trust Beneficiary Committee, shall designate a GUC Trustee. In the event that the GUC Trustee

resigns or is removed, the GUC Trust Beneficiary Committee shall select a new GUC Trustee in accordance with the GUC Trust Agreement.

(b) The GUC Trustee shall be the exclusive trustee of the GUC Trust Assets and shall administer the GUC Trust in accordance with the Plan and the GUC Trust Agreement. The powers, rights, and responsibilities of the GUC Trustee shall be specified in the GUC Trust Agreement and, subject to the supervision of the GUC Trust Beneficiary Committee, shall include the authority and responsibility to: (a) receive, manage, invest, supervise, and protect the GUC Trust Assets; (b) pay taxes or other obligations incurred by the GUC Trust Assets; (c) retain and compensate, without further order of the Court, employees, professionals, and consultants to advise and assist in the administration, prosecution, and distribution of GUC Trust Assets; (d) calculate and implement distributions of GUC Trust Assets and the proceeds thereof pursuant to the terms of the Plan and the GUC Trust Agreement; (e) prosecute, compromise, and settle, in accordance with the specific terms of the GUC Trust Agreement, all Class 4 and Class 5 Claims against the Debtors and all Claims and Causes of Action vested in or otherwise transferred to the GUC Trust, and all objections related thereto; and (f) resolve issues involving Claims against the Debtors pursuant to Article IX of this Plan.

Section 6.07 GUC Trust Beneficiary Committee.

(a) On or before the Effective Date, the GUC Trust Beneficiary Committee shall be formed pursuant to the GUC Trust Agreement. The GUC Trust Beneficiary Committee shall be comprised of three members selected by the Committee. As set forth in the GUC Trust Agreement, if a member of the GUC Trust Beneficiary Committee resigns or is removed, a replacement shall be appointed by the remaining members of the GUC Trust Beneficiary Committee.

(b) As and to the extent set forth in the GUC Trust Agreement, the GUC Trustee shall report all material matters to and seek approval for all material decisions from the GUC Trust Beneficiary Committee. Without limiting the foregoing, and as set forth in the GUC Trust Agreement, the GUC Trustee may not commence, abandon, settle, or elect not to pursue, any litigation, without the approval of the GUC Trust Beneficiary Committee. The GUC Trust Beneficiary Committee shall be deemed to have given its approval if any such commencement, abandonment, settlement, or election is approved by a majority vote of the GUC Trust Beneficiary Committee.

Section 6.08 Funding of the GUC Trust. The GUC Trust shall be funded initially by the Claims Reconciliation Reserve. Additional funding shall be approved by the GUC Trust Beneficiary Committee and may utilize the proceeds of borrowings or the cash proceeds of GUC Trust Assets.

Section 6.09 GUC Trust Professionals.

(a) The GUC Trustee may (but shall not be obligated to) retain the law firms of Moses & Singer LLP, Susman Godfrey L.L.P. and/or Halperin Battaglia Raicht, LLP to advise on matters to be allocated among the firms on a basis acceptable to the GUC Trust Beneficiary

Committee. The GUC Trustee may (but shall not be obligated to) retain the firm of Consensus Advisors as determined by the GUC Trust Beneficiary Committee.

(b) The GUC Trustee shall retain other professionals and/or advisors, including tax advisors, in his or her reasonable discretion; *provided, however*, that the GUC Trustee shall seek approval from the GUC Beneficiary Committee before retaining any such professional/advisor whose fees and expenses are expected to exceed \$50,000. The past or current retention of any firm listed above by the Committee or the GUC Trust shall not be asserted by any of the Committee or the GUC Trust as a basis to disqualify such firm from being retained by the other Trust.

Section 6.10 Abandoned Trust Assets. Upon the election of the GUC Trust Beneficiary Committee to abandon any claims included among the GUC Trust Assets, such claims shall cease to be GUC Trust Assets.

Section 6.11 Amendment of GUC Trust Agreement. After the Effective Date, and without Court approval, the GUC Trust Agreement may be amended in accordance with its terms; *provided, however*, that the GUC Trust Agreement may not be amended in any way that would change the priority of Claims or distribution scheme of this Plan.

Section 6.12 Cancellation of Intercompany Claims. Upon the Effective Date, all Intercompany Claims shall be cancelled and neither the GUC Trust nor the GUC Trust Beneficiaries shall have any right to prosecute an Intercompany Claim of one Debtor against another Debtor for any purpose including, without limitation, altering the allocation of GUC Trust Interests among the GUC Trust Beneficiaries.

Section 6.13 Wind Up of the GUC Trust. After repayment of any outstanding Claims Reconciliation Reserve Reimbursement Obligation, any additional funds in the Claims Reconciliation Reserve that are not spent in connection with the reconciliation of Class 4 Claims, Class 5 Claims and other administrative purposes (other than pursuing the Original Lender Litigation Claims) and all other monies in the GUC Trust shall be distributed to the GUC Trust Beneficiaries as set forth in Section 6.03 herein.

ARTICLE VII

IMPLEMENTATION OF THE PLAN

Section 7.01 Vesting. Except as otherwise expressly provided herein, on the Effective Date, all property and assets of the Debtors' respective Estates shall pass to and vest in the Shared Assets Trust and the GUC Trust as provided herein free and clear of all Claims, liens, encumbrances, charges, Interests and other rights and interests of creditors and equity holders arising on or before the Effective Date, but subject to the terms and provisions of the Plan, the Shared Assets Trust Agreement, and the GUC Trust Agreement.

Section 7.02 Rights of Action. On the Effective Date, any rights or Causes of Action held or inuring to the benefit of the Debtors, including without limitation all Avoidance Actions (but excluding the Original Lenders Litigation Claims and all Causes of Action that are released pursuant to Section 7.08) shall be transferred to and vested in the Shared Assets Trust. On the

Effective Date, the Original Lenders Litigation Claims shall be transferred to and vested in the GUC Trust. In accordance with section 1123(b)(3)(B) of the Code, the Shared Assets Trustee and the GUC Trustee may pursue all reserved rights of action for the benefit of their respective trust beneficiaries. Any distributions provided for in the Plan and the allowance of any Claim for the purpose of voting on the Plan is and shall be without prejudice to the rights of the Shared Assets Trustee and the GUC Trustee to pursue and prosecute any reserved rights of action that have been conveyed to the Shared Assets Trust and the GUC Trust as provided herein.

Section 7.03 Corporate Action. On the Effective Date, the authorization of the Shared Assets Trust Agreement, the GUC Trust Agreement, the appointment of the Shared Assets Trustee, the appointment of the GUC Trustee, and any and all other matters provided for under the Plan involving corporate action by the Debtors, their directors, or their shareholders, including without limitation the transfer of the Remaining Cash to the Shared Assets Trust and the transfer of management responsibilities of the Debtors to the Shared Assets Trust, shall be deemed to have occurred and shall be in effect from and after the Effective Date pursuant to applicable law, in each case without any requirement of further action by the Debtors' directors or shareholders.

Section 7.04 Cancellation of Existing Securities, Instruments and Agreements. On the Effective Date, except as otherwise provided herein, all securities, instruments, and agreements governing any Claims or Interests impaired hereby except for the Credit Documents shall be deemed cancelled and terminated, and the obligations of the Debtors relating to, arising under, in respect of or in connection with such securities, instruments, or agreements shall be deemed released and/or satisfied as to the Debtors; *provided, however*, anything to the contrary set forth in the Plan notwithstanding, nothing provided in the Plan shall affect the rights that Wilmington and/or the Current Lenders may have against any third parties (including without limitation with respect to the Nantucket Mortgage and any Claims against Matthew Fortgang and Charles Fortgang with respect to the Fortgang Guaranties) with respect to Obligations under the Loan Documents and/or any matter arising out of, or in any way related to, the Credit Documents; *provided further, however*, that except as otherwise provided herein, notes and other evidences of Claims against the Debtors shall, effective upon the Effective Date, represent the right to participate in the distributions contemplated by the Plan.

Section 7.05 Effectiveness of Securities, Instruments and Agreements. On the Effective Date, the Shared Assets Trust Agreement and the GUC Trust Agreement shall become effective and binding on the parties thereto in accordance with their terms and conditions.

Section 7.06 Waiver of Subordination. The distributions under the Plan take into account the relative priority of each class in connection with any contractual subordination provisions relating thereto. Accordingly, the distributions under this Plan shall not be subject to levy, garnishment, attachment, or other legal process by any holder of a Claim or Interest purporting to be entitled to the benefits of such contractual subordination.

Section 7.07 Surrender of Securities. Each holder of a promissory note or other instrument evidencing or securing an Interest or a Claim impaired hereby other than the Credit Documents shall surrender the same to the Shared Assets Trustee or the GUC Trustee, as applicable, and the Shared Assets Trustee and the GUC Trustee, as applicable, shall distribute or

shall cause to be distributed to the holders thereof the appropriate distribution of property hereunder. No distribution of property hereunder shall be made to or on behalf of any such holder unless and until such promissory note or instrument is received by the Shared Assets Trustee or the GUC Trustee, as applicable, or the unavailability of such note or instrument is established to the satisfaction of the Shared Assets Trustee or the GUC Trustee, as applicable. Any such holder that fails to surrender or cause to be surrendered such promissory note or instrument, or to execute and deliver an affidavit of loss and indemnity satisfactory to the Shared Assets Trustee or the GUC Trustee, as applicable, and, in the event that the Shared Assets Trustee or the GUC Trustee so requests, fails to furnish a bond in form and substance (including, without limitation, with respect to amount) satisfactory to the Shared Assets Trustee or the GUC Trustee, as applicable, within two years after the Confirmation Date, shall be deemed to have forfeited all Claims against the Debtors or Interests represented by such note or instrument and shall not participate in any distribution hereunder or under the Shared Assets Trust Agreement or GUC Trust Agreement in respect of such note or instrument and all property in respect of such forfeited distribution, including (if applicable) interest accrued thereon, shall revert to the Shared Assets Trust. Notwithstanding the foregoing but subject to Section 7.04 of the Plan, all claims against the Debtors relating to, arising under, in respect of, or in connection with such promissory note or instrument shall be released and/or deemed satisfied by this Plan and all Interests shall be terminated to the extent provided herein regardless of whether and when any surrender, indemnity, or bond required by this Section 7.07 is provided, and regardless of whether a distribution is made hereunder in the absence of compliance by any holder of a Claim with the requirements of this Section. The Shared Assets Trustee or the GUC Trustee, as applicable, may waive the requirements of this Section. If the Shared Assets Trustee waives these requirements, it may (but need not), as an alternative to those requirements, make distributions on account of securities solely to holders of record on such date (on or after the Confirmation Date) as the Court may designate for this purpose (in which event transfers of record after that date shall be disregarded for the purpose of making distributions under the Plan).

Section 7.08 Releases. Effective on the Effective Date, and without the necessity of any further act, in partial consideration for (i) the transfer to the Shared Assets Trust by the Current Lenders and Wilmington of their respective right, title and interest in and to the Other Lender Collateral, the Fortgang Guaranties, and all Claims and Causes of Action arising therefrom and relating thereto, and (ii) the agreement by the Current Lenders and Wilmington to waive any right to receive any distributions under Sections 4.04 and 4.05 hereof, the adequacy and sufficiency of which is acknowledged by the Committee, the Debtors, the Estates, the Committee, and all holders of Claims against the Debtors that receive a distribution under the Plan, on behalf of themselves and their respective successors, assigns, employees, agents, officers, directors, attorneys, and representatives (in their capacity as such) (collectively, the “Releasers”), shall be deemed to release and waive any and all claims, liabilities, and causes of action, of any kind, nature or description, whether matured or unmatured, contingent or absolute, liquidated or unliquidated, relating to the Debtors or their Estates and/or Cases, that any of the Releasers had, has or may have from the beginning of time through the Effective Date against the Releasees, including any fraudulent conveyance, preference, and subordination claims and any challenge or claim as to any and all prior sweeps or payments to the Current Lenders, Wilmington, or their respective predecessors; *provided that*, the

foregoing notwithstanding, the Original Lender Litigation Claims as against any Original Lender shall not be released, impaired, diminished or otherwise affected by reason of such Original Lender also being or having been a Current Lender and no provision of the Plan shall release, impair, diminish or affect the Original Lender Litigation Claims or the Committee's or GUC Trust's right to prosecute such Claims against any Original Lender, as provided herein, which Claims shall be preserved for the benefit of the GUC Trust and the GUC Trust Beneficiaries as and to the extent provided in this Plan and the GUC Trust Agreement.

Section 7.09 Management of Debtors. On the Effective Date, the operation of each Debtor shall become the general responsibility of the Shared Assets Trustee in accordance with applicable law.

Section 7.10 Setoffs. The Shared Assets Trustee and the GUC Trustee, as applicable, may, but shall not be required to, set off against any Claim asserted against the Shared Assets Trust and/or the GUC Trust, and the payments or other distributions to be made pursuant to the Plan in respect of such Claim, any Claims of any nature whatsoever that the Debtors, the Shared Assets Trust, or the GUC Trust may have against the holder of such Claim, but neither the failure to do so nor the allowance of any Claim against the Debtors hereunder shall constitute a waiver or release of any such Claim any Debtor, the Shared Assets Trust or the GUC Trust may have against such holder.

Section 7.11 Indefeasibility of Distributions. All distributions provided for under the Plan shall be indefeasible.

Section 7.12 Distribution of Unclaimed Property. Any distribution of property (Cash or otherwise) provided for under the Plan which is unclaimed after one hundred and eighty (180) days following the Effective Date shall irrevocably revert to the Shared Assets Trust or the GUC Trust, as applicable, depending upon which of the trusts was required to make such distribution.

Section 7.13 Saturday, Sunday, or Legal Holiday. If 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 the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

Section 7.14 Final Order. Any requirement in the Plan for a Final Order may be waived by Required Plan Proponents.

ARTICLE VIII

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Section 8.01 Assumption or Rejection of Executory Contracts and Unexpired Leases. Effective on and as of the Effective Date, all executory contracts and unexpired leases that exist between a Debtor and any Person are hereby specifically deemed rejected, except for any executory contract or unexpired lease (a) that has been specifically assumed or assumed and assigned by the pertinent Debtor on or before the Effective Date with the approval of the Court, (b) in respect of which a motion for assumption or assumption and assignment has been filed

with the Court on or before the Effective Date, or (c) that is specifically designated as a contract to be assumed on Schedule 8.01, which Schedule shall be contained in the Plan Supplement.

Section 8.02 Approval of Assumption or Rejection of Executory Contracts and Unexpired Leases. Entry of the Confirmation Order by the Clerk of the Court, but subject to the condition that the Effective Date occur, shall constitute (a) the approval, pursuant to sections 365(a) and 1123(b)(2) of the Code, of the assumption or assumption and assignment of the executory contracts or unexpired leases assumed or assumed and assigned pursuant to 8.01 of the Plan and (b) the approval, pursuant to sections 365(a) and 1123(b)(2) of the Code, of the rejection of the executory contracts and unexpired leases pursuant to Section 8.01 of the Plan.

Section 8.03 Bar Date for Filing Proofs of Claim Relating to Executory Contracts or Unexpired Leases Rejected Pursuant to the Plan. Claims against the Debtors arising out of the rejection of executory contracts and unexpired leases must be filed with the Court no later than thirty (30) days after the later of (a) notice of entry of an order approving the rejection of such executory contract or unexpired lease and (b) notice of occurrence of the Effective Date. Any such Claims not filed within such time shall be forever barred from assertion against the Debtors, the Shared Assets Trust, the GUC Trust, and any and all of their respective properties and assets.

Section 8.04 Compensation and Benefit Programs. All employment and severance agreements and policies, and all employee compensation and benefit plans, policies and programs of any of the Debtors applicable generally to their respective current employees or officers as in effect on the Effective Date, including, without limitation, all savings plans, retirement plans, health care plans, disability plans, severance benefit plans, incentive plans and life, accidental death and dismemberment insurance plans, shall be terminated effective on the Effective Date.

ARTICLE IX

PROVISIONS FOR RESOLVING AND TREATING CLAIMS

Section 9.01 Prosecution of Disputed Class 4 and Class 5 Claims. Except as otherwise provided herein, the GUC Trust shall have the right to object to all Class 4 Claims and Class 5 Claims on any basis, including those Class 4 and Class 5 Claims that are not listed in the Schedules, that are listed therein as disputed, contingent, and/or unliquidated, or that are listed therein at a lesser amount than asserted by the relevant creditor. Subject to further extension by the Court for cause with or without notice, the GUC Trustee may object to the allowance of Class 4 and Class 5 Claims up to ninety (90) days after the Effective Date. From and after the Effective Date, the GUC Trust shall succeed to all of the rights, defenses, offsets, and counterclaims of the Debtors and the Committee in respect of all Class 4 and Class 5 Claims, and in that capacity shall have the exclusive power to prosecute, defend, compromise, settle, and otherwise deal with all such objections.

Section 9.02 Settlement of Disputed Class 4 and Class 5 Claims.

(a) Pursuant to Bankruptcy Rule 9019(b), the GUC Trustee may settle any Disputed Class 4 or Class 5 Claim (or aggregate of Claims if held by a single creditor), without notice, a

Court hearing or Court approval, provided such Disputed Claim shall not be Allowed pursuant to the settlement in an amount exceeding one hundred thousand (\$100,000) dollars.

(b) The GUC Trustee shall give notice to the Settlement Notice Parties of a settlement of any Disputed Class 4 or Class 5 Claim (or aggregate of Claims if held by a single creditor) that results in such Disputed Claim(s) being Allowed in an amount in excess of one hundred thousand (\$100,000) dollars. The Settlement Notice Parties shall have ten (10) days to object to such settlement. Any such objection shall be in writing and sent to the GUC Trustee and the settling party. If no written objection is received by the GUC Trustee and the settling party prior to the expiration of such ten (10) day period, the GUC Trustee and the settling party shall be authorized to enter into the proposed settlement without a hearing or Court approval. If a written objection is timely received, the GUC Trustee, the settling party and the objecting party shall use good faith efforts to consensually resolve the objection. If the objection is consensually resolved, the GUC Trustee and the settling party may enter into the proposed settlement (as and to the extent modified by the resolution of the objection) without further notice or Court approval. Alternatively, the GUC Trustee may seek Court approval of the proposed settlement upon expedited notice and a hearing.

(c) On or after the Effective Date, any holder of an Allowed or Disputed Class 4 or Class 5 Claim may request notice in writing of any settlement of a Disputed Claim within their class that results in such Disputed Claim being Allowed in an amount in excess of \$100,000 by serving a written request for such notice on the GUC Trustee.

Section 9.03 Prosecution of Disputed Administrative/Priority Claims. Except as otherwise provided herein, the Shared Assets Trust shall have the right to object to all Administrative/Priority Claims (subject to the terms of the Plan Settlement). Subject to further extension by the Court with or without notice, the Shared Assets Trustee may object to the allowance of Administrative/Priority Claims up to the later of (i) ninety (90) days after the Effective Date subject to further extension by the Court for cause with or without notice or (ii) the deadline for filing an objection established by order of the Court. From and after the Effective Date, the Shared Assets Trust shall succeed to all of the rights of the Debtors and the Committee in respect of all objections to the Administrative/Priority Claims, and in that capacity shall have the exclusive power, subject to approval of the Shared Assets Trust Beneficiary Committee, to prosecute, defend, compromise, settle, and otherwise deal with all such objections.

Section 9.04 Settlement of Disputed Administrative/Priority Claims.

(a) Pursuant to Bankruptcy Rule 9019(b), the Shared Assets Trustee may settle any Disputed Administrative/Priority Claim, without notice, a Court hearing or Court approval, provided such Disputed Administrative/Priority Claim shall not be Allowed pursuant to the settlement in an amount exceeding \$100,000.

(b) The Shared Assets Trustee shall give notice to the Settlement Notice Parties of a settlement of any Disputed Administrative/Priority Claims that results in such Disputed Claim being Allowed in an amount in excess of \$100,000. The Settlement Notice Parties shall have ten (10) days to object to such settlement. Any such objection shall be in writing and sent to the

Shared Assets Trustee and the settling party. If no written objection is received by the Shared Assets Trustee and the settling party prior to the expiration of such ten (10) day period, the Shared Assets Trustee and the settling party shall be authorized to enter into the proposed settlement without a hearing or Court approval. If a written objection is timely received, the Shared Assets Trustee, the settling party, and the objecting party shall use good faith efforts to consensually resolve the objection. If the objection is consensually resolved, the Shared Assets Trustee and the settling party may enter into the proposed settlement (as and to the extent modified by the resolution of the objection) without further notice or Court approval. Alternatively, the Shared Assets Trustee may seek Court approval of the proposed settlement upon expedited notice and a hearing.

(c) On or after the Effective Date, any holder of an Allowed or Disputed Class 4 or Class 5 Claim may request notice in writing of any settlement of a Disputed Claim within their class that results in such Disputed Claim being Allowed in an amount in excess of \$100,000 by serving a written request for such notice on the GUC Trustee.

Section 9.05 Settlement Notice Parties. All Persons requesting notice from GUC Trustee or the Shared Assets Trustee pursuant to Sections 9.02 and 9.04, as applicable, of the Plan are referred to herein as the “Settlement Notice Parties.” A Settlement Notice Party's right to receive notice under Section 9.02 or 9.04, as applicable, shall cease if such party's Claim is Disallowed.

Section 9.06 No Distributions Pending Allowance. Notwithstanding any provision in the Plan to the contrary, no partial payments and no partial distributions shall be made by the GUC Trust or the Shared Assets Trust, as applicable, with respect to any portion of any Claim against the Debtors if such Claim or any portion thereof is a Disputed Claim. In the event and to the extent that a Claim against the Debtors becomes an Allowed Claim after the Effective Date, the holder of such Allowed Claim shall receive all payments and distributions to which such holder is then entitled under the Plan.

ARTICLE X

CONDITIONS PRECEDENT

Section 10.01 Conditions to Confirmation. The following conditions are conditions precedent to Confirmation of the Plan, unless waived by the Required Plan Proponents: (i) the Confirmation Order must be in a form and substance reasonably acceptable to the Required Plan Proponents; and (ii) the Confirmation Order shall:

(a) except as otherwise provided in this Plan, provide for the transfers of the Trust Assets to the Shared Assets Trust to be free and clear from any Claims and any “debt” (as the term is defined in section 101(12) of the Code) and provide that the Shared Assets Trust shall have no liability in respect thereof, whether such Claims or debts are reduced to judgment or not, liquidated or non-liquidated, contingent or non-contingent, asserted or unasserted, fixed or not, matured or unmatured, disputed or undisputed, legal or equitable, known or unknown, that arose from any agreement of any of the Debtors entered into or obligation of any of the Debtors or from any conduct of any of the Debtors, including, without limitation, all interest, if any, on any

such Claim or debt, and from any liability of a kind specified in sections 502(g), 502(h), and 502(i) of the Code, whether or not a proof of claim is filed or deemed filed under section 501 of the Code, such Claim is allowed under section 502 of the Code, or the holder of such Claim has accepted this Plan;

(b) except as otherwise provided in this Plan, provide for the transfers of the GUC Assets to the GUC Trust to be free and clear from any Claims and any “debt” (as the term is defined in section 101(12) of the Code) and provide that the GUC Trust shall have no liability in respect thereof, whether such Claims or debts are reduced to judgment or not, liquidated or non-liquidated, contingent or non-contingent, asserted or unasserted, fixed or not, matured or unmatured, disputed or undisputed, legal or equitable, known or unknown, that arose from any agreement of any of the Debtors entered into or obligation of any of the Debtors or from any conduct of any of the Debtors, including, without limitation, all interest, if any, on any such Claim or debt, and from any liability of a kind specified in sections 502(g), 502(h), and 502(i) of the Code, whether or not a proof of claim is filed or deemed filed under section 501 of the Code, such Claim is allowed under section 502 of the Code, or the holder of such Claim has accepted this Plan;

(c) authorize the appointment of all parties appointed under or in accordance with the Plan, including without limitation the Shared Assets Trustee, the GUC Trustee, the members of the Shared Assets Trust Beneficiary Committee, and the members of the GUC Beneficiary Committee, and direct such parties to perform their obligations under such documents;

(d) approve in all respects the transactions, agreements, and documents to be effected pursuant to the Plan, including without limitation the Shared Assets Trust Agreement and the GUC Trust Agreement;

(e) authorize the establishment of the Shared Assets Trust and the GUC Trust consistent with the terms of the Plan, the Shared Assets Trust Agreement, and the GUC Trust Agreement, and authorize the Shared Assets Trustee, the GUC Trustee, the Shared Assets Trust Beneficiary Committee, and the GUC Trust Beneficiary Committee to assume the rights and responsibilities provided thereto in the Plan, the Shared Assets Trust Agreement, and the GUC Trust Agreement;

(f) order, find, and decree that the transfers of the Trust Assets and the GUC Trust Assets to the Shared Assets Trust and the GUC Trust, respectively: (i) are legal, valid, and effective transfers of property; (ii) vest the Shared Assets Trust and the GUC Trust with good title to such property free and clear of all Liens, Claims, encumbrances, and Interests of any Person, except as expressly provided in the Plan or the Confirmation Order; (iii) do not and shall not constitute avoidable transfers under the Code or under applicable bankruptcy or non-bankruptcy law; (iv) do not and shall not subject the Shared Assets Trust, the GUC Trust, or any holder of a Claim or Interest to any liability by reason of such transfer under the Code or under applicable non-bankruptcy law, including any laws affecting successor or transferee liability or fraudulent conveyance or transfer laws; and (v) are and shall be exempt from any state, city, or other municipality transfer taxes, mortgage recording taxes, and any other stamp or similar taxes pursuant to section 1146(a) of the Code;

(g) order, find, and decree that the Shared Assets Trust and the GUC Trust, as applicable, shall have been automatically substituted for the Debtors, the Committee, or any other Estate

representative as a party to all pending contested matters, adversary proceedings, Claims, administrative proceedings and lawsuits, both within and outside of the Court, involving the Trust Assets, Claims against the Estate, or matters relating to the Shared Assets Trust or GUC Trust, as applicable, including Causes of Action and the resolution of Disputed Claims as provided herein and in the Shared Assets Trust Agreement and the GUC Trust Agreement;

(h) declare that the Shared Assets Trust Class A Interests and Shared Assets Trust Class B Interests issued under this Plan are exempt from any and all federal and state securities registration requirements;

(i) approve the releases and injunctions granted and created by this Plan;

(j) order, find, and decree that the Plan complies with all applicable provisions of the Code, including that the Plan was proposed in good faith;

(k) authorize and direct the Debtors to transfer the Shared Assets and the Remaining Cash to the Shared Assets Trust upon the Effective Date;

(l) authorize and direct the Debtors to execute all documents necessary to effect all transfers of the Remaining Cash and the Shared Assets to the Shared Assets Trust; and

(m) order, find, and decree that nothing herein or in any stipulation filed in the Court or any order of the Court operates as a discharge, release, exculpation, or waiver of, or establishes any defense or limitation of damages to any Claim or Cause of Action belonging to the Estates or to any other Person against any Original Lender.

Section 10.02 Conditions to Effective Date. The Plan shall not become effective unless and until the following conditions shall have been satisfied or waived pursuant to Section 10.04 hereof:

(a) the Confirmation Date shall have occurred and the Confirmation Order, in a form consistent with Section 10.01, shall have become a Final Order;

(b) the Shared Assets Trust Agreement, the GUC Trust Agreement, and the Plan Supplement shall be in form and substance acceptable to the Required Plan Proponents and shall have been executed and delivered by the respective parties thereto;

(c) the Shared Assets Trustee and the Shared Assets Trust Beneficiary Committee shall have been appointed;

(d) the GUC Trustee and the GUC Beneficiary Committee shall have been appointed;

(e) all actions, documents and agreements necessary to implement the provisions of the Plan to be effectuated on or prior to the Effective Date shall be reasonably satisfactory to the Required Plan Proponents, and such actions, documents, and agreements shall have been effected or executed and delivered;

(f) all documents to be contained in the Plan Supplement shall be completed and in final form and, as applicable, executed by the parties thereto and all conditions precedent

contained in any of the foregoing shall have been satisfied or waived by the Required Plan Proponents;

(g) payment in full of any unpaid professional fees incurred by Wilmington in these Cases; and

(h) all other actions required by Article V and Article VI hereof to occur on or before the Effective Date shall have occurred.

Section 10.03 Plan Settlement. Entry of the Confirmation Order shall be deemed entry of an Order approving the Plan Settlement pursuant to Bankruptcy Rule 9019. Upon the occurrence of the Effective Date, all issues related to the Plan Settlement shall be deemed fully settled and compromised in accordance with the terms and conditions of the Plan Settlement.

Section 10.04 Waiver of Conditions. Any of the conditions set forth in Section 10.01 hereof may be waived by the Required Plan Proponents to the extent such waiver does not affect the distributions hereunder.

Section 10.05 Notice to Court. The Plan Proponents shall notify the Court in writing promptly after the Effective Date that the Plan has become effective.

ARTICLE XI

MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

Section 11.01 Modification of Plan.

(a) Generally. The Required Plan Proponents may jointly alter, amend or modify the Plan pursuant to section 1127 of the Code at any time prior to the Confirmation Date. After such time and prior to the substantial consummation of the Plan, the Required Plan Proponents may jointly, so long as the treatment of holders of Claims against the Debtors or Interests under the Plan is not adversely affected, institute proceedings in Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order, and any other matters as may be necessary to carry out the purposes and effects of the Plan; *provided, however*, prior notice of such proceedings shall be served in accordance with Bankruptcy Rule 2002 or as the Court shall otherwise order.

(b) Ancillary Documents. Notwithstanding any reference herein to documents in the forms annexed to this Plan, and without limiting the preceding paragraph (a), the Required Plan Proponents may jointly revise those forms by filing such revised forms with the Court on or prior to the Confirmation Date.

Section 11.02 Revocation or Withdrawal of Plan. The Required Plan Proponents reserve the right to jointly revoke or withdraw the Plan at any time prior to the Effective Date. If the Required Plan Proponents jointly revoke or withdraw the Plan prior to the Effective Date, then the Plan shall be deemed null and void, and nothing contained herein shall be deemed to constitute a waiver or release of any Claims by or against the Debtors or any other Person or to

prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors.

Section 11.03 Withdrawal from the Plan. In the event that the Debtors reasonably determine to withhold consent to any authorization, waiver, approval, or any other action required to be provided by the Required Plan Proponents under the Plan, the Debtors shall be authorized to withdraw as a Plan Proponent. Upon such withdrawal, the Plan shall be deemed modified to reflect such withdrawal; *provided, however*, that such withdrawal shall not otherwise impact the enforceability of any other provisions of this Plan.

ARTICLE XII

RETENTION OF JURISDICTION

Section 12.01 Exclusive Jurisdiction of the Court. Except as provided in Section 12.02 hereof, following the Effective Date, the Court will retain exclusive jurisdiction of the Cases for the following purposes:

- (a) to hear and determine any pending applications for the assumption or rejection of executory contracts or unexpired leases, and the allowance of Claims against the Debtors resulting therefrom;
- (b) to determine any adversary proceedings, applications, contested matters and other litigated matters pending on the Effective Date;
- (c) to ensure that distributions to holders of Allowed Claims are accomplished as provided herein;
- (d) to hear and determine objections to or requests for estimation of Claims against the Debtors, including any objections to the classification of any Claims, and to allow, disallow and/or estimate Claims, in whole or in part;
- (e) to hear and determine any actions commenced in the Court by the Shared Assets Trust or the GUC Trust in connection with the liquidation and/or collection of any Trust Assets or GUC Trust Assets, as applicable;
- (f) to enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;
- (g) to issue any appropriate orders in aid of execution of the Plan or to enforce the Confirmation Order and/or the discharge, or the effect of such discharge, provided to the Debtors;
- (h) to hear and determine any applications to modify the Plan, to cure any defect or omission or to reconcile any inconsistency in the Plan or in any order of the Court, including, without limitation, the Confirmation Order;

(i) to hear and determine all applications for compensation and reimbursement of expenses of professionals under sections 330, 331 and 503(b) of the Code;

(j) to hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan;

(k) to hear and determine other issues presented or arising under the Plan;

(l) to hear and determine any other matters related to the Plan and not inconsistent with the Code; and

(m) to enter a final decree closing the Cases.

Section 12.02 Non-Exclusive Jurisdiction of the Court. Following the Effective Date, the Court will retain non-exclusive jurisdiction of the Cases for the following purposes:

(a) to recover all assets of the Debtors and property of their estates, wherever located;

(b) to hear and determine any motions or contested matters involving taxes, tax refunds, tax attributes and tax benefits and similar or related matters with respect to the Debtors or their estates arising prior to the Effective Date or relating to the period of administration of the Cases, including, without limitation, matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Code; and

(c) to hear and determine any other matter not inconsistent with the Code.

Section 12.03 Failure of the Court to Exercise Jurisdiction. If the Court abstains from exercising or declines to exercise jurisdiction over any matter arising under, arising in or related to the Cases, including with respect to the matters set forth above in this Article, this Article shall not prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such subject matter.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 13.01 Payment of Statutory Fees. All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Court at the hearing pursuant to section 1128 of the Code, shall be paid on or before the Effective Date.

Section 13.02 Injunction. Except as otherwise expressly provided herein including without limitation the treatment of Claims and Interests herein, the entry of the Confirmation Order shall, provided that the Effective Date shall have occurred, operate to enjoin permanently all Persons that have held, currently hold or may hold a Claim or other debt or liability against one or both of the Debtors, or who have held, currently hold or may hold an Interest that is terminated pursuant to the Plan from taking any of the following actions in respect of such Claim, debt or liability or such terminated Interest: (a) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind against any or

all of the Debtors, the Shared Assets Trust, the GUC Trust, or their respective property or assets; (b) enforcing, levying, attaching, collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order against any or all of the Debtors, the Shared Assets Trust, the GUC Trust, or their respective property or assets; (c) creating, perfecting or enforcing in any manner, directly or indirectly, any lien or encumbrance of any kind against any or all of the Debtors, the Shared Assets Trust, the GUC Trust, or their respective property or assets; (d) asserting any setoff, right of subrogation or recoupment of any kind, directly or indirectly, against any debt, liability or obligation due to the Debtors, the Shared Assets Trust, the GUC Trust, or their respective property or assets; and (e) proceeding in any manner in any place whatsoever that does not conform to or comply with or is inconsistent with the provisions of the Plan.

Section 13.03 Exculpation. None of (i) the Creditor Proponents or any of their respective affiliates, officers, directors, partners, shareholders, employees, agents, attorneys, accountants, or other professionals/advisors, (ii) Troutman Sanders LLP, solely in its capacity as attorneys for the Debtors, (iii) Getzler Henrich Management & Financial Consultants, solely in its capacity as Chief Restructuring Officer of the Debtors, (iv) Chad Shandler, solely in his capacity as a member of the Boards of Directors of MFS and FLI, and (v) any board member of the Debtors, appointed during the pendency of the Cases with the consent of the Creditor Proponents, solely in his or her capacity as a member of the Boards of Directors of MFS and FLI shall have or incur any liability for any act or omission in connection with, or arising out of, pursuit of confirmation of the Plan (including without limitation the solicitation of votes in favor thereof), the consummation of the Plan or the administration of the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence; and in all respects, such Persons shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan and shall be fully protected from liability in acting or in refraining from action in accordance with such advice; *provided, however*, that this Section 13.03 shall not limit the obligations of the Debtors, the Shared Assets Trust, or the GUC Trust under the Plan.

Section 13.04 Governing Law. Except to the extent the Code, the Bankruptcy Rules, or other federal laws are applicable, the laws of the State of New York shall govern the construction and implementation of the Plan and all rights and obligations arising under the Plan.

Section 13.05 Withholding and Reporting Requirements. In connection with the Plan and all instruments issued in connection therewith and distributions thereon, the Shared Assets Trust and the GUC Trust shall comply with all withholding, reporting, certification and information requirements imposed by any federal, state, local or foreign taxing authority and all distributions hereunder shall, to the extent applicable, be subject to any such withholding, reporting, certification and information requirements. Persons entitled to receive distributions hereunder shall, as a condition to receiving such distributions, provide such information and take such steps as the Shared Assets Trustee or the GUC Trustee, as applicable, may reasonably require to ensure compliance with such withholding and reporting requirements, and to enable the Shared Assets Trustee or the GUC Trustee to obtain the certifications and information as may be necessary or appropriate to satisfy the provisions of any tax law.

Section 13.06 Section 1146 Exemption. Pursuant to section 1146(a) of the Code, the transfer of title to the 363 Sale Assets to Wilmington pursuant to the 363 Sale Asset Purchase

Agreement and the 363 Sale Order, the transfer of title to the 363 Surya Sale Assets to Surya pursuant to the 363 Surya Sale Asset Purchase Agreement and the 363 Surya Sale Order, the vesting of the Trust Assets in the Shared Assets Trust, the vesting of the GUC Trust Assets in the GUC Trust, the conveyance by the Current Lenders and Wilmington of their respective right, title, and interest in and to the Other Lender Assets, the Other Lender Collateral, the Fortgang Guaranties, and all of their respective Claims and Causes of Action arising therefrom and relating thereto, the issuance, transfer, or exchange of any security under the Plan, or the execution, delivery, or recording of an instrument of transfer pursuant to, in implementation of or as contemplated by the Plan, or the vesting, transfer, or sale of any real property of any of the Debtors pursuant to, in implementation of, or as contemplated by the Plan, shall not be taxed under any state or local law imposing a stamp tax, transfer tax, or similar tax or fee. Consistent with the foregoing, each recorder of deeds or similar official for any county, city or governmental unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument, without requiring the payment of any documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax, or similar tax.

Section 13.07 Existence of the Committee. The appointment and existence of the Committee shall terminate on the Effective Date.

Section 13.08 Plan Supplement. The Shared Assets Trust Agreement, the GUC Trust Agreement, the identity of and proposed compensation structure of the Shared Assets Trustee and the GUC Trustee, and the identity of the members of the Shared Assets Trust Beneficiary Committee and the GUC Trust Beneficiary Committee shall be contained in the Plan Supplement and filed with the Clerk of the Bankruptcy Court no later than November 13, 2006. All other documents contained in the Plan Supplement, including , Schedule 8.01 referred to in Section 8.01 of the Plan, and any other appropriate documents, shall be filed at least five (5) business days prior to the last day upon which holders of Claims may vote to accept or reject the Plan; *provided, however*, that the Required Plan Proponents may jointly amend (i) Schedule 8.01 through and including the Confirmation Date and (ii) each of the other documents contained in the Plan Supplement through and including the Effective Date in a manner consistent with the Plan and Disclosure Statement. Upon its filing with the Bankruptcy Court, the Plan Supplement may be inspected in the office of the Clerk of the Bankruptcy Court during normal Court hours. Holders of Claims or Interests may obtain a copy of the Plan Supplement upon written request to the Plan Proponents in accordance with Section 13.12 of the Plan.

Section 13.09 Severability. In the event that any provision of the Plan other than Section 7.08 of the Plan is determined to be unenforceable, such determination shall not limit or affect the enforceability and operative effect of any other provisions of the Plan. To the extent that any provision of the Plan would, by its inclusion in the Plan, prevent or preclude the Court from entering the Confirmation Order, the Court, on the request of the Required Plan Proponents, may modify or amend such provision, in whole or in part, as necessary to cure any defect or remove any impediment to the confirmation of the Plan existing by reason of such provision; *provided, however*, that such modification shall not be effected except in compliance with Section 11.01 of the Plan.

Section 13.10 Reservation of Rights. If the Plan is not confirmed for any reason, the rights of all parties in interest in the Cases are and shall be reserved in full. Any concession reflected or provision contained herein, if any, is made for purposes of the Plan only, and if the Plan does not become effective, no party in interest in the Cases shall be bound or deemed prejudiced by such concession.

Section 13.11 Binding Effect; Counterparts. The provisions of the Plan shall bind all holders of Claims against the Debtors and Interests, whether or not they have accepted the Plan. The Plan may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Plan.

Section 13.12 Notices. All notices, requests, and demands to or upon the Plan Proponents to be effective shall be in writing (including by facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
Attn: David M. Feldman, Esq.
Phone: (212) 715-9100
Facsimile: (212) 715-8000

-- and --

MOSES & SINGER LLP
The Chrysler Building
405 Lexington Avenue
New York, New York 10174
Attn: Christopher J. Caruso, Esq.
Phone: (212) 554-7800
Facsimile: (212) 554-7700

-- and --

TROUTMAN SANDERS LLP
The Chrysler Building
405 Lexington Avenue
New York, New York 10174
Attn: Lee W. Stremba
Phone: (212) 704-6000
Facsimile: (212) 704-6288

Section 13.13 Plan Controls. In the event and to the extent that any provision of the Plan is inconsistent with the provisions of the Disclosure Statement, the provisions of the Plan shall control and take precedence.

Dated: New York, New York
November 7, 2007

KRAMER LEVIN NAFTALIS & FRANKEL
LLP

/s/ David M. Feldman
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Philip Bentley (PB-0210)
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1177 Avenue of the Americas
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Counsel to Wilmington Trust Company,
in its Capacity as Agent to the Debtors'
Prepetition Senior Secured Lenders

TROUTMAN SANDERS LLP

/s/ Lee W. Stremba
Mitchel H. Perkiel (MP 8691)
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Counsel to M. Fabrikant & Sons, Inc. &
Fabrikant-Leer International, Ltd., as
Debtors and Debtors in Possession

MOSES & SINGER LLP

/s/ Alan Kolod
Alan Kolod (AK-3108)
Lawrence L. Ginsburg (LG-6370)
Christopher J. Caruso (CC-8005)
The Chrysler Building
405 Lexington Avenue
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Counsel to the Official Committee
of Unsecured Creditors

SCHEDULE 1

Non-Debtor Affiliates

Alpha Diamond Co., Inc
AM-Gold Products, Inc.
Aresco, Inc.
Brilliant Trading Company, LLC
C. Fabrikant (H.K.) & Company Ltd.
Clover Corporation
Fabrikant Clover (Canada)
CRP Jewelry Thailand Ltd
D.M.P. Company Ltd
Diamfab PVBA
Diamond Mounting, Inc.
Fab-Oro SRL (Italy)
Fabrikant & Salant Co., Inc.
Fabrikant Hong Kong Ltd.
Fabrikant Hong Kong Trading Ltd.
Fabrikant Japan Inc.
Fabrikant Thailand
Fabrikant Trading (India) Pvt. Ltd.
Fabrikant Commonwealth Trading, Inc.
Fabrikant-Tara International LLC
Fancy Diamonds Trading Company, Ltd
Fancy Trading Company LLC
Fifth Avenue Group LLC
FSM Diamond
FTK International Ltd. Mauritius
FTK Worldwide Manufacturing (Asia) Ltd.
Lagos Holdings, Inc.
Lazarre Kaplan International, Inc.
Leer Tokyo Pearl
Robert Lee Morris, Inc.
Rough Gemstone Trading Co., Ltd.
Royal Asscher Cut, LLC
S.H.R. Inc.
Scott Diamond Co., LLC
Scott Kay, Inc.
Scott Kay Sterling, Inc.
Simmons Jewelry Company LLC
Sofasa LLC
Tara Two International
Tara Jewels Export Private Ltd.
Tara Ultimo
Tiger Group International, Inc.
Troy Kay
VSI